aid, but also when any alleged unethical activity arises with respect to Congress. As Mr. Buchanan further discribes:

We have no obligation in the U.S. to clean up politics in Tokyo or The Netherlands. We do, however, have a duty to root out corruption in the U.S. In that light, one must be less impressed with Frank Church's enthusiasm for exposing Lockheed payments abroad than with Congress' lassitude in investigating illegal corporate contributions and payoffs on Capitol Hill.

When is the Senate Ethics Committee going to begin looking actively into cash payments by Gulf Oil to the Senate minority leader, members of the Watergate Committee and two Democratic candidates for President of the United States?

If official Washington expects to have any credibility with respect to unethical practices, it had better put its own house in order before denouncing American companies which have done nothing illegal.

SENATE—*Tuesday, March 2, 1976*

The Senate met at 12 meridian and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

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

Eternal God, who changest not, we submit our changing scene to Thy higher rulership. In days of uncertainty, keep us ever sure of Thee. In days which are dark, be our Light and our Guide. In days of waiting keep us strong in spirit. In days when we must act, help us to act in accordance with Thy law. Here may we love the Lord our God with our whole mind and soul and strength, and seek ever to know and do Thy will.

In the Redeemer's name, we pray. 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., March 2, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, March 1, 1976, be dispensed with.

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

ORDER OF PROCEDURE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time allocated to the distinguished Senator from West Virginia, the assistant majority leader, Mr. ROBERT C. BYRD, be divided between Senators EAGLETON and CLARK and that the order allocating time to Senators EAGLETON and CLARK precede the order for the recognition of Senator GARY HART.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HUGH SCOTT. Mr. President, I yield back my time.

SUPPLEMENTAL LEGISLATIVE APPROPRIATIONS, 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 646, House Joint Resolution 811.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 811) making supplemental appropriations for the legislative branch for the fiscal year ending June 30, 1976, and for other purposes.

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

There being no objection, the Senate proceeded to consider the joint resolution, which had been reported from the Committee on Appropriations with an amendment, as follows:

On page 2, beginning with line 1, insert the following:

SENATE

ADMINISTRATIVE PROVISION

(a) The Sergeant at Arms and Doorkeeper may fix the compensation of the Procurement Officer, Auditor, and Deputy Sergeant at Arms at not to exceed $39,909 per annum. This subsection does not supersede (1) any provision of an order of the President pro tempore of the Senate authorizing a higher rate of compensation, and (2) any authority of the President pro tempore to adjust the rate of compensation referred to in this subsection under section 4 of the Federal Pay Comparability Act of 1970.

(b) Subsection (a) shall take effect on January 1, 1976, and, notwithstanding any other provision of law, any increase in compensation made under authority of such subsection may take effect on that date or any date thereafter as prescribed by the Sergeant at Arms and Doorkeeper at the time of making such increase.

(c) Effective on the date of the enactment of this resolution the title of the Procurement Officer, Auditor, and Deputy Sergeant at Arms is changed to Deputy Sergeant at Arms and Doorkeeper.

Mr. HOLLINGS. Mr. President, House Joint Resolution 811 makes supplemental appropriations for the legislative branch amounting to $33 million in order to complete the construction of the Library of Congress James Madison Memorial Building. The committee recommends approval of the full $33 million and has also inserted an administrative provision that would retitle the position of the Deputy Sergeant at Arms and increase the maximum salary of the position from $35,298 to $39,909.

With regard to the committee's amendment, the position of Deputy Sergeant at Arms has not been adjusted, except for the general pay raises for inflation, since 1955. During that time the responsibilities of the Office of the Sergeant at Arms have been greatly expanded, as the Senate has installed a computer system and enlarged the other service responsibilities of that Office. These expansions over the intervening 20-odd years have tripled the number of employees in the Office of the Sergeant at Arms and has increased the funds approved to that Office by more than 10 times and impact heavily on the Deputy Sergeant at Arms, who has the procuring and auditing duties. Let me add that in no way will the duties of the Deputy be modified by the simplification of the position title. In the opinion of the committee, the change in title and in annual salary is both obvious and warranted.

Now with regard to the Library of Congress James Madison Memorial Building. Construction commenced on this building in 1971 under a three-phase program for which $90 million was authorized and appropriated. However, it was subsequently decided to finish the interior of the building as phase IV. Competitive bids were opened on July 23, 1975, for phase IV and it was determined that an additional $33 million would be required to complete the building.

The committee was informed that there is some $44 million of the $90 million already appropriated available for phase IV and the Architect of the Capitol has provided some alternatives for awarding a bid within that amount. However, these are merely schemes that would for example, postpone the finishing of the fourth and fifth floors of the building. So it is the conclusion of the committee that

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

the additional $33 million must and should be allowed.

There is detail of the additional costs in the committee's report and it should be noted that approximately $16 million of this additional amount is for work not included in the original construction program. For example, at the time the original plans were drawn water damage to the great national collections to be housed within the building was feared almost as much as fire. Consequently, no sprinkler system was in the original program. The restoration of the great works damaged by the flood in Florence, Italy, have proved the ability to restore water damage works. A sprinkler system is now part of the new program as are significant changes in the security of the building and in the smoke control and fire alarm systems.

As I indicated earlier, the bids were opened by the Architect on July 23, 1975. The delay over the intervening 7 months was occasioned by the desire of the House of Representatives to take over the Madison Building. This demand was later reduced to partial use of the building, but I am pleased to say that these demands have been completely rejected. The prohibition on the use of the Madison Building for general office building purposes in Public Law 91-214 still stands.

There is a great urgency to approve House Joint Resolution 811 as two of the five bidders have agreed to time extensions for acceptance of their bids from September 21 of last year until November 21, and then to January 21 of this year, and again until February 21, and more recently until March 3. The Architect of the Capitol has obtained a further extension to March 10 but to avoid any further delays in completing this building it is imperative that the Senate take immediate action.

Mr. HRUSKA. Mr. President, I rise to speak in favor of House Joint Resolution 811, making supplemental appropriations for the Library of Congress James Madison Memorial Building. As a former member of the Memorial Commission and a member of the Senate Appropriations Committee I have taken a special interest in this legislation.

For nearly 30 years, the Library of Congress has attempted to obtain additional quarters to house its valuable collections and staff. Let there be no misunderstanding regarding the urgent need for a new building. The priceless 31 million piece Library of Congress collection is deteriorating due to the lack of space with which to store books and other materials under the proper conditions. At the same time our knowledge and legislative activity are increasing at an unprecedented pace. It is vital that the Library of Congress, which serves not only the Congress but also the people of this country, keep pace with these developments.

As many of my colleagues are undoubtedly aware, a problem developed when the leadership of the other body in an effort to solve its own space shortage attempted to take over the Madison Building as a fourth House office building. Fortunately, the majority of the other body, in a fine act of statesmanship, put aside parochial interests and recognized the importance to the country of this new building by blocking efforts to use it for any other purpose.

This, of course, was the wise and proper course of action and in complete accord with the authorizing legislation, as amended by Public Law 91-214, which contains the following prohibition:

> SEC. 2. Nothing contained in the Act of October 19, 1965 (79 Stat. 986), shall be construed to authorize the use of the third Library of Congress building authorized by such Act for general office building purposes.

It is especially fitting that, in this our Bicentennial, we pass this legislation appropriating funds to complete the James A. Madison Memorial Building. For it was Madison, the fourth President of our country, a father of the Constitution, who first proposed, nearly 200 years ago, that there be a Library of the Congress.

The PRESIDING OFFICER. The joint resolution is open to further amendment. If there be no amendment to be proposed, the question is on the engrossment of the amendment and third reading of the joint resolution.

The amendment was ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution (H.J. Res. 811) was read the third time, and passed.

ORDER OF BUSINESS

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

IMPENDING ENERGY CRISIS

Mr. STONE. Mr. President, the Nation has been aware of an impending energy crisis for many years. After the oil embargo 2 years ago, we Americans conducted what amounted to a national debate over energy policy. Finally, in December, Congress passed and the President signed the Energy Policy and Conservation Act of 1975.

The new legislation has been generally greeted with feelings of relief that at long last some positive action has been taken. But I am deeply concerned that Americans have been deluded into thinking that this law is, in fact, the comprehensive energy policy so badly needed. And I am equally concerned that they will consider this our final word on the subject.

I am certain that this will not, indeed, cannot—be our final word on energy. The threat of another embargo will remain as long as America depends as heavily on foreign sources of oil as it does today. The relationship between our domestic energy and economic policies and the international energy situation is critical and requires constant review and analysis.

As a member of the House-Senate conference committee which worked for many weeks seeking agreement on a compromise energy program, I signed the final conference report and voted for its adoption on the Senate floor. I believe that this legislation was probably the best compromise possible given the widely divergent views on energy policy and the unfortunate partisanship which has continually plagued the national debate on energy.

Nevertheless, I am compelled to say that I have little confidence that the Energy Policy and Conservation Act will prove effective in solving our Nation's energy problems. It may represent a necessary and reasonable political compromise, but I doubt that it incorporates a sensible, national energy policy.

I am particularly concerned, Mr. President, about the impact this act will have on our ability to reduce America's dependence on foreign sources of petroleum. The pricing policy of the act, while promising some measure of short-term price relief for the consumer, may spell long-term disaster for our capacity to obtain greater domestic supplies of petroleum. And, unless we move rapidly and effectively to assure increased domestic petroleum production, we will continue to risk another embargo and continue to live under the lingering threat of an international oil blackmail.

I might add, Mr. President, that at a time when short-term supply appears to be abundant and the price at the pump is falling, we are in a particularly strong position to experiment with other approaches to our energy problem than continued price regulation.

The act simply cannot be described as the comprehensive energy policy we need because it falls far short of what a policy ought to be—a commitment and a blueprint to meet present and future requirements. Price rollbacks and controls may masquerade as positive policy, but in the long run they will do very little to achieve what the Nation really needs—an increase in the domestic supply of energy, balanced by major efforts to use energy more efficiently.

I believe we must monitor our energy situation on a continuous basis. Having passed the legislation, we need to know if it is leading us in the right direction, or the wrong direction. Are we moving toward energy independence, or are we becoming more dependent than ever on imports? Is OPEC's ability to set world prices weakening, or simply growing stronger? Is the domestic energy supply picture improving, or is it growing worse? Are we conserving energy, or wasting it?

We need to know more about the relationship between our energy policies at home and the international energy situation. Consequently, we must analyze on a continuing basis the movement of OPEC prices, the oil pricing formulas and arrangements between OPEC members and consumer nations, and the ability of OPEC to maintain or increase oil price levels.

Obviously, we need to have the answers to such questions so that we can deter-

mine if the new law is working, or if it needs to be amended or altered in some way. And we need to do it in a timely fashion.

I believe we need some kind of a distant early warning system on energy—a series of indicators that will let us know if the law is working or not.

I have no idea of how many signals ought to be built into such a warning system. It might consist of as many as 15 or 20 different indicators. But just as we have leading economic indicators to send up storm signals or good news about the economy, so we need a sensitive set of signals to forecast our energy situation.

Some of the indicators that might be built into an energy distant early warning system come readily to mind.

Capital outlays made by the petroleum industry for exploration and development, for example, ought to be considered a useful warning bell.

According to the Chase Manhattan Bank, which surveys the financial performance of 29 petroleum companies on a continuing basis, major oil companies stepped up their capital spending substantially last year. In the first three quarters of 1975, the companies spent $18.4 billion—25 percent more than in the same period the previous year. More than half that amount was spent on searching for and developing additional oil and gas reserves.

It remains to be seen how the new law, with its pricing provisions, affects those investment levels. Historically, there is a strong relationship between profit levels in the petroleum industry and the amount the companies invest. For every $1 of domestic profit, the companies have spent an average of $1.95 on capital and exploration—and that ratio has been maintained for 25 years. If capital outlays for exploration and development should ever start to level off or taper off, that would surely be an important warning signal. Lower capital expenditures for domestic exploration and development would obviously lead to a lower supply of petroleum in the future than might otherwise be the case.

Another and related indicator is the number of seismic crews active in the United States. Any severe dropoff in seismic activity could well indicate that disincentives to add to gas and oil reserves are too severe—that the new law is simply counterproductive.

The number of seismic crews at work has been falling off in recent months. In December 1975, there were 259 crews at work. That was the 4th month in the row that seismic activity declined. And that figure of 259 is about a 14-percent drop from a year ago. There is a strong possibility that we are already getting a warning signal that anticipated disincentives were causing some pullbacks. Any further drastic drop in the numbers surely must be viewed with deep concern.

Another trend to watch is the number of heavy duty drilling rigs in operation, as well as the number of such rigs on order. Any substantial change in the numbers would indicate the extent of present and future drilling in high risk areas, such as the Outer Continental Shelf. Since the companies will have to go into these high risk areas for any significant discoveries, the number of rigs on order comprises a visible signal about future supplies.

At the moment there appears to be an oversupply of heavy duty rigs. According to an article in Oil and Gas Journal dated February 2, the oversupply of heavy offshore rigs is expected to continue for another 1 or 2 years. If the oversupply lingers beyond reasonable expectations, or if the number of idle rigs increases, that would certainly alert us to supply problems in the future.

Still another important index is the rate of decline in the production of so-called old oil.

Crude oil production in the United States has declined steadily since 1970. In that year, U.S. production amounted to more than 9.6 million barrels per day. From that point on, oil production went into a slide that saw production fall steadily over the successive years to an estimated 8.3 million barrels daily in 1975.

Those figures include all types of oil sold at controlled and uncontrolled prices. Even more significant for our purpose is the amount of oil flowing from old oil wells. If it could be determined how much oil has been produced from old wells in recent years, we would have a benchmark against which we could measure future declines. The rate of decline, of course, would tell us whether incentives to produce old oil are adequate. Any unusual drop or change in the pattern ought to be a clear signal that price incentives to produce oil from those wells is lacking.

Another important signal related to domestic production is stripper well activity.

Stripper well production—those oil wells producing 10 or fewer barrels of oil a day—could comprise one of the most sensitive of all barometers.

In 1974—the latest full year figures available—there were about 366,000 (366,095) stripper wells in the United States. Those wells produced an average of 3.8 barrels per day. Stripper well production is an important part of total domestic production. In 1974, stripper wells accounted for nearly 13 percent (12.9 percent) of total domestic production.

All the stripper well figures I have mentioned—number of wells, daily average, and percentage of total production—represent increases over 1973. Stripper well production has been exempt from price controls for the past few years.

Stripper well activity is a particularly sensitive barometer, because the most immediate impact of the price rollback under the new energy pricing law will probably be greatest on stripper wells that have only marginal value. An oil well that can produce only two or three barrels a day has significant importance in the total energy picture; but if the return is not worth it to the individual producer, he will simply shut the operation down. A rise in the average production from stripper wells would be a sign that marginal wells are shutting down—thus raising the average, while lowering total production.

Therefore, we should carefully monitor stripper well production for signs of impending problems in our total energy picture.

Then I think we should certainly monitor the increase in domestic demand. We need to know by how much the mandated price stabilization will actually encourage the use of more energy.

For many years—most of the 1950's and 1960's—demand for oil in the United States grew at an annual rate of about 3 percent. But beginning in the 1970's, the rate of increase just about doubled. The combination of an energy binge, a booming economy, demand for natural gas, and a variety of other factors accounted for the increase. That lasted, of course, until the embargo. In 1974, demand actually dropped. In 1975, it rose to about 16 million barrels per day (16,629,000) slightly more than it was in 1973.

An improving economy is going to mean an increase in demand for oil for industrial use, transportation, and electricity. In fact, taking into account the general increase in consumer spending and in general economic activity, demand for oil is expected to rise in 1976 by more than 5 percent. That is slightly more than 17 million barrels per day.

The demand figures must be watched very carefully. Every additional barrel of oil which is needed but which cannot be produced in the United States must, of course, be imported. The upturn in oil demand in the months ahead must be carefully evaluated to determine how much can be attributed to the improving economy, and how much to the average price plan approach of the new energy pricing law.

Rising demand for oil in this country will mean—as I have indicated—a further increase in imports.

The percentage of petroleum imports to meet domestic demand has been climbing steadily, and reveals increasing dependence on foreign oil. This ratio of total petroleum imports to domestic demand in 1975 was 36 percent; in 1974, 36.2 percent; in 1973, 35.4 percent. While domestic demand was reduced by 5.9 percent in 1975, when measured against the 1973 level, the U.S. dependency on foreign oil increased to 36 percent from 35.4 percent. Comparing 1975 and 1974 in the same manner, the trend is similar. Demand was down 1.3 percent, but imports remained at approximately the same level, 36 percent versus 36.2 percent. With the continuing decline in domestic crude oil production, these figures show that any increase in domestic demand can only be met by a larger influx of imports.

This rising percentage of imports is a particularly important indicator because of our increasing reliance on OPEC for imported oil.

Canada's policy of reducing petroleum exports is reflected in the import figures over the past 2 years. Imports from Can-

ada amounted to about 1 million barrels per day in 1974, and that dropped to 809,000 barrels per day in 1975. On a percentage basis, United States Canadian imports were off 18.7 percent in 1974 and 40.1 percent in 1975 when compared with 1973.

All this has resulted in an increase in imports from OPEC countries. Those averaged 2.8 million barrels per day in 1973; 3 million in 1974; and 3.4 million in 1975. What is more, imports from the embargo members of OPEC have been stepping up rapidly. Measured against domestic demand, imports from embargo countries increased more than 35 percent from 1973 to 1975.

We already know that our country is too dependent on these uncertain sources of oil. Any further increase in this dependence is unacceptable.

Watching the import figures carefully can tell us the degree of our vulnerability to another oil embargo. It can also tell us whether we are doing anything at all as a matter of national policy to encourage greater domestic production of oil and thereby, to reduce our dependence on imported oil.

Along with import figures we should also closely monitor OPEC prices.

The lack of a comprehensive oil policy during the past few years is one reason for the continuing strength of OPEC and the inordinate rise in oil prices. I regret to say that it is unlikely that OPEC will consider the new energy pricing law as any kind of threat to its continued ability to dictate world oil prices.

But there is a way to find out for certain: measuring OPEC's ability to sustain those high prices, or to raise them further.

That ability, in recent months, has been seriously eroded. The last price increase—an increase of 10 percent—was announced by OPEC in late September 1975. But as a result of lowered demand—largely due to the worldwide recession—some OPEC members have found it difficult to sustain the increases. Iran, Kuwait and Venezuela reportedly are considering deals that would—in effect—mean lower prices. In fact, Iran has recently announced a $0.09 decrease in its price for certain categories of oil.

This means that Iran is coming to grips with a reduced worldwide demand for petroleum and, as a consequence, is bringing its previously higher prices into line with the Saudi Arabian light crude scale. Even as these countries respond to worldwide economic conditions, they will react—one way or another—to an effective American energy policy. The unanswered question is what our Government will do to take full advantage of the present international oil market. We must look for signs of further weakening on the part of OPEC's ability to maintain the present price level and have both the wisdom and courage to respond with an effective energy policy.

OPEC prices, therefore, should serve as a barometer of the effectiveness of the new energy pricing law. If the OPEC cartel regains its ability to set and maintain higher prices, some of that increased strength can probably be attributed to flaws in the new energy pricing law.

Finally, if the Energy Policy and Conservation Act results in higher levels of imports—as many believe it will—that effect will be reflected in rising dollar flows to OPEC countries.

Thanks in large part to the volume drop in imports last year, the Nation's imported oil bill rose only 2 percent—to $25 billion in 1975. As I have already mentioned, the new law makes it a certainty that imports from OPEC countries will rise. Some believe that under the pricing provisions of EPCA—if extended to 1985—imports would be doubled over what they might be if price controls were completely lifted. Most of that oil would come from the Persian Gulf area. And if OPEC raised prices by only $1 per barrel each year, this would mean an oil import bill on the order of $91 billion by 1985.

The oil import cost, therefore, ought to serve as another useful tool in determining if we are headed toward energy independence—or in just the opposite direction—which would mean the export of jobs along with U.S. dollars.

This by no means exhausts the possibilities of indices that could be developed to monitor our energy situation under the new law. I am sure additional ones might be developed. But however it is accomplished, we badly need some way to develop warning signals that will tell us—far enough in advance to take action—whether our energy situation is improving or worsening.

If energy problems can be flagged in a timely fashion, we may still be able to develop the comprehensive energy policy that the Nation has needed for so many years—and still needs after EPCA. I call upon the Federal Energy Administration to monitor effectively the implementation of EPCA and to make the results available to the Congress on a regular basis. Monitoring data as outlined above is not always easy. Nevertheless, without such a review it will be impossible for us to know the real impact of the 1975 Energy Policy and Conservation Act.

Public debate on energy must continue because this Nation continues to face an energy crisis. It may not now appear on the front pages of our newspapers or be discussed much during the current Presidential campaign, but this crisis remains. We cannot assume our problems have gone away, because the price of gasoline at the pump has temporarily gone down. We cannot assume that the solution to these problems has been found in the Energy Policy and Conservation Act of 1975. Unless a thoughtful dialog continues on energy, we will not be able to develop the comprehensive energy policy which will ultimately be necessary for this Nation's survival and well-being.

Mr. President, the Senator from Florida believes that there is an opportunity that faces our economy now to break the OPEC price controls on the price of oil it exports to us. Iran has felt the pressure of worldwide recession, and lowered its price 9.5 cents a barrel, though reluctantly and irritatedly. Venezuela is now negotiating in sensitive negotiations with the same U.S. oil companies whose properties that country nationalized recently, urging those companies to increase production and purchases from Venezuela, because Venezuela is feeling the financial heat of a worldwide recession.

There are a number of foreign oil producing companies that are concealing what amounts to substantial price decreases in special concessions and deals. An interesting riptide is developing. On the upper side of the tide, these prices, even including some prices by major U.S. oil companies at the gasoline pump, are going down.

Underneath that riptide is a current in which U.S. imports from OPEC countries are increasing, and our dependence on them is increasing. Yet, while our dependence on OPEC exporters is increasing, including the most unreliable to our economy among them, at the same time the worldwide recession has sensitized those very OPEC countries, and required some, and many, of them to make special deals or to cut prices generally, and otherwise to respond to these conditions. At the same time that our dependence on them is increasing, their dependence on us is increasing, because we are the only oil-importing nation substantially increasing and paying for its imports; and so they are sensitive, considerably more than they ever were in the past.

We have what I think is a window—the same kind of window that the space technicians use to launch ships to the Moon or to the planets. There is a short period of time in which all of the trajectories work; and during this short period of time when the OPEC is faced with a worldwide recession, with increased market dependence on the United States, we have, during this short period of time, a window in which constructive action on our part can decrease OPEC's prices to us, and maybe even give us a chance to loosen their iron-fisted control of world market prices, an end much to be desired.

If we sleep on our chances and let the entire year go by while we observe the Presidential election, that time may be gone forever in the very foreseeable future.

In the hotel business, once a room-night has passed with the room being unoccupied and vacant, that hotel can never recapture that room-night. We have this chance now, but when the time has gone by, Europe recovers, and the world economy recovers, it is possible, even likely, that for foreseeable future our room-nights will have fled in vacancy, and we will not have used this opportunity to get a decent supply and demand relationship with the foreign oil-producing companies.

What do we need to do? We need to rekindle our interest in a national debate leading to substantial reforms in addition to the compromise bill we passed at the end of last year. We cannot sweep it under the rug; or if we do, the chance we have now may well go, and yet, with

some additional conservation, and with some consideration for effective incentives to increase domestic oil and gas production, that little extra pressure on those foreign oil-producing countries may be all that it takes to break this iron control—a prospect that we have every duty to try for.

So the Senator from Florida urges that we seek a renewed debate on energy policy in this body, in Congress, and in the country, and do everything we can to find out what is not working and change it, to find out what is working and accentuate it, and what we can do in addition to what we have done to improve our conservation and our incentive situation, and increase the pressure on OPEC, to the end that we might possibly prevail and obtain a lead toward a relatively free market situation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa (Mr. CLARK) is recognized for 7½ minutes.

Mr. CLARK. I thank the Chair.

SENATE RESOLUTION 401—SUBMISSION OF A RESOLUTION RELATING TO THE TREATY OF FRIENDSHIP AND COOPERATION WITH SPAIN

(Referred to the Committee on Foreign Relations.)

Mr. CLARK (for himself and Mr. EAGLETON) submitted the following resolution:

S. RES. 401

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty of Friendship and Cooperation Between the United States of America and Spain, signed at Madrid on January 24, 1976, together with its Seven Supplementary Agreements and its Eight Related Exchanges of Notes, subject to the declaration that—

(1) the United States, recognizing the aspiration of Spain to achieve full participation in the political and economic institutions of Western Europe, and recognizing further that the development of Spanish democracy is a necessary aspect of her full integration into European life, hopes and intends that this treaty will serve to support and foster Spanish progress toward democracy and toward complete Spanish participation in the institutions of Western European political and economic cooperation; and

(2) the United States, while recognizing that this treaty does not expand the existing United States defense commitment in the North Atlantic Treaty area or create a bilateral defense commitment between the United States and Spain, looks forward to the development of such an expanded relationship between Western Europe and a democratic Spain as would be conducive to Spain's full cooperation with the North Atlantic Treaty Organization, its activities and mutual defense obligations.

Mr. CLARK. Mr. President, I now submit a resolution by which the Senate would give advice and consent to ratification of the treaty with Spain, subject to a condition which can properly be labeled a declaration. The effect of this declaration is not to place a reservation upon the Senate's consent, thus requiring further negotiation. Rather, the effect and purpose of this declaration is to reiterate and make explicit certain important aspects of the treaty relationship to which the Senate would be giving its approval.

Over the weeks ahead, the Senate will be considering the recently negotiated treaty of friendship and cooperation with Spain, with a view to giving advice and consent to its ratification—ratification being the act by which signatory governments place a treaty into effect once their respective constitutional processes have been satisfied.

I yield at this point, Mr. President, to the Senator from Missouri.

Mr. EAGLETON. Mr. President, I want to say how pleased I am to join the distinguished Senator in submitting this resolution.

I would like to propound a question, if I may, to my colleague from Iowa. Is it his opinion that this declaration would make no material change in the treaty in the legal sense—that it would not change the terms of the treaty?

Mr. CLARK. Yes, that is correct. The treaty would not have to be renegotiated. It is simply a declaration on the part of the Senate that we wish to make two additional points very clear. They are; namely, that we are concerned about encouraging progress toward a more democratic society and more democratic government in Spain, and we wish to emphasize that although this treaty does not expand the existing U.S. security commitment, we would hope that as Spain progresses toward a fuller democracy it might achieve full cooperation with NATO.

Mr. EAGLETON. I agree fully with the Senator's comment. He has described very well the purpose of our resolution.

As the Senator has indicated, Spain is undergoing process of change. Realizing how difficult it is to predict future events, would the Senator agree that we should not, by our approval of this treaty, convey an endorsement of the politics of the current Spanish regime?

Mr. CLARK. Absolutely. What we wish to do with the declaration is to make very clear that we are interested in further progress toward democracy, and that we in no sense in ratifying this treaty believe that the present government has yet really made the necessary progress with which we would be completely satisfied.

Mr. EAGLETON. That is very good.

I shall read into the record at this point what I consider to be the most significant portion of the Clark-Eagleton resolution.

> The United States . . . hopes and intends that this treaty will serve to support and foster Spanish progress toward democracy and toward complete Spanish participation in the institutions of Western European political and economic cooperation; . . .

We are, in other words, offering encouragement to those who aspire to complete democracy in Spain. And, we are recognizing the fact that, until that day comes, Spain will not be able to participate fully in the cooperative institutions of the West.

Mr. President, if I have remaining any time allotted to me I yield said time to the distinguished Senator from Iowa.

The PRESIDING OFFICER. The Senator has 7½ minutes.

Mr. EAGLETON. I yield that time to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. CLARK. I thank the Chair and Senator EAGLETON.

Mr. President, contrary to common conception the Senate will have available to it alternatives other than simply approving or disapproving the ratification of this treaty. It is my purpose here to discuss briefly what alternatives exist and then to introduce for the Senate's consideration a resolution, cosponsored by Senator EAGLETON, which represents one of these alternate choices.

THE ADVISE AND CONSENT FUNCTION

Mr. President, the Constitution requires the President and the Senate to share responsibility for the making of treaties—article II, section 2. The President's responsibility is to negotiate such agreements; the Senate's is to give consent or to refuse to give consent to their ratification. During this process, however, the Senate may condition or qualify its consent to a treaty; and the Constitution binds the President to make the Senate's qualification on consent effective if he wishes to bring the treaty into force.

The method by which the Senate may condition its consent is by making a statement. Such a statement may be designated a "reservation," an "understanding," a "declaration," or be described by still another term. By tradition, such a statement is rendered as a part of the resolution of consent to ratification, though other methods are available.

The actual effect of such a statement, however, is determined neither by what term is used to describe it nor by the means through which it is rendered, but rather by its substance. The crucial distinction is whether the Senate's statement—its condition—is or is not consistent with, and within the scope of, the intent of the negotiators. If such a condition clearly is in accord with the intent of the negotiators, it does not have the effect of requiring further negotiation of the treaty. If, on the other hand, the Senate's statement places a condition on the Senate's approval which extends beyond or contradicts the negotiators' intent, then the Senate will have placed a reservation on its consent; and further negotiation will be necessary to determine whether the signatories will allow the Senate's condition to be incorporated into the content of the agreement.

It is clear, Mr. President, that Spain is now embarked on a period of fundamental change. After four decades of dictatorial rule by General Francisco Franco and isolation from the mainstream of European life, Spain is now a monarchy, openly aspiring to be integrated fully into the Western European institutions of political, economic, and

military cooperation. The precondition for such an assimilation, Mr. President, has been made explicit by the European nations. Spain must achieve genuine progress toward developing her own institutions of democratic participation before she will be welcomed as a full partner in the multilateral institutions of Western Europe and the Atlantic Alliance.

Mr. President, I believe that the proper role of the United States is to assist this process of Spanish evolution toward democracy, and toward integration into Europe, in every way possible. And I believe further that the United States can do so within the context of Spanish-American economic and military cooperation envisioned by this treaty. Indeed, so long as Spain seeks acceptability in Europe, and so long as the United States and Spain maintain a cooperative relationship, our Nation will be able to exert a positive influence over the process of Spanish change.

There are, however, aspects of this agreement which the Senate must consider with special care. Unlike previous agreements with Spain, this agreement has been cast as a treaty; and what the treaty form signifies, unfortunately, is subject to misinterpretation. As I have stressed on numerous occasions, there is, between a treaty and an executive agreement, no inherent difference as to content or obligation. Both forms entail a commitment by the United States to adhere to whatever has been agreed. Both have the same force in international law. Only in the realm of American domestic process is there a difference, the treaty form and the Senate's consent to ratification being an explicitly stated constitutional requirement for all agreements of significant consequence.

With regret I must, of course, acknowledge that the constitutional treaty requirement has not in the past been scrupulously heeded, and that significant agreements have been contracted without the Senate's constitutionally specified participation. Indeed, it is only because proper constitutional procedure was not followed in the contracting of previous agreements with Spain that the new agreement now represents a departure. It thus bears emphasis that it is the treaty form which constitutes the "norm," and that the aberration lies in past practice. Yet, while I shall continue to stress the constitutional reality that the treaty form signifies no more than an overdue compliance with proper procedure, I also recognize the political reality that many people, not attuned to these constitutional considerations, will attach special significance to the treaty form. To many observers, this agreement—because of its form and also because of its timing—represents a new, stronger bond between the U.S. Government and the Spanish regime. And that perception, Mr. President, constitutes a potential liability which the Senate cannot ignore.

The liability, Mr. President, consists in the way this agreement may be perceived, or misperceived, by the Spanish establishment and by the Spanish opposition. If, by the Spanish establishment, this new treaty is interpreted self-servingly as an American blessing of the Spanish status quo, it could as a result have the dangerous effect of encouraging Spanish governmental intransigence against those forces in Spanish life seeking to advance toward democracy. And if Spaniards who are laboring for such progress draw the same conclusion—that the United States has alined itself complacently with an obdurate Spanish Government—then this treaty could become the focus and genesis of a bitter anti-Americanism that would seriously endanger the future of Spanish-American relations, particularly after Spanish democracy is finally attained.

There are many changes yet to come in Spanish life, Mr. President, probably in the near future. And it would be the saddest irony if our Government, by rushing pellmell to solidify its relations with post-Franco Spain, were to alienate those very democratic forces whose future success is so fundamentally necessary for the full realization of Spanish-American friendship. The United States cannot afford to be—or to be perceived as—an obstacle to progressive change in Spain; and it is vitally important that this Treaty of Friendship and Cooperation be clearly and widely understood to constitute an American bond not simply with the current Spanish Government but with the Spanish nation as a whole.

We cannot of course dictate the way in which our actions are perceived. But we can do our best to make clear what we intend. There is, according to my understanding, very little criticism in Spain, even among elements of the Spanish opposition, concerning the content of this treaty. There is only apprehension about what the treaty may signify. And it is this which the Senate can clarify through a straightforward declaration of American interest and intent.

This resolution, Mr. President, would put forward the American position on two important counts. First, it would affirm that it is a fundamental interest of the United States to see Spain move expeditiously toward the creation of democratic institutions, and that it is the intent of the United States that this treaty support, not impede, the process.

Second, it would emphasize that this treaty does not constitute a defense commitment to Spain, and that any such commitment, which would be made within the NATO context, is contingent on Spain's progress toward democracy. Both of these ideas Mr. President, need to be promulgated with emphasis, and this resolution provides a means. With the Spanish press now much less restricted than it was even a few months ago, our actions will be followed by Spaniards on all sides of Spanish life; and I believe that, at such time as this treaty is approved, the American concern for Spanish democracy, and not just for Spanish bases, should be read throughout Spain.

Mr. President, in closing, I wish to note that neither Senator EAGLETON nor I, in sponsoring this resolution, intends to indicate unqualified support for the treaty at this time. Indeed, it is our intention to reserve judgement until after the Foreign Relations Committee has completed a thorough process of hearings and deliberation on the treaty's substantative merits. The sole purpose of introducing the resolution now is to provide, for the Senate's consideration, the kind of legislative vehicle which Senator EAGLETON and I believe should be employed if and when Senate approval of this treaty is finally granted.

I yield the remainder of my time.

Mr. EAGLETON. Mr. President, this resolution adds an important condition to the Senate's consent to ratify the Treaty of Friendship and Cooperation with Spain.

In remarks before this body on February 5, I recommended that the Senate carefully consider the impact of this treaty on the political change now going on in Spain. I said then that the adoption of the treaty form—as opposed to the too frequently used executive agreement—would enable our Government to express in explicit terms its hopes and intentions with respect to our continuing relationship with Spain.

This treaty, for which the Executive has requested our advice and consent, is the formal representation of that relationship. If ratified, it will remain the instrument of reference between the United States and Spain for 5 long years.

As we dust off the "advice and consent" power, long ignored by imperial presidents and dormant congresses, we could be assigned no more difficult task. We are being asked to consent to the terms of this treaty at the outset of a new era in Spain—an era which will bring unpredictable change to the political landscape of that country. We are being asked to consent without reservation to the President's judgment that this treaty will serve to preserve U.S. interests over the next 5 years.

Mr. President, we will put the administration's judgment to the test in the coming weeks. The Foreign Relations Committee will begin hearings on this important treaty tomorrow. In my view, our most challenging task will be to consider the impact this treaty will have on the political evolution now going on in Spain.

The most visible aspect of this agreement is the defense relationship and the renewal of arrangements to base U.S. forces in Spain. The changes made in these arrangements—the withdrawal of the 98th Strategic Wing of tanker aircraft and the phased withdrawal of our nuclear submarine squadron—reflect changing attitudes in Spain toward the U.S. military presence. This treaty reflects the growing concern of the Spanish people over the prospect of being drawn into the much feared East-West confrontation without benefit of full membership in the North Atlantic Alliance.

These attitudes cannot be ignored as we assess the risks and the benefits of this treaty. The effect of such strongly held attitudes during the relatively stable period during which the treaty was ne-

gotiated caused the Spanish Government to push for major modifications in the defense relationship. But what new pressures will emerge as Spain moves to open its political process?

Because none of those who ultimately will take responsibility for this treaty can answer that question today, I say we must give minimal weight to the short-term military benefits this agreement offers. We cannot be placed in a posture wherein we appear in the eyes of whatever new Spanish leadership emerges to be sacrificing democratic principle to gain restricted access to three marginally important military bases.

This treaty can and should be a vehicle to foster a much more positive relationship than the current alliance of convenience between our two countries. Whether assessing our relations in military, political or economic terms, the United States will have a much closer affinity with a democratic Spain, a Spain which has been accepted by the cooperative institutions of Western Europe. This treaty must convey that message to the Spanish people.

Mr. President, that is exactly what Senator CLARK and I seek to accomplish by the "declaration" we put forward today. In a very important way this statement puts the face of principle on this treaty.

This declaration recognizes the stated aspirations of the Spanish Government to participate fully in European life, and it recognizes the key criterion for such participation—the development of democracy in Spain.

This criterion has not been arbitrarily set by the United States acting alone. It has been set by the nations of Western Europe and by the overwhelming and acknowledged public sentiment of today's Spain.

As I have stated previously, I believe that the alternative to this treaty is a break in United States-Spanish relations. Such a break in my view would not be in the best interests of the United States, nor would it advance the cause of democracy in Spain. It might even strengthen the hand of those who wish to perpetuate the Franco system.

In general, therefore, I support this treaty, though I will reserve final judgment until the Foreign Relations Committee completes its work. Nonetheless, if the Senate ratifies this agreement, I want the U.S. position on democracy in Spain to be clear—and I want that position to be preserved for the next 5 years as a formal declaration of intent.

Mr. President, soon after Franco's death, when the eyes of the world were on Spain, the new King, Juan Carlos, declared a partial amnesty for political prisoners. Soon thereafter a number of those released were rearrested as they participated in demonstrations urging complete amnesty. Opposition leaders were quoted as saying that "liberalization had lasted only until the foreign statesmen and television cameramen had left."

The same charge is being leveled with respect to the proposal for political reform put forth by the Spanish Government a month ago. The government is on good behavior, it is said, while the U.S. Senate considers whether to ratify the treaty. As soon as ratification is voted, the pressure will be off.

Although I have more confidence in the intentions of the current Spanish Government, I am concerned about reports that the right wing is seeking to sabotage the reform proposal.

We cannot ignore the perceptions of the Spanish opposition. We cannot risk the possibility that our ratification of this treaty will be seen as the act which relieves the government of its obligation to press forward to achieve democracy.

The resolution we submit today will keep alive the strong desire of the United States that Spain keep moving toward the development of democratic institutions. It represents the same sentiment expressed by President Ford in his letter of transmittal. In that letter of February 18, 1976, the President expressed this hope:

> . . . (that) the Treaty would serve to provide a firm basis for a new stage in United States-Spanish relations, reflecting United States support for and encouragement of the important evolution which has begun in Spain. . . . The treaty reflects the mutual conviction of Spain and the United States that the proper course of this evolution should include, as major objectives, the integration of Spain into the institutions of Europe and the North Atlantic defense system and should include a broadly based cooperative relationship with the United States in all areas of mutual interest.

Mr. President, the United States has too often placed short-term gain, usually in the name of one cold war strategy or another, ahead of the principles which we hold as a nation. In country after country, we have been accused of stifling democracy to preserve a geopolitical position in the effort to contain communism. And, in the long run, our interests have suffered—we have lost ground.

It is my sincere hope that through this resolution we can send a strong message to the people of Spain that we understand their aspirations and that we endorse them. If we fail to do that, we may well find ourselves on the outside, the victim of democratic forces we, of all nations, should be able to harness.

Mr. GARY HART and Mr. CURTIS addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Colorado is recognized for not to exceed 15 minutes.

SPECULATION AND FACTS: A REPLY TO SENATOR GOLDWATER

Mr. GARY HART. Mr. President, my statement here today is not by way of stimulating controversy or opening up wounds with one of my colleagues, but rather by way of clarifying the record with regard to a very important issue.

I am speaking today to voice my shock and disappointment at the unfounded statements made recently by the able Senator from Arizona (Mr. GOLDWATER), concerning President John F. Kennedy. I refer to Senator GOLDWATER's claim, reported in the press in recent weeks, that the Select Committee on Intelligence has attempted to cover up evidence implicating President Kennedy in the CIA's assassination attempt against Fidel Castro of Cuba.

This is utter nonsense. I am astounded that the Senator from Arizona seeks at this time to discredit the findings presented in a carefully researched report which bears his own signature. Where were his complaints and criticisms when the work was being done, when the witnesses were testifying and the drafts of the report being written? Who are the witnesses he claims have changed their testimony? Where is his evidence?

Surely, if there was any such evidence, Senator GOLDWATER would have included it in his own "Additional Views" appended to the committee's assassination report. He did not do so. Instead, he referred vaguely to circumstantial evidence received by the committee that Robert Kennedy and, therefore, President Kennedy knew about the attempts on Castro's life before, during, and after they occurred.

Neither I nor any other member of the committee that I know of has heard or seen any evidence that lends credence to Senator GOLDWATER's accusations. In the press releases I have seen, for example, Senator GOLDWATER cites a witness who said that a CIA official was asked by the White House during the Kennedy administration: "When are you going to * * * do something about Cuba?" From this, Senator GOLDWATER apparently jumps to the conclusion that President Kennedy ordered an assassination. The facts do not support that conclusion.

Senator GOLDWATER is quoted in the press as saying that following this statement by the witness, the select committee began an effort "to get the blame away from the Kennedys." This is simply not true. Apparently, other members of the committee do not think it is true either. Senator TOWER, the ranking Republican on the committee, told the press he did not know what GOLDWATER was talking about. Senator WALTER HUDDLESTON of Kentucky, another committee member, called Senator GOLDWATER's statement "ridiculous" in an interview reported in the Washington Post.

Perhaps the Judith Campbell matter and Senator GOLDWATER's own personal theories on executive chain of command lie behind his unfortunate statements. As the committee's chairman, Senator CHURCH, has explained many times, the committee decided, by unanimous vote, not to dwell on the Campbell case in the assassination report after we had examined the evidence carefully and assured ourselves that this matter had nothing to do with the mandate of the select committee. Of course, we could have interviewed Frank Sinatra, Howard Hughes—if there is a Howard Hughes—Lawrence Welk, and Captain Kangaroo, for that matter. All would have been equally irrelevant. Our purpose was not to stage a headline-grabbing soap opera, but rather a probe of CIA assassination attempts. When the Campbell trail did not lead in this direction, the committee saw no point in pursuing the irrelevant. Senator GOLDWATER certainly voiced no interest in handling the Campbell case in any other fashion.

Senator GOLDWATER seems to have

reached an a priori conclusion that Presidents simply must have been behind the various assassination attempts. As he told a group of reporters last week, "It had to be on orders of the Government. There is no other way." Gesturing toward the White House, Senator GOLDWATER reportedly concluded: "Everything points right down there." In his additional views to the assassination report, Senator GOLDWATER expressed his view that—

> Since World War II, Presidents have directly or indirectly approved of all actions taken by the CIA which have been the subject of the Select Committee investigation.

These are most serious charges. The Senator from Arizona has implicated the names of every recent President in plots to assassinate Fidel Castro and others without firm evidence—all apparently because he believes "there is no other way."

These are Senator GOLDWATER's views and opinions. Now let us review the evidence. The facts are these: None of the committee's witnesses could say with any assurance that any President had ordered an assassination. High ranking CIA officer Richard Bissell, for example, said that he guessed President Kennedy knew about the attempts against Castro but, he added—

> I have no direct knowledge, first-hand knowledge of his (President Kennedy's) being advised.

When Bissell was asked if he had informed anyone outside the CIA that an effort to assassinate Castro was underway, he replied, "Not to my recollection." He added he was never told that any official outside the Agency had been made aware of such an effort.

Richard Helms testified that he inherited the program to assassinate Castro from Mr. Bissell, and, because of its sensitive and unsavory character, it was not the type of program one would discuss in front of high officials. When asked specifically if President Kennedy had been informed of any assassination plots, Helms pointed out that—

> Nobody wants to embarrass a President of the United States by discussing the assassination of foreign leaders in his presence.

Helms also testified that he never told Attorney General Kennedy about any assassination activity. He stated that he never informed McCone or any other official of the Kennedy administration of the assassination plot.

Secretary of State Dean Rsuk testified—

> I never had any reason to believe that anyone that I ever talked to knew about any active planing of assassination underway.

Secretary of Defense Robert McNamara stated that he had "no knowledge or information about plans or preparations for a possible assassination attempt against Premier Castro."

Roswell Gilpatric, Deputy Secretary of Defense under McNamara, said that killing Castro was not within the mandate of the special group, which he construed as having been only to weaken and undermine "the Cuban economy."

Gen. Maxwell Taylor, who later chaired special group meetings on Operation Mongoose, stated that he had never heard of an assassination effort against Castro, and that he never raised the question of assassination with anyone.

McGeorge Bundy stated it was his conviction that "no one in the Kennedy administration, in the White House, or in the Cabinet, ever gave any authorization, approval, or instruction of any kind for any effort to assassinate anyone by the CIA."

Walt W. Rostow, who shared national security duties with Bundy before moving to the Department of State, testified that during his entire tenure in Government he never heard a reference to an intention to undertake an assassination effort.

All of this sworn testimony is reprinted in the committee's assassination report. On the basis of testimony and documentary evidence, the committee could find no link betwee the White House and the plots to assassinate Castro. Yet, as the report stated, White House officials were clearly at fault for giving vague instructions and for not explicitly ruling out assassination. Further, as the report concluded, the system of executive command and control was so ambiguous that it is difficult to be certain at what level assassination activity was known and authorized.

This does not, however, give anyone the liberty to make wild accusations about Presidential involvement—unless, of course, they are prepared to lay down the hard facts to support their claims. I invite Senator GOLDWATER to do so. If there is evidence in the committee's secret testimony to indicate Presidential involvement in the plots to assassinate Castro, as Senator GOLDWATER has suggested there is, I will join with the Senator in voting to have that testimony publicly released. If this testimony exists, the public has a right to see it.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements therein limited to 5 minutes each.

PAROLE COMMISSION AND REORGANIZATION ACT—CONFERENCE REPORT

Mr. BURDICK. Mr. President, I submit a report of the committee of conference on H.R. 5727, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. NELSON). The report will be stated by title.

The second assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5727) to establish an independent and regionalized U.S. Parole Commission, to provide fair and equitable parole procedures, and for other purposes, having met, after full and free conference, have agreed to recommend, and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of February 23, 1976, beginning at page 4063.)

Mr. CURTIS. Mr. President, reserving the right to object, may I inquire from what committee this comes?

Mr. BURDICK. From the Committee on the Judiciary.

Mr. CURTIS. Does the ranking member of that committee approve this conference report?

Mr. BURDICK. Yes, he does.

Mr. CURTIS. Very well.

Mr. BURDICK. Mr. President, the conference report before the Senate for adoption today to reorganize the U.S. Board of Parole into a Parole Commission is a final legislative step in a process that has taken more than 3 years. I do not believe it is necessary to recite the history of these efforts, except to say that the Parole Board and the Department of Justice have been deeply involved in the process that brings us here today.

This legislation provides a statutory basis for a regionalized organization of Federal parole activities, it clarifies the independence of parole decisionmaking, and it recognizes the importance of parole guidelines as a basis for structuring the broad discretion given the Agency. These decisionmaking guidelines are to be published in the Federal Register, where they may be seen and commented upon by interested agencies, by Members of Congress, and by concerned citizens.

Although exceptions to these guidelines would be permitted when the Parole Commission can establish reason that warrants it, it is anticipated that most decisions to grant or deny parole will be based upon guidelines. After a prisoner has been heard by hearing examiners, and the examiners have recommended a disposition of the case, decision on parole is in the hands of a Presidentially appointed commissioner. The decision of the Commission in each case includes opportunity for review and appeal to protect the integrity of the parole process. The bill gives statutory recognition to the importance of guidelines in parole decisionmaking, but also requires the Commission to make discretionary determinations concerning accountability and protection of the public welfare before any prisoner may be released on parole.

When a decision has been made, the parolee is told the decision and the particular reasons for that decision. The prisoner who is denied parole is told how the Commission assesses his case against the guidelines, in particular the severity of his offense and the probability of his success on parole as judged from his past behavior.

It is the intention of the conferees not to require institutional parole determination proceedings for prisoners serving concurrent State and Federal sentences in State custody until such time as they have been granted parole on the

State sentence. To require otherwise would mean performance of meaningless proceedings as the prisoners would remain in custody. The legislation provides for judicial review of the Commission's rulemaking procedure, but also carefully preserves existing limitations on judicial review of individual parole decisions.

The individual granted parole would be released under conditions that serve as a guide to his future behavior, which require that he commit no other criminal offenses, and that he live under other limitations that are reasonably related to protecting the public welfare.

Although the vast majority of Federal parolees complete their period of supervision successfully, the parole of some is revoked and they are returned to prison. For those whose parole would be revoked for crimes committed subsequent to their release on parole, the statute recognizes that the full criminal process is available to the individual in connection with the new charges, but permits a full revocation hearing where warranted by the circumstances of the case. This legislation also provides for appointment of counsel, and it is intended that rates of payment remain consistent with present rates.

The legislation also provides new parole criteria which come into effect when the prisoner has completed two-thirds of his sentence, which are designed to complement the present statutory provisions for good time, and assure that prisoners with long sentences have at least some period of supervision in their community before total release from Federal custody. For those prisoners whose parole has been revoked and who have been returned to prison, it is intended that the two-thirds be based upon time remaining to be served when they are reimprisoned.

The legislation establishes certain deadlines for the Commission's decision-making, but the conferees acknowledge that from time to time extraordinary reasons may result in delay in making any of the decisions. If a legal remedy is necessary in the absence of good faith effort on the part of the Commission, the remedy available to the prisoner or parolee is to compel the decision, not release from custody.

This legislation is prospective in its application. Decisions to grant, deny, modify, or revoke parole made by the parole agency prior to the effective date of this act are to be carried out pursuant to the law in effect at the time of the decision. Examples of prospective application of the provisions of this legislation include, but are not limited to, the length of time between hearings for a prisoner denied parole—section 4208 (h)—and computation of time remaining to be served for individuals whose parole has been revoked—section 4210(b)—and provisions relating to termination of parole supervision—section 4211. Prospective application does not preclude parole consideration for persons with sentences of more than 30 years, including life terms pursuant to section 4205(a); however, it is the intent of the conferees that where such terms have been imposed consecutively, the minimum term of parole ineligibility shall also be applied consecutively.

Mr. HRUSKA. Mr. President, I rise in support of the pending measure, the conference report on H.R. 5727, a bill to establish an independent and regionalized U.S. Parole Commission, to provide fair and equitable parole procedures, and for other purposes.

I would also like to express my personal gratitude to the Senator from North Dakota for his dedication and tireless efforts as chairman of the Subcommittee on National Penitentiaries in drafting this legislation to reform the Federal parole system.

Mr. President, parole is not a new concept to the field of corrections, but the use of parole as an extension of the sentencing process has significantly changed and expanded in recent years. Parole authority has provided a means of balancing the interests of protecting society from criminal offenders through incarceration, and providing a means for prisoners to achieve credit for good behavior and shorten their time in prison. This bill goes a long way in accomplishing this balance.

The purposes of parole are subject, of course, to the operation and structure of the Parole Commission. This measure addresses the standards and safeguards necessary to guide the Parole Commission, while at the same time expanding the tools of the Commission to handle a growing caseload of parole decisions complicated by due process considerations and the presence of counsel at revocation proceedings.

Mr. President, this legislation creates an independent, nine-member Parole Commission within the U.S. Department of Justice. The Commissioners serve a term of 6 years under Presidential appointment by and with the advice and consent of the Senate. The Commission has authority to set guidelines and procedural rules within its own policy boundaries and the provisions of the instant bill.

This legislation, among other things, provides that a prisoner serving a sentence of more than 1 year is eligible for parole consideration after having served one-third of his sentence; or in the case of a prisoner sentenced to life or more than 30 years, after serving 10 years of his sentence. In addition, individuals sentenced to a maximum term or terms of more than 6 months, but not more than 1 year, shall be released at the end of their sentence less good time earned.

Conditions of parole are another aspect of the bill which represents new approaches to corrections philosophy. The Commission may impose conditions of parole that limit the parolee's liberty, if in the Commission's judgment such conditions are reasonably necessary to protect the public welfare. Such conditions may also be specific so that the parole may have a guide in his behavior and supervision in the community.

Mr. President, there are numerous other provisions in H.R. 5727, which can be found in the conference report accompanying the bill. It is a well-written document, Mr. President, because it gives detailed and exhaustive treatment to the thinking of the conferees on this measure. I commend it to my colleagues who may have a special interest in this legislation.

Mr. President, many of the provisions of this bill are substantially incorporated into S. 1, the bill to revise and codify the Federal Criminal Code. Although the Judiciary Committee is proceeding in a deliberate but quickening manner to bring an acceptable bill to the floor, this bill should not be delayed until after the passage of S. 1. I think it is good that the Congress act on this measure at this time and I commend the conferees for working so diligently to get agreement on the bill.

Mr. President, the conference report should be adopted.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

SENATE CONCURRENT RESOLUTION 96—CONCURRENT RESOLUTION AUTHORIZING CORRECTIONS IN ENROLLMENT OF H.R. 5727

Mr. BURDICK. Mr. President, I submit a concurrent resolution and ask for its immediate consideration.

This concurrent resolution authorizes correction of certain typographical errors in the conference report, and provides that the Senate recede from its amendment to the title of the bill.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The second assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 96) to authorize certain corrections in the enrollment of H.R. 5727.

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

There being no objection, the concurrent resolution was considered and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill H.R. 5727, to establish an independent and regionalized United States Parole Commission, to provide fair and equitable parole procedures, and for other purposes, the Clerk of the House of Representatives is authorized and directed, in the enrollment of said bill, to make the following corrections:

In section 4203(c)(3), as amended by section 2, strike out the word "delegate" and insert in lieu thereof "may delegate"; in section 4204(a)(5), as amended by section 2, strike out the semicolon the second time it appears in such section and insert in lieu thereof a comma; in section 4204(b)(3), as amended by section 2, strike out the period at the end of such section and insert in lieu thereof a semicolon; in section 4205(d), as amended by section 2, strike out the comma the first time it appears in such section; in section 4211(c)(3), as amended by section 2, strike out the word "paragraph" and insert in lieu thereof "subparagraph".

SEC. 2. That the Senate recede from its amendment to the title of H.R. 5727.

AGRICULTURAL PEST CONTROL—CONFERENCE REPORT

Mr. TALMADGE. Mr. President, I submit a report of the committee of confer-

ence on S. 1617 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. NELSON). The report will be stated by title.

The second assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1617) to clarify the authority of the Secretary of Agriculture to control and eradicate plant pests, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the REPORT of February 9, 1976, beginning at page 2859.)

Mr. TALMADGE. Mr. President, S. 1617 broadens and strengthens the authority of the Secretary of Agriculture to carry out programs designed to eradicate and control plant pests.

The bill was originally introduced to provide authority for a cooperative control program against an infestation of the Mediterranean fruit fly in Central America which was detected in the spring of 1975. Current law authorizes cooperation in plant pest control only with Mexico.

As originally passed by the Senate, S. 1617 authorized the Secretary of Agriculture to cooperate in plant pest control with the governments of all countries of the Western Hemisphere. However, the House-passed version restricted the extension of the Secretary's authority to: First, certain countries in Central America and the Caribbean; and, second, international organizations or associations. The Senate asked for a conference because of the need for greater flexibility in dealing with plant pest problems.

I am pleased to report that the conference committee agreed to the Senate language authorizing the Secretary of Agriculture to cooperate in plant pest control with the governments of all countries of the Western Hemisphere. The conference committee also agreed to that part of the House amendment authorizing the Secretary to cooperate in plant pest control with international organizations and associations.

S. 1617, as passed by the Senate, made it clear that the Secretary's authority to cooperate with certain Western Hemisphere countries in animal disease control extends to carriers of animal diseases. The conference substitute retains the Senate provision and the House amendment extending the Secretary's authority to: First, the Bahama Islands, the Greater Antilles, and the Lesser Antilles, and second, international organizations or associations.

Mr. President, I ask unanimous consent that a summary of S. 1617, as adopted by the conference committee, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. TALMADGE. Mr. President, S. 1617 affords many benefits to American agriculture. The bill is also desirable from the standpoint of our relations with the governments of the other countries of the Western Hemisphere.

I move the adoption of the conference report.

EXHIBIT 1

SUMMARY OF S. 1617, AS ADOPTED BY THE CONFERENCE COMMITTEE

S. 1617, as adopted by the Conference Committee, would broaden and strengthen the authority of the Secretary of Agriculture to control and eradicate agricultural pests. The bill would—

(1) Permit the Secretary of Agriculture to carry out eradication and control programs with respect to plant pests not now covered by the Organic Act of 1944. Such pests would include spider mites, slugs, and snails. Specific authority is provided for the detection of plant pests in the United States.

(2) Extend the Secretary's authority to cooperate with foreign governments in carrying out eradication and control programs. The bill would (i) permit the Secretary to cooperate with the governments of all the countries of the Western Hemisphere or the local authorities thereof, and with international organizations or associations, and (ii) cover "plant pests" in general. Existing law authorizes cooperation only with Mexico and for specified pests.

(3) Make discretionary the Secretary's authority to provide phytosanitary inspection and certification service for domestic plants and plant products for export, and extend such authority to inspection and certification of any plants or plant products offered for export or transiting the United States.

(4) Repeal provisions in the Act of October 6, 1917, for cooperation with Mexico and adjacent States in the extermination of pink bollworm infestations in Mexico, and related operations. The Organic Act, as amended by the bill, would contain such authority.

(5) Make it clear that the Secretary's authority to cooperate in animal disease control extends to the carriers of animal diseases. The bill also extends the Secretary's authority to cooperate in animal disease control to the Bahama Islands, the Greater Antilles, and the Lesser Antilles, and international organizations or associations. Existing law authorizes such cooperation only with the Central American countries, Canada, Mexico, and Colombia.

Mr. FONG. Mr. President, I rise to speak in favor of adoption of the conference report. The bill as reported extends the authority of the Secretary of Agriculture to enter into cooperative agreements with governments of the Western Hemisphere for the programs against plant pests. This authority is urgently needed to initiate a control program against a Mediterranean fruit fly infestation in Central America which threatens to spread up through Mexico and into the United States. This pest represents a very serious economic threat to our citrus and deciduous fruit industry. I am personally familiar with the damage this pest can inflict because of an infestation in the State of Hawaii which, along with two other fruit flies—the Oriental fruit fly and the Melon fly, have had an enormous effect on my State's agricultural industry.

Mr. President, as ranking minority member of the Agriculture and Related Agencies Subcommittee of the Senate Committee on Appropriations, I have sought greater funding of critically needed research on this and other plant pests to develop the technology required for effective and efficient control programs. I am very pleased that in a recent infestation in Los Angeles, Calif., the findings of this research were utilized in what currently appears to be a thoroughly successful eradication effort.

I hope that the technology being developed will find similar application and success in controlling the Central American infestation of Mediterranean fruit fly. Additionally, as this technology becomes more refined, I fully anticipate an eradication program to be undertaken against the frut flies in Hawaii which, as in the case of Central America, represent not only a serious threat of infestation to the continental United States but also require the continual expense of a plant quarantine program.

Mr. President, I have only one reservation over the bill we have before us today. As originally drafted, S. 1617 would apply only to Central America—as indeed it is my understanding that the Mediterranean fruit fly infestation in Honduras was the primary reason for the bill. The bill as approved by the conference committee, however, extends this authority to all countries of the Western Hemisphere. My concern, of course, is whether this greatly expanded authority will result in a dilution of our current plant protection program because of a combination of fiscal constraints coupled with a number of new foreign plant pest control programs.

Mr. STONE. Mr. President, the distinguished senior Senator from Hawaii has made a very important point. May I say that in the consideration of this bill, we closely examined this very issue and I believe it should be made clear that the authority provided in this bill is discretionary authority and in no way compels the Department of Agriculture to enter into cooperative agreements.

The Department has informed Congress that a study is underway "to systematically evaluate the implications of alternative Federal roles in cooperative insect control activities, to select the most appropriate alternative and to develop procedures and criteria for assessing the benefit/cost relationships." This study will aid the Department in evaluating the relative merits of future control programs in foreign countries and utilizing the authority provided in S. 1617 to the maximum benefit for the protection of our agricultural industry from plant pests.

Mr. President, currently the Department has no latitude in addressing threats posed by plant pests not specified by country and species under existing legislation. S. 1617 will enable the Department to take action more expeditiously without having to run back to Congress every time this country is confronted with a serious new plant pest in the Western Hemisphere.

Mr. FONG. Mr. President, mindful of the vulnerability of our agricultural industry to new plant pests, I believe this legislation is needed. I fully intend to follow the implementation of the new authority provided by it to assure that

the Department utilizes this authority sparingly and in situations which do represent serious threats to American agriculture. I thank the distinguished Senator from Florida for his clear explanation of the bill and for his dedicated hard work to assure its timely consideration. I know that he is fully mindful of the need to take those actions required to protect our agricultural producers from these plant pests.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

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

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

REHABILITATION ACT EXTENSION OF 1976—CONFERENCE REPORT

Mr. RANDOLPH. Mr. President, I submit a report of the committee of conference on H.R. 11045 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11045) to amend the Rehabilitation Act of 1973 to extend the authorizations of appropriations contained in such act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of February 5, 1976, beginning at page 2619.)

Mr. RANDOLPH. Mr. President, the measure agreed to by the conferees extends the Rehabilitation Act of 1973 for one additional year, through September 30, 1977. However, there is a provision which states that should legislation not be enacted by April 15, 1977, then there is an automatic 1-year extension through the next fiscal year; that is fiscal year 1978. This agreement was made, Mr. President, because of a commitment by the Subcommittee on the Handicapped at the time the act was last amended to explore the formula for the allocation of basic program funds to the States. At the same time, we were aware of the necessity for States to know the amount of available Federal funds as early as possible in order for that State to appropriate its matching funds. It is our belief that the April 15 deadline satisfies our commitment to come to grips with the formula at the earliest possible date; it gives the States the time to appropriate the funds necessary to be eligible for money under this act; and it allows the appropriate subcommittees to complete their work for the Budget Committee review.

The conference report contains the following specific authorization levels: In fiscal year 1977: $740 million for basic State services; $25 million for innovation and expansion grants; $30 million for research; $25 million for training; $600,000 for secretarial responsibilities; and $1.5 million for the architectural and transportation barriers compliance board. In fiscal year 1978: $760 million for basic State services, $25 million for innovation and expansion grants; $30 million for research; $30 million for training; $600,000 for secretarial responsibilities; and $1.5 million for the compliance board. All other provisions for the authorization of appropriations carry "such sums as are necessary." The total authorization figures for fiscal year 1977 amount to $822.1 million and for fiscal year 1978 amount to $847.1 million. This contrasts with an authorization of $848.1 million for fiscal year 1976, pursuant to which an appropriation of $800.7 million was enacted.

Mr. President, as I am sure my colleagues are aware, the Subcommittee on the Handicapped recently joined the Select Subcommittee on Education in hearings during which most witnesses requested that indepth oversight hearings be held this year on substantive issues and possible amendments. A thorough review of the rehabilitation law and and its implementation is a desire on the part of most organizations representing handicapped Americans and, I believe, the Congress. The Subcommittee on the Handicapped expects to begin oversight hearings in February in order to explore a number of major issues. It is my hope that these hearings will enable us to determine objectively the progress in implementing the Rehabilitation Act of 1973, as amended and to expeditiously adopt changes in the law, if such be desirable, that will strengthen the rehabilitation program.

Finally, I express appreciation to our able colleagues, Mr. STAFFORD, ranking minority member of the Subcommittee on the Handicapped, Mr. WILLIAMS, chairman of the Committee on Labor and Public Welfare; Mr. JAVITS, ranking minority member of the full committee; Mr. CRANSTON, Mr. PELL, Mr. KENNEDY, Mr. MONDALE, Mr. DURKIN, Mr. TAFT, Mr. SCHWEIKER, and Mr. BEALL for interest in this vital legislation. I also thank the managers on the part of the House, Mr. PERKINS, chairman of the House Education and Labor Committee; Mr. BRADEMAS, chairman of the Select Subcommittee on Education; and Mr. QUIE, ranking minority member of the committee and subcommittee and the other House managers, for their cooperation in coming to an agreement. In the final analysis, we are all working toward the same goal; to enable handicapped Americans to live their fullest potential and enjoy satisfying, fulfilling lives.

Mr. STAFFORD. Mr. President, I urge my colleagues to support the conference report to extend the Rehabilitation Act through fiscal year 1977 with a contingent extension of the act for an additional year if legislation has not been enacted to extend it for a longer period of time.

Mr. President, the Subcommittee on the Handicapped of the Committee on Labor and Public Welfare, of which I am the ranking Republican member, began hearings last month which will continue through March and April to look into the provisions of this act adopted in 1974 and in the 1975 amendments. There is an extraordinary amount to be done in these oversight hearings, and it will take an extended period of time to cover all the areas of this most major Rehabilitation Act written by the Congress since 1955. We must find out how the programs that were put in place are being implemented. There are many witnesses who have been asked to testify. That testimony will have to then be analyzed in order to know what areas need to be dealt with.

All of this, Mr. President, will take time, and thus we are passing this extension today in order to give us that time.

There is only one specific area in the conference report which I would like to call to the attention of my colleagues. Because of the passage and subsequent funding of the Developmentally Disabled Assistance and Bill of Rights Act—Public Law 94-103—last year, there is some confusion as to the funding levels which will be available for certain special projects under section 304 of the Rehabilitation Act—Public Law 93-112—as amended by Public Law 93-516.

Due to the funding transfer provided for in the recent Labor-HEW Appropriations act from section 304 to the new Developmentally Disabled Assistance and Bill of Rights Act, the conferees on the Rehabilitation Act extension now before the Senate adopted a "such sums" authorization level for section 304. This is the only place in the bill where a previous specific level of authorization had been set that such an approach was taken in the Conference.

As the joint explanatory statement of the committee of conference points out:

The managers expect, notwithstanding the elimination of specific dollar authorizations, that special projects be funded at a level comparable to past years' appropriations

In addition, Senator CRANSTON, the ranking majority member of the subcommittee, and I, who were responsible for floor managing both the 1973 and 1974 acts in the Senate, inquired of the Department of Health, Education, and Welfare as to what their intentions for funding for fiscal years 1977 and 1978 would be. As a result of that inquiry, we were assured that such funding would be continued.

Mr. President, I ask unanimous consent that the exchange of correspondence between my colleague from California (Mr. CRANSTON) and I and the Department of HEW be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1).

Mr. STAFFORD. Finally, Mr. President, I hope that the subcommittee will keep its commitment to move thoroughly and thoughtfully through the oversight process in the months to come so

that if there are substantial revisions needed in the act, we may bring them to the Senate for full consideration. This Senator pledges to work with the chairman of the subcommittee, Senator RANDOLPH, and the administration, to bring into the hearings all elements that need to be explored. I urge, therefore, that we adopt this measure today and move on with a more substantive look at the program.

EXHIBIT 1

COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C., December 19, 1975.

Hon. STANLEY B. THOMAS, Jr.,
Assistant Secretary for Human Development, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: In connection with legislation before the Congress to extend the authorizations of appropriations in the Rehabilitation Act of 1973, it would be most helpful to us if you could provide clarification with respect to the Department's intention regarding both the continuation and the level of funding of special projects presently being carried out under section 304 of that Act: namely, projects with industry, projects to serve severely handicapped individuals, technical assistance projects, client assistance projects, and migrant projects.

Our view with respect to the status under the authorizing law and pending appropriations measures, as well as the FY 1976 Continuing Resolution, were set forth, along with those of Senator Randolph, Chairman of the Subcommittee on the Handicapped, during floor consideration of the Supplemental Appropriations Act for FY 1976 (H.R. 10647, at pages 39681–84 and 39686, December 10, 1975). According to a statement, apparently from the Comptroller of H.E.W., entered into the *Record* by Senator Magnuson on December 15, 1975, during Senate consideration of the conference report on H.R. 10647 (at page 40609), the Department apparently does not agree with our legal analysis of this matter. Senator Magnuson suggested at that point that we consider asking the General Accounting Office to resolve the problem. Such a request to G.A.O. may be unnecessary, however, depending on the Departmental intentions with respect to funding action.

Under our interpretation of the authorizing law and appropriations action (assuming enactment of H.R. 10647), the amounts to be allocated to the five types of special projects, under either the Continuing Resolution or the Labor/H.E.W. conference report (H.R. 8069), would be as follows:

Type of project	Continuing resolution for fiscal year 1976 (Public Law 94-41—fiscal year 1975 level)	Fiscal year 1976 Labor-HEW Appropriations Act (H.R. 8069)
Projects with industry	$950,000	$950,000
Technical assistance	113,000	170,000
Severely disabled	1,870,000	2,345,000
Client assistance	1,000,000	1,000,000
Migrants	792,000	820,000
Total	4,725,000	5,285,000

Under our analysis, only $11,115,000 would be available for the developmental disabilities (D.D.) service projects from the funds appropriated under section 304 to be carried out under the Developmentally Disabled Assistance and Bill of Rights Act (Public Law 94-103).

However, even if our interpretation is not followed—and we certainly continue to believe, as does Senator Randolph, that it is the correct one—the Department still has ample authority to fund the above section 304 special projects at the above levels under two alternative lines of reasoning. First, both the House and Senate Appropriations Committee reports on H.R. 10647 are clear that "the use" of the section 304 funds for D.D. service projects under the authority of Public Law 94-103 is not directed but only "authorized". Under this construction, thus, you could still choose to retain under section 304 sufficient funds to meet the above levels.

Alternatively, even if the full $18.5 million were (improperly and not in accordance with the law, in our views) to be used to fund D.D. service projects under the new law, we believe that the new special project grant authority in part D of that law is sufficiently broad for the Department to use such funds to provide some or all of the funding for some of the section 304 special projects listed above insofar as they relate to persons with developmental disabilities.

As the floor managers on the part of the Senate in connection with both the Rehabilitation Act of 1973 and the Rehabilitation Act Amendments of 1974, we stress the keen interest of the conferees in working out authorization levels in connection with section 304 special projects and particularly the client assistance and migrant project earmarks. As noted in Senator Cranston's floor statement referred to above, there certainly was no intention on the part of the authorizing Committees' conferees that the level of support for these section 304 special projects should be diminished in any way, and, significantly, we are aware of no statement in the legislative history regarding either H.R. 8069 or H.R. 10647 which in any way suggests that the funding level for section 304 special projects is to be so reduced.

It is our understanding that you have advised our staffs that it is the Department's intention to continue the present level of funding for client's assistance and migrant special projects in both FY 1976 and FY 1977. We would greatly appreciate receiving at your earliest convenience a confirmation of this intention as well as a statement of your intention with respect to continued funding in FY 1976 and 1977 at the levels shown above of the other three section 304 special project activities.

We greatly appreciate your cooperation in this matter and on so many other issues.

Sincerely,

ROBERT T. STAFFORD,
ALAN CRANSTON.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., January 22, 1976.

Hon. ROBERT T. STAFFORD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STAFFORD: I am responding to your letter of December 19 regarding the continuation of the level of funding of special projects carried out under Section 304 of the Rehabilitation Act. After a careful review of your letter and the legislative history of P.L. 94-103, we have concluded that your analysis of the level of funding available for developmental disabilities is correct.

Since the FY-76 appropriation request for activities to be supported under Section 304 of the Rehabilitation Act includes $1,385,000 for client assistance and migrant projects, this amount is to remain available to the Rehabilitation Services Administration to continue the level of support for these projects this year. I trust that this answers your concerns about the future of these activities.

Sincerely,

STANLEY B. THOMAS, Jr.,
Assistant Secretary for Human Development.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. RANDOLPH. I thank the Chair.

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. ALLEN) 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.)

REPORT ON NATIONAL GROWTH AND DEVELOPMENT — MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Banking, Housing and Urban Affairs:

To the Congress of the United States:

I am forwarding herewith the Third Biennial Report on National Growth and Development in accordance with Section 703(a) of the Housing and Urban Development Act of 1970.

GERALD R. FORD.

THE WHITE HOUSE, *February 27, 1976.*

MESSAGES FROM THE HOUSE

At 12:03 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed, without amendment, the joint resolution (S.J. Res. 59) authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Okla., from May 16, 1976, through May 22, 1976.

At 2 p.m., a message from the House of Representatives delivered by Mr Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 11439. An Act to amend title 5, United States Code, to restore eligibility for health benefits coverage to certain individuals whose survivor annuities are restored;

H.R. 11462. An Act to provide for the acquisition of career status by certain employees of the Federal Government serving under overseas limited appointments; and

H.R. 11700. An Act relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the enrolled joint resolution (S.J. Res. 59) authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Okla., from May 16, 1976, through May 22, 1976.

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

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 11439. An act to amend title 5, United States Code, to restore eligibility for health benefits coverage to certain individuals whose survivor annuities are restored. Referred to the Committee on Post Office and Civil Service.

H.R. 11462. An act to provide for the acquisition of career status by certain employees of the Federal Government serving under overseas limited appointments. Referred to the Committee on Post Office and Civil Service.

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on March 1, 1976, he presented to the President of the United States the enrolled bill (S. 151) to authorize and modify various Federal reclamation projects and programs, and for other purposes.

The Secretary of the Senate reported that on today, March 2, 1976, he presented to the President of the United States the enrolled joint resolution (S.J. Res. 59) authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Okla., from May 16, 1976, through May 22, 1976.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON THE EMERGENCY HOMEOWNERS' RELIEF ACT

A letter from the Secretary of Housing and Urban Affairs, transmitting, pursuant to law, a report on the Emergency Homeowners' Relief Act (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

NOTICE OF MODIFICATIONS, SUPPLEMENTS AND ADDITIONS TO THE DESIGNATIONS OF RAIL PROPERTIES ADOPTED BY THE UNITED STATES RAILWAY ASSOCIATION

A letter from the Chairman of the Board, United States Railway Association, transmitting, pursuant to law, a notice of modifications, supplements or additions to the designations of rail properties in the final system plan adopted by the association (with accompanying papers); to the Committee on Commerce.

REPORT OF ACTIVITIES PURSUANT TO THE EMERGENCY RAIL SERVICES ACT

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report of activities pursuant to the Emergency Rail Services Act and an evaluation of the financial condition of railroads which have outstanding certificates guaranteed under the act (with an accompanying report); to the Committee on Commerce.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the need of the Small Business Administration to improve its 7(a) loan program (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on improved controls needed over private pilot licensing, 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 on status and progress toward implementing a national supply system, Department of Defense, General Services 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 on stopping U.S. assistance to foreign police and prisons, Department of Defense and State, Agency for International Development (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 the Trans-Alaska Oil Pipeline—progress of construction through November 1975, Department of the Interior (with an accompanying report); to the Committee on Government Operations.

PROPOSED DOCUMENT DISTRIBUTION SYSTEM

A letter from the Assistant Administrator for Administration, Energy Research and Development Administration, transmitting, pursuant to law, a proposed document distribution system (with accompanying papers); to the Committee on Government Operations.

REPORT OF THE GEOLOGICAL SURVEY

A letter from the Secretary of the Interior, reporting, pursuant to law, on activities carried on by the Geological Survey during the reporting period January 1 through December 1, 1975; to the Committee on Interior and Insular Affairs.

PROPOSED PROJECT "IN SITU LEACHING STUDIES OF URANIUM ORES"

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with Westinghouse Electric Corp., Pittsburgh, Pa., for a research project entitled "In Situ Leaching Studies of Uranium Ore" (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED "DEVELOPMENT OF A LOW COAL, AUTOMATED, REMOTE CONTROLLED RESIN CARTRIDGE INSERTER ROOF BOLT BENDER/INSERTER AND ROOF BOLT SPIN/THRUST HOLD ASSEMBLY"

A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a proposed contract with the Bendix Corp., Denver, Colo., for a research project entitled "Development of a Low Coal, Automated, Remote Controlled Resin Cartridge Inserter Roof Bolt Bender/Inserter and Roof Bolt Spin/Thrust Hold Assembly" (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT OF THE FEDERAL POWER COMMISSION

A letter from the Chairman, Federal Power Commission, transmitting, pursuant to law, a report on the administration of the Freedom of Information Act (with an accompanying report); to the Committee on the Judiciary.

REPORT OF THE SELECTIVE SERVICE SYSTEM

A letter from the Director, Selective Service System, transmitting, pursuant to law, a report of the Selective Service System on the administration of the Freedom of Information Act (with an accompanying report); to the Committee on the Judiciary.

AMENDMENTS TO REGULATIONS FOR THE PROGRAM "SUPPORT FOR IMPROVEMENT OF POSTSECONDARY EDUCATION"

A letter from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, amendments to the regulations for the program of "Support for Improvements of Postsecondary Education," (Section 404 of the General Education Provisions Act; 45 CFR Part 1501) (with accompanying papers); to the Committee on Labor and Public Welfare.

FINAL FUNDING CRITERIA FOR FISCAL 1976 FOR APPLICATIONS FOR AWARDS UNDER THE VOCATIONAL EDUCATION ACT

A letter from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, final funding criteria for fiscal year 1976 for applications for awards under section 131(a) of part C, Vocational Education Act of 1963, as amended (20 U.S.C. 1281(a)) (with accompanying papers); to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION TO TERMINATE AUTHORITY FOR PURSUIT OF FLIGHT TRAINING PROGRAMS BY VETERANS

A letter from the Administrator, Veterans' Administration, transmitting a draft of proposed legislation to terminate the authority for the pursuit of flight training programs by veterans and for the pursuit of correspondence training programs by veterans, wives, and widows, and for other purposes (with accompanying papers); to the Committee on Veterans' Affairs.

REPORT OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

The following report of a committee was received during the adjournment of the Senate:

By Mr. HOLLINGS, from the Committee on Appropriations, with an amendment:

H.J. Res. 811. A joint resolution making supplemental appropriations for the legislative branch for the fiscal year ending June 30, 1976, and for other purposes (Rept. No. 94-676).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 3065. An original bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes (Rept. No. 94-677).

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

Mr. CANNON. Mr. President, I submit an original bill approved by the Committee on Rules and Administration and ordered reported to the Senate on March 1, 1976.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD and that the report of the committee to accompany the bill, together with supplemental and minority views, may be submitted not later than midnight on Thursday, March 4, 1976.

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

The bill (S. 3065), ordered to be printed in the RECORD, is as follows:

S. 3065

A bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes

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 "Federal Election Campaign Act Amendments of 1976".

TITLE I—AMENDMENTS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

FEDERAL ELECTION COMMISSION MEMBERSHIP

SEC. 101. (a)(1) The second sentence of section 309(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(a)(1)), as redesignated by section 105 (hereinafter in this Act referred to as the "Act") is amended to read as follows: "The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and six members appointed by the President of the United States, by and with the advice and consent of the Senate.".

(2) The last sentence of section 309(a)(1) of the Act (2 U.S.C. 437c(a)(1)), as redesignated by section 105, is amended to read as follows: "No more than three members of the Commission appointed under this paragraph may be affiliated with the same political party.".

(b) Section 309(a)(2) of the Act (2 U.S.C. 437c(a)(2)), as redesignated by section 105, is amended to read as follows:

"(2)(A) Members of the Commission shall serve for terms of six years, except that of the members first appointed—

"(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977,

"(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979, and

"(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981.

"(B) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

"(C) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.".

(c)(1) Section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as redesignated by section 105, is amended by adding at the end thereof the following new sentences: "Members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time such individual begins to serve as a member of the Commission shall terminate or liquidate such activity not later than one year after beginning to serve as such a member.". The amendment made by this paragraph takes effect two years after the date of enactment of this Act.

(2) Section 309(b) of the Act (2 U.S.C. 437c(b)), as redesignated by section 105, is amended to read as follows:

"(b)(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission shall have exclusive and primary jurisdiction with respect to the civil enforcement of such provisions.

"(2) Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.".

(3) The first sentence of section 309(c) of the Act (2 U.S.C. 437c(c)), as redesignated by section 105, is amended by inserting immediately before the period at the end thereof the following: ", except that the affirmative vote of four members of the Commission (no less than two of whom are affiliated with the same political party) shall be required in order for the Commission to establish guidelines for compliance with the provisions of this Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or for the Commission to take any action in accordance with paragraph (6), (7), (8), or (10) of section 310(a)".

(d) The last sentence of section 309(f)(1) of the Act (2 U.S.C. 437c(f)(1)), as redesignated by section 105, is amended by inserting immediately before the period the following: "without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates".

(e)(1) The President shall appoint members of the Federal Election Commission under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, as soon as practicable after the date of the enactment of this Act.

(2) The first appointments made by the President under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, shall not be considered to be appointments to fill the unexpired terms of members serving on the Federal Election Commission on the date of the enactment of this Act.

(3) Members serving on the Federal Election Commission on the date of the enactment of this Act may continue to serve as such members until a majority of the members of the Commission are appointed and qualified under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section. Until a majority of the members of the Commission are appointed and qualified under the amendments made by this Act, members serving on such Commission on the date of enactment of this Act may, exercise only such powers and functions as are consistent with the determinations of the Supreme Court of the United States in Buckley et al. against Valeo, Secretary of the United States Senate, et al. (numbered 75-436, 75-437) January 30, 1976.

(f) The provisions of section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as redesignated by section 105, which prohibit any individual from being appointed as a member of the Federal Election Commission who is, at the time of his appointment, an elected or appointed officer or employee of the executive, legislative, or judicial branch of the Federal Government, shall not apply in the case of any individual serving as a member of such Commission on the date of the enactment of this Act.

(g)(1) All personnel, liabilities, contracts, property, and records determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with the functions of the Federal Election Commission under title III of the Federal Election Campaign Act of 1971 as such title existed on January 1, 1976, or under any other provision of law are transferred to the Federal Election Commission as constituted under the amendments made by this Act to the Federal Election Campaign Act of 1971.

(2)(A) Except as provided in subparagraph (B) of this paragraph, personnel engaged in functions transferred under paragraph (1) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions.

(B) The transfer of personnel pursuant to paragraph (1) shall be without reduction in classification or compensation for one year after such transfer.

(3) All laws relating to the functions transferred under this Act shall, insofar as such laws are applicable and not amended by this Act, remain in full force and effect. All orders, determinations, rules, advisory opinions, and opinions of counsel made, issued, or granted by the Federal Election Commission before its reconstitution under the amendments made by this Act which are in effect at the time of the transfer provided by paragraph (1) shall continue in effect to the same extent as if such transfer had not occurred.

(4) The provisions of this Act shall not affect any proceeding pending before the Federal Election Commission at the time this section takes effect.

(5) No suit, action, or other proceeding commenced by or against the Federal Election Commission or any officer or employee thereof acting in his official capacity shall abate by reason of the transfer made under paragraph (1). The court before which such suit, action, or other proceeding is pending may, on motion or supplemental petition filed at any time within twelve months after the date of enactment of this Act, allow such suit, action, or other proceeding to be maintained against the Federal Election Commission if the party making the motion or filing the petition shows a necessity for the survival of the suit, action, or other proceeding to obtain a settlement of the question involved.

(6) Any reference in any other Federal law to the Federal Election Commission, or to any member or employee thereof, as such Commission existed under the Federal Election Campaign Act of 1971 before its amendment by this Act shall be held and considered to refer to the Federal Election Commission, or the members or employees thereof, as such Commission exists under the Federal Election Campaign Act of 1971 as amended by this Act.

CHANGES IN DEFINITIONS

SEC. 102. (a) Section 301(a)(2) of the Act (2 U.S.C. 431(a)(2)) is amended by striking out "held to" and inserting in lieu thereof "which has authority to".

(b) Section 301(e)(2) of the Act (2 U.S.C. 431(e)(2)) is amended by inserting "written" immediately before "contract".

(c) Section 301(e)(4) of the Act (2 U.S.C. 431(e)(4)) is amended by inserting after "purpose" the following: ", except that this paragraph shall not apply in the case of legal or accounting services rendered to or on behalf of the national committee of a political party, other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, nor shall this paragraph apply in the case of legal or accounting services

rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provisions of this Act or chapter 95 or 96 of the Internal Revenue Code of 1954, but amounts paid or incurred for such legal or accounting services shall be reported in accordance with the requirements of section 304(b)".

(d) Section 301(f)(4) of the Act (2 U.S.C. 431(f)(4)) is amended—

(1) by striking out "or" at the end of clause (F) and at the end of clause (G); and

(2) by inserting immediately after clause (H) the following new clauses:

"(I) any costs incurred by a candidate in connection with the solicitation of contributions by such candidate, except that this clause shall not apply with respect to costs incurred by a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 320(b), but all such costs shall be reported in accordance with section 304(b); or

"(J) the payment, by any person other than a candidate or political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party, other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, or the payment for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provision of this title or of chapter 95 or 96 of the Internal Revenue Code of 1954, but amounts paid or incurred for such legal or accounting services shall be reported under section 304(b);".

(e) Section 301 of the Act (2 U.S.C. 431) is amended—

(1) by striking out "and" at the end of paragraph (m);

(2) by striking out the period at the end of paragraph (n) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(o) 'Act' means the Federal Election Campaign Act of 1971 as amended by the Federal Election Campaign Act amendments of 1974 and the Federal Election Campaign Act Amendments of 1976; and

"(p) 'independent expenditure' means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate or any authorized committee or agent of such candidate and which is not made in concert with, and is not at the request or suggestion of, any candidate or any authorized committee or any authorized committee or agent of such candidate.".

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 103. (a) Section 302(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(b)) is amended by striking out "$10" and inserting in lieu thereof "$100".

(b) Section 302(c)(2) of such Act (2 U.S.C. 432(c)(2)) is amended to read as follows:

"(2) the identification, the occupation (but not the name of such person's employer, firm, business associates, customers, or clients), and the principal place of business or employment (if any) of every person making a contribution in excess of $100, and the date and the amount of such contribution;".

(c) Section 302 of the Act (2 U.S.C. 432) is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 104. (a) Section 304(a)(1) of the Act (2 U.S.C. 434(a)(1)) is amended by adding at the end of subparagraph (C) the following: "In any year in which a candidate is not on the ballot for election to Federal office, such candidate and his authorized committees shall only be required to file such reports not later than the tenth day following the close of any calendar quarter in which the candidate and his authorized committees received contributions totaling in excess of $5,000, or made expenditures totaling in excess of $5,000, and such reports shall be complete as of the close of such calendar quarter; except that any such report required to be filed after December 31 of any calendar year with respect to which a report is required to be filed under subparagraph (B) shall be filed as provided in such subparagraph.".

(b) Section 304(a)(2) of the Act (2 U.S.C. 434(a)(2)) is amended to read as follows:

"(2) Each treasurer of a political committee authorized by a candidate to raise contributions or make expenditures on his behalf, other than the candidate's principal campaign committee, shall file the reports required under this section with the candidate's principal campaign committee.".

(c) Section 304(b) of the Act (2 U.S.C. 434(b)) is amended—

(1) by inserting after "occupation" in paragraph (2) the following: "(but not the name of such person's employer, firm, business associates, customers, or clients)";

(2) by inserting after "business" in paragraph (2) the following: "or employment";

(3) by inserting after "occupations" in paragraph (5) the following: "but not the name of the employers, firms, business associates, customers, or clients)";

(4) by inserting after "business" in paragraph (5) the following: "or employment";

(5) by striking out "and" at the end of paragraph (12);

(6) by redesignating paragraph (13) as paragraph (14); and

(7) by inserting immediately after paragraph (12) the following new paragraph:

"(13) in the case of expenditures in excess of $100 by a political committee other than an authorized committee of a candidate expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule (A) any information required by paragraph (9), stated in a manner which indicates whether the expenditure involved is in support of, or in opposition to, a candidate; and (B) under penalty of perjury, a certification whether such expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and".

(d) Section 304(e) of the Act (2 U.S.C. 434(e)) is amended to read as follows:

"(e)(1) Every person (other than a political committee or candidate) who makes contributions or expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 within a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who makes a contribution in excess of $100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution.

"(2) Statements required by this subsection shall be filed on the dates on which reports by political committees are filed. Such statements shall include (A) the information required by subsection (b)(9), stated in a manner indicating whether the contribution or expenditure is in support of, or opposition to, the candidate; and (B) under penalty of perjury, a certification whether such expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate. Any expenditure, including but not limited to those described in subsection (b)(13), of $1,000 or more made after the fifteenth day, but more than forty-eight hours, before any election shall be reported within forty-eight hours of such expenditure.

"(3) The Commission shall be responsible for expeditously preparing indices which set forth, on a candidate-by-candidate basis, all expenditures separately, including but not limited to those reported under subsection (b)(13), made with respect to each candidate, as reported under this subsection, and for periodically issuing such indices on a timely pre-election basis.".

REPORTS BY CERTAIN PERSONS

SEC. 105. Title III of the Act (2 U.S.C. 431–441) is amended by striking out section 308 thereof (2 U.S.C. 437a) and by redesignating section 309 through section 321 as section 308 through section 320, respectively.

POWERS OF COMMISSION

SEC. 106. (a) Section 310(a) of the Act (2 U.S.C. 437d(a)), as redesignated by section 105, is amended—

(1) in paragraph (8) thereof, by inserting "develop such prescribed forms and to" immediately before "make", and by inserting immediately after "Act" the following: "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954";

(2) in paragraph (9) thereof, by striking out "and sections 608" and all that follows through "States Code" and inserting in lieu thereof "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954"; and

(3) by striking out paragraph (10) and redesignating paragraph (11) as paragraph (10).

(b)(1) Section 310(a)(6) of the Act (2 U.S.C. 437d(a)(6)), as redesignated by section 105, is amended to read as follows:

"(6) to initiate (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section 313(a)(9)), or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, through its general counsel;".

(2) Section 310 of the Act (2 U.S.C. 437d), as redesignated by section 105, is amended by adding at the end thereof the following new subsection:

"(e) Except as provided in section 313(a)(9), the power of the Commission to initiate civil actions under subsection (a)(6) shall be the exclusive civil remedy for the enforcement of the provisions of this Act.".

ADVISORY OPINIONS

SEC. 107. (a) The text of section 312(a) of the Act (2 U.S.C. 437f(a)), as redesignated by section 105, is amended to read as follows: "Upon written request to the Commission by any individual holding Federal office, any candidate for Federal office, the Democratic Caucus and the Republican Conference of each House of the Congress, any political committee, or the national committee of any political party, the Commission shall render an advisory opinion, in writing, within a reasonable time with respect to whether any specific transaction or activity by such individual, candidate, or political committee would constitute a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.".

(b) Section 312(b) of the Act (2 U.S.C. 437f(b)), as redesignated by section 105, is amended to read as follows:

"(b)(1) Notwithstanding any other provision of law, any person with respect to whom an advisory opinion is rendered under subsection (a) who acts in good faith in accordance with the provisions and findings of such advisory opinion shall be presumed to be in compliance with the provision of this Act, or of chapter 95 or chapter 96 of

the Internal Revenue Code of 1954, with respect to which such advisory opinion is rendered.

"(2)(A) Any advisory opinion rendered by the Commission under subsection (a) shall apply only to the person requesting such advisory opinion and to any other person directly involved in the specific transaction or activity with respect to which such advisory opinion is rendered. The provisions of any such advisory opinion shall be made generally applicable by the Commission in accordance with the provisions of subparagraph (B).

"(B)(i) The Commission shall, no later than thirty days after rendering an advisory opinion with respect to a request received under subsection (a) which sets forth a rule of general applicability, prescribe rules or regulations relating to the transaction or activity involved if the Commission determines that such transaction or activity is not subject to any existing rule or regulation prescribed by the Commission. In any such case in which the Commission receives more than one request for an advisory opinion, the Commission may not render more than one advisory opinion relating to the transaction or activity involved.

"(ii) Any rule or regulation prescribed by the Commission under this subparagraph shall be subject to the provisions of section 315(c).".

(c) Section 315(c)(1) of the Act (2 U.S.C. 438(c)(1)), as redesignated by section 105, is amended by inserting "or under section 312(b)(2)(B)" immediately after "under this section".

(d) The amendments made by subsection (a) shall apply to any advisory opinion rendered by the Federal Election Commission after October 15, 1974.

ENFORCEMENT

SEC. 108. Section 313 of the Act (2 U.S.C. 437g), as redesignated by section 105, is amended to read as follows:

"ENFORCEMENT

"SEC. 313. (a)(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred may file a complaint with the Commission. Such complaint shall be in writing, shall be signed and sworn to by the person filing such complaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of title 18, United States Code. The Commission may not conduct any investigation under this section, or take any other action under this section, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

"(2) The Commission, upon receiving a complaint under paragraph (1), or if it has reason to believe that any person has committed a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, shall notify the person involved of such alleged violation and shall make an investigation of such alleged violation in accordance with the provisions of this section.

"(3) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this section, of reports and statements filed by any complainant under this title, if such complainant is a candidate. Any notification or investigation made under paragraph (2) shall not be made public by the Commission or by any other person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

"(4) The Commission shall afford any person who receives notice of an alleged violation under paragraph (2) a reasonable opportunity to demonstrate that no action should be taken against such person by the Commission under this Act.

"(5)(A) If the Commission determines that there is reason to believe that any person has committed or is about to commit a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make every endeavor to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved. A conciliation agreement, unless violated, shall constitute an absolute bar to any further action by the Commission, including bringing a civil proceeding under paragraph (B) of this section.

"(B) If the Commission is unable to correct or prevent any such violation by such informal methods, the Commission may, if the Commission determines there is probable cause to believe that a violation has occurred or is about to occur, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the person against whom such action is found, resides, or transacts business.

"(C) In any civil action instituted by the Commission under paragraph (B), the court shall grant a permanent or temporary injunction, restraining order, or other order upon a proper showing that the person involved has engaged or is about to engage in a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(D) If the Commission determines that there is probable cause to believe that a knowing and willful violation under section 329(a), or a knowing and willful violation of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to the limitations set forth in subparagraph (A) of this paragraph.

"(6) If the Commission believes that there is clear and convincing proof that a knowing and willful violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has been committed, any conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (A) $10,000; or (B) an amount equal to 300 percent of the amount of any contribution or expenditure involved in such violation. The Commission shall make available to the public the results of any conciliation attempt including any conciliation agreement entered into by the Commission and any determination by the Commission that no violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred.

"(7) In any civil action for relief instituted by the Commission under paragraph (5), if the court determines that the Commission has established through clear and convincing proof that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty of not more than the greater of (A) $10,000; or (B) an amount equal to 300 percent of the contribution or expenditure involved in such violation. In any case in which such person has entered into a conciliation agreement with the Commission under paragraph (5)(A), the Commission may institute a civil action for relief under paragraph (5) if it believes that such person has violated any provision of such conciliation agreement. In order for the Commission to obtain relief in any such civil action, it shall be sufficient for the Commission to establish that such person has violated, in whole or in part, any requirement of such conciliation agreement.

"(8) In any action brought under paragraph (5) or paragraph (7) of this subsection, subpenas for witnesses who are required to attend a United States district court may run into any other district.

"(9)(A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure on the part of the Commission to act on such complaint in accordance with the provisions of this section within ninety days after the filing of such complaint, may file a petition with the United States District Court for the District of Columbia.

"(B) The filing of any action under subparagraph (A) shall be made—

"(i) in the case of the dismissal of a complaint by the Commission, no later than sixty days after such dismissal; or

"(ii) in the case of a failure on the part of the Commission to act on such complaint, no later than sixty days after the ninety-day period specified in subparagraph (A).

"(C) In such proceeding the court may declare that the dismissal of the complaint or the action, or the failure to act, is contrary to law and may direct the Commission to proceed in conformity with that declaration within thirty days, failing which the complainant may bring in his own name a civil action to remedy the violation complained of.

"(10) The judgment of the district court may be appealed to the court of appeals and any such order of the district court shall be the judgment of the court of appeals affirming or settling aside, in whole or in part, final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(11) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 314).

"(12) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (5), it may petition the court for an order to adjudicate that person in civil contempt or, if it believes the violation to be knowing and willful, it may instead petition the court for an order to adjudicate that person in criminal contempt.

"(b) In any case in which the Commission refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Commission with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than sixty days after the date of Commission refers any apparent violation, and at the close of every thirty-day period thereafter until there is final disposition of such apparent violation. The Commission may from time to time prepare and publish reports on the status of such referrals.".

DUTIES OF COMMISSION

SEC. 109. (a) Section 315(a)(6) of the Act (2 U.S.C. 438(a)(6)), as redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to compile and maintain a separate cumulative index of reports and statements filed with it by political committees supporting more than one candidate, which shall include a listing of the date of the registration of any such political committee and the date upon which any such political committee qualifies to make expenditures under section 320, and which shall

be revised on the same basis and at the same time as the other cumulative indices required under this paragraph".

(b) Section 315(c)(2) of the Act (2 U.S.C. 438(c)(2)), as redesignated by section 105, is amended—

(1) by striking out "thirty legislative days" in the first sentence and inserting in lieu thereof the following: "thirty calendar days or fifteen legislative days, whichever is later,", and

(2) by inserting immediately after the second sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

ADDITIONAL ENFORCEMENT AUTHORITY

SEC. 110. Section 407 of the Act (2 U.S.C. 456) is repealed.

CONTRIBUTION AND EXPENDITURE LIMITATIONS

SEC. 111. Title III of the Act (2 U.S.C. 431–441) is amended by striking out section 320 (2 U.S.C. 441), as redesignated by section 105 of this Act, and by inserting after section 319 (2 U.S.C. 439c), as redesignated by such section 105, the following new sections:

"LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

"SEC. 320. (a)(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.

"(2) No political committee (other than a principal campaign committee) shall make contributions to (A) any candidate with respect to any election for Federal office which, in the aggregate, exceed $5,000; or (B) to any political committee (other than a political committee authorized by a candidate to receive contributions on his behalf which contributions are, under paragraph (4), treated as contributions to that candidate) in any calendar year which, in the aggregate, exceed $25,000. Contributions by the national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States shall not exceed the limitation imposed by the preceding sentence with respect to any other candidate for Federal office. For purposes of this paragraph, the term 'political committee' means an organization registered as a political committee under section 303 for a period of not less than six months which has received contributions from more than fifty persons and, except for any State political party organization, has made contributions to five or more candidates for Federal office. For purposes of the limitations provided by paragraph (1) and this paragraph, all contributions made by political committees established, financed, maintained, or controlled by any person or persons, including any parent, subsidiary, branch, division, department, affiliate, or local unit of such person, or by any group of persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fund-raising efforts; (B) this sentence shall not apply to a political committee established, financed, or maintained by the national committee, or to a political committee established, financed, or maintained by the State, district, or local committee of a political party, and (C) a political committee of a national organization shall not be precluded from contributing to a candidate or committee merely because of its affiliation with a national multi-candidate political committee which has made the maximum contribution it is permitted to make to a candidate or a committee.

"(3) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution was made, is considered to be made during the calendar year in which such election is held.

"(4) For purposes of this subsection—

"(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

"(B)(i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate;

"(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

"(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

"(5) The limitations imposed by paragraphs (1) and (2) of this subsection (other than the annual limitation on contributions to a political committee under paragraph (2)(B)) shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

"(6) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

"(b) No candidate for the office of President of the United States who is eligible under section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) or under section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of—

"(A) $10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed the greater of 16 cents multiplied by the voting age population of the State (as certified under subsection (e)), or $200,000; or

"(B) $20,000,000 in the case of a campaign for election to such office.

"(2) For purposes of this subsection—

"(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

"(B) an expenditure is made on behalf of a candidate, including a Vice Presidential candidate, if it is made by—

"(i) an authorized committee or any other agent of the candidate for the purposes of making any expenditure; or

"(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

"(c)(1) At the beginning of each calendar year (commencing in 1976), as there becomes available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) and subsection (d) shall be increased by such percent difference. Each amount so increased shall be the amount in effect for such calendar year.

"(2) For purposes of paragraph (1)—

"(A) The term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

"(B) the term 'base period' means the calendar year 1974.

"(d)(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

"(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of the President of the United States.

"(3) 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—

"(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

"(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e)); or

"(ii) $20,000; and

"(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

"(e) During the first week of January, 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each

congressional district as of the first day of July next preceding the date of certification. The term 'voting age population' means resident population, eighteen years of age or older.

"(f) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

"(g) The Commission shall prescribe rules under which any expenditure by a candidate for Presidential nomination for use in two or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

"CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

"SEC. 321. (a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, or in connection with any primary election or political convention, or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this section, or for any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

"(b)(1) For the purposes of this section 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exist for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work. As used in this section and in section 12(h) of the Public Utility Holding Company Act (15 U.S.C. 79l(h)), the phrase 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section; but shall not include communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject; nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; or the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization.

"(2) It shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction.

"(3) It shall be unlawful for a corporation or a separate segregated fund created by a corporation to solicit contributions from any person other than its stockholders, executive or administrative personnel, and their families or for a labor organization or a separate segregated fund created by a labor organization to solicit contributions from any person other than its members and their families.

"(4) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted to corporations, shall also be permitted to labor organizations.

"(5) Any corporation that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available, on written request, that method to a labor organization representing any members working for that corporation.

"(6) For purposes of this section, the term 'executive or administrative personnel' means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking or supervisory responsibilities.

"(7) For purposes of this section, the term 'stockholder' includes any individual who has a legal or vested beneficial interest in stock, including, but not limited to, an employee of a corporation who participates in a stock bonus, stock option, or employee stock ownership plan.

"CONTRIBUTIONS BY GOVERNMENT CONTRACTORS

"SEC. 322. (a) It shall be unlawful for any person—

"(1) who enters into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the completion of performance under, or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

"(2) knowingly to solicit any such contribution from any such person for any such purpose during any such period.

"(b) This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation or labor organization for the purpose of influencing the nomination for election, of any person to Federal office, unless the provisions of section 321 prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund.

"(c) For purposes of this section, the term 'labor organization' has the meaning given it by section 321.

"PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

"SEC. 323. Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, outdoor advertising facilities, direct mails, and other similar types of general public political advertising, such communication—

"(1) if authorized by a candidate, his authorized political committees or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication has been authorized; or

"(2) if not authorized by a candidate, his authorized political committees, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, the case of a political committee, the name of any affiliated or connected organization required to be disclosed under section 303(b)(2).

"CONTRIBUTIONS BY FOREIGN NATIONALS

"SEC. 324. (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

"(b) As used in this section, the term 'foreign national' means—

"(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)), except that the term 'foreign national' shall not include any individual who is a citizen of the United States; or

"(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

"PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

"SEC. 325. No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

"LIMITATION ON CONTRIBUTIONS OF CURRENCY

"SEC. 326. No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed $100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

"ACCEPTANCE OF EXCESSIVE HONORARIUMS

"SEC. 327. No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept—

"(1) any honorarium of more than $2,000 (excluding amounts accepted for actual travel and subsistence expenses) for any appearance, speech, or article; or

"(2) honorariums (not prohibited by paragraph (1) of this section) aggregating more than $24,000 in any calendar year.

"FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

"SEC. 328. No person who is a candidate for Federal office or an employee or agent of such a candidate shall—

"(1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

"(2) willfully and knowingly to participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).

"PENALTY FOR VIOLATIONS

"SEC. 329. (a) Any person, following the enactment of this section, who knowingly and willfully commits a violation of any provision or provisions of this Act which involves the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate of $1,000 or more during a calendar year shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of any contribution or expenditure involved in such violation, imprisoned for not more than one year, or both.

"(b) It shall be a complete defense in any criminal action brought for the violation of a provision of this Act, or of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, for the defendant to show that—

"(1) the specific act or failure to act which constitutes the offense for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under section 313,

"(2) the conciliation agreement is in effect, and

"(3) the defendant is, with respect to the violation for which the defense is being asserted, in compliance with the conciliation agreement.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 112. Section 319 of the Act (2 U.S.C. 439c), as redesignated by section 105, is amended by adding at the end thereof the following sentence: "There are authorized to be appropriated to the Federal Election Commission $8,000,000 for the fiscal year ending June 30, 1976, $2,000,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $8,000,000 for the fiscal year ending September 30, 1977.".

SAVINGS PROVISION

SEC. 113. Except as otherwise provided by this Act, the repeal by this Act of any section or penalty shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such section or penalty, and such section or penalty shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture, or liability.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 114. (a) Section 306(d) of the Act (2 U.S.C. 436(d)) is amended by inserting immediately after "304(a)(1)(C)," the following: "304(c),".

(b)(1) Section 310(a)(7) of the Act (2 U.S.C. 437d(a)(7)), as redesignated by section 105, is amended by striking out "313" and inserting in lieu thereof "312".

(c)(1) Section 9002(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

(2) Section 9032(a) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

TITLE II—AMENDMENTS TO TITLE 18, UNITED STATES CODE

REPEAL OF CERTAIN PROVISIONS

SEC. 201. (a) Chapter 29 of title 18, United States Code, is amended by striking out sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

(b) The table of sections of chapter 29 of title 18, United States Code, is amended by striking out the items relating to sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

TITLE III—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

ENTITLEMENT OF ELIGIBLE CANDIDATES FOR PAYMENTS

SEC. 301. Section 9004 of the Internal Revenue Code of 1954 (relating to entitlement of eligible candidates to payments) is amended by adding at the end thereof the following new subsections:

"(d) EXPENDITURES FROM PERSONAL FUNDS. In order to be eligible to receive any payment under section 9006, the candidate of a major, minor, or new party in a Presidential election shall certify to the Commission, under penalty of perjury, that such candidate shall not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, $50,000.

"(e) DEFINITION OF IMMEDIATE FAMILY.—For purposes of subsection (d), the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

PAYMENTS TO ELIGIBLE CANDIDATES

SEC. 302. Section 9006 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates) is amended by striking out subsection (b) thereof and by redesignating subsection (c) and subsection (d) as subsection (b) and subsection (c), respectively.

REVIEW OF REGULATIONS

SEC. 303. (a) Section 9009(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended—

(1) by striking out "30 legislative days" and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,"; and

(2) by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

(b) Section 9039(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended—

(1) by striking out "30 legislative days" and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,"; and

(2) by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed with consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

ELIGIBILITY FOR PAYMENTS

SEC. 304. Section 9033(b)(1) of the Internal Revenue Code of 1954 (relating to expense limitation; declaration of intent; minimum contributions) is amended by striking out "limitation" and inserting in lieu thereof "limitations".

QUALIFIED CAMPAIGN EXPENSE LIMITATION

SEC. 305. (a) Section 9035 of the Internal Revenue Code of 1954 (relating to qualified campaign expense limitation) is amended—

(1) in the heading thereof, by striking out "LIMITATION" and inserting in lieu thereof "LIMITATIONS";

(2) by inserting "(a) EXPENDITURE LIMITATIONS.—" immediately before "No candidate";

(3) by inserting immediately after "States Code" the following: ", and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess of, in the aggregate, $50,000"; and

(4) by adding at the end thereof the following new subsection:

"(b) DEFINITION OF IMMEDIATE FAMILY.—For purposes of this section, the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

(b) The table of sections for chapter 96 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 9035 and inserting in lieu thereof the following new item:

"Sec. 9035. Qualified campaign expense limitations.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 306. (a) Section 9008(b)(5) of the Internal Revenue Code of 1954 (relating to adjustment of entitlements) is amended—

(1) by striking out "section 608(c) and section 608(f) of title 18, United States Code," and inserting in lieu thereof "section 320(b) and section 320(d) of the Federal Election Campaign Act of 1971"; and

(2) by striking out "section 608(d) of such title" and inserting in lieu thereof "section 320(c) of such Act".

(b) Section 9008(d) of the Internal Revenue Code of 1954 (relating to limitation of expenditures) is amended by adding at the end thereof the following new paragraph:

"(4) Provision of legal and accounting services.—For purposes of this section, the payment by any person, including the national committee of a political party, of compensation to any individual for legal or accounting services rendered to or on behalf of the national committee of a political party shall not be treated as an expenditure made by or on behalf of such committee with respect to its limitations on Presidential nominating convention expenses.".

(c) Section 9034(b) of the Internal Revenue Code of 1954 (relating to limitations) is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".

(d) Section 9035(a) of the Internal Revenue Code of 1954 (relating to expenditure limitations), as so redesignated by section 305(a), is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports were submitted:

By Mr. TALMADGE, from the Committee on Finance:

George H. Dixon, of Minnesota, to be Deputy Secretary of the Treasury.

(The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

Daniel Edward Leach, of Virginia, to be a member of the Equal Employment Opportunity Commission.

(The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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

Edward W. Mulcahy, of Arizona, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tunisia.

STATEMENT OF POLITICAL CONTRIBUTIONS OF EDWARD W. MULCAHY

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Edward W. Mulcahy.

Post: Tunisia.

Nominated: February 17, 1976.

Contributions, Amount, Date, and Donee

1. Self: Edward W. Mulcahy, None.

2. Spouse: Kathleen (Lyon) Mulcahy, none.

3. Children and Spouses: Anne K. Mulcahy, none; John L. Mulcahy, $10, Aug. 1974, Democratic Telethon; Eileen M. Mulcahy, none; Kevin E. Mulcahy, none; Brian M. Mulcahy, $2, May 1975, Democratic Telethon.

4. Parents: John Mulcahy, Sr., none; Mary A. (Duffy) Mulcahy (Deceased).

5. Grandparents: John Mulcahy (Deceased); Josephine (Butler) Mulcahy (Deceased); Edward F. Duffy (Deceased); Catharine (Hackett) Duffy (Deceased).

6. Brothers and Spouses: John M. and Irene (Serues) Mulcahy, Jr., none; Robert T. and Barbara (Ferson) Mulcahy, none; William J. and Catharine (Sullivan) Mulcahy, none.

7. Sisters and Spouses: Herbert A. and Joan (Mulcahy) Hutson, none; Sister Martin Marie, $5, May 1975, Democratic Telethon; Elbert J. and Elizabeth C. (Mulcahy) McKeon, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

EDWARD W. MULCAHY.

Marquita M. Maytag, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Nepal.

STATEMENT OF POLITICAL CONTRIBUTIONS OF MARQUITA M. MAYTAG

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Marquita M. Maytag.

Post: Ambassador to Nepal.

Contributions, amount, date, and donee

1. Self: Schedule attached.

2. Spouse: Divorced Aug. 1967.

3. Children and Spouses: None.

4. Parents: Both deceased; records unavailable (Father's estate still in probate, he passed away June 17, 1974—Mother; 1961).

5. Grandparents: Both deceased.

6. Brothers and Spouses: Brother deceased (1971).

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

MARQUITA M. MAYTAG.

Political contributions 1972–76

1. Jan. 11, 1972: Republican State Central Committee of Calif., $24.

2. Feb. 8, 1972: Ashcraft for Calif. Assembly Campaign, $50.

3. March 28, 1972: Friends of Cliff Hansen, $50.

4. March 28, 1972: American Friends of John Rarick, $50.

5. March 28, 1972: Committee To Re-elect Congressman Rousselot, $50.

6. May 30, 1972: Ron Del Principe for Calif. Assembly, $1,000.

7. Sept. 5, 1972: Cliff Hansen for Senator Committee, $500.

8. Sept. 20, 1972: Financial Committee to Re-elect the President, $1,000.

9. April 26, 1973: Salute to Gov. Reagan, Dinner Committee, $500.

10. Oct. 17, 1973: Californians for Lower Taxes, $100.00.

11. Jan. 13, 1975: Goldwater-Miller "noninaugural" dinner, $37.50.

I have never given any cash contributions ("in hand").

MARQUITA M. MAYTAG.

Robert Strausz-Hupe, of Pennsylvania, to be the U.S. permanent representative on the Council of the North Atlantic Treaty Organization, with the rank of Ambassador Extraordinary and Plenipotentiary.

STATEMENT OF POLITICAL CONTRIBUTIONS OF ROBERT STRAUSZ-HUPE

Contributions, amount, date, and donee

Self: Robert Strausz-Hupe, $500, 7–3–72, Republican Convention Gala; $50, 7–30–74, Republican State Committee of Penn.

Spouse: Eleanor Cuyler Strausz-Hupe, $500, 7–3–72, Republican Convention Gala; $50, 7–30–74, Republican State Committee of Penn.

Children and spouses—Peter and Pamela (Crane) Walker (stepson and wife), none.

Joseph and Averell (Penn), Smith Walker (stepson and wife), none.

Peter and Eleanor (Walker) Seyffert (stepdaughter and husband), none.

Parents: deceased.

Grandparents: deceased.

Brothers and spouses: none.

Sisters and spouses: none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

2. I have this date sent via international air mail an updated form JF–1, to your attention, showing no change in the information contained therein since the previous form filed on June 17, 1975.

3. On January 29, 1976 I appeared before Frederick Hassett, embassy consular officer with notarial powers and swore to the above report.

STRAUSZ-HUPE.

1. I am obliged to amend my earlier declaration on contributions to include a report just received directly from my stepson, correcting an earlier indirect report. Correct as follows under children and spouses:

Joseph and Averell (Penn-Smith) Walker (stepson and wife):

Amount, date, and donee

$50, 10-28-71, Pennino for supervisor.

$1,250, 3-2-72, Peabody for VP campaign.

$1,800, 6-30-72, Peabody for VP campaign.

$200, 9-29-72, Repub. Committee, Chester Co., Pa.

$150, 10-10-72, Finance Committee to re-elect Nixon.

$150, 10-10-72, Chester Co. Repub. Party.

$100, 10-27-72, Roy Hill for Congress.

$100, 10-27-72, Scott for Senate.

$700, 5-3-73, Peabody Fund Committee.

$100, 4-4-74, West for Congress.

$900, 5-2-74, West for Congress.

$10, 8-5-75, Repub. Committee Chester Co., Pa.

$50, 9-23-75, Repub. Natl. Fin. Committee.

2. On February 2, 1976 I appeared before Eugene D. Schmiel, American Vice Consul with Notarial Powers, and swore to the above report.

STRAUSZ-HUPE.

Amendment

Spouse: Eleanor Strausz-Hupe, $25, December 19, 1975, Gerald R. Ford Victory Fund.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

ROBERT STRAUSZ-HUPE.

William W. Scranton, of Pennsylvania, to be the representative of the United States of America to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the representative of the United States of America in the Security Council of the United Nations.

STATEMENT OF POLITICAL CONTRIBUTIONS OF WILLIAM W. SCRANTON

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: William W. Scranton.

Contributions, amount, date, and donee

(If none, write none.)

See attached.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

WILLIAM W. SCRANTON.

Contributions

Self: $1,000, May, 1972, Lawyers Committee for Civil Rights Under the Law; $500, April, 1975, Common Cause; $250, June, 1975, President Ford Committee; $1,000, July, 1975, Pennsylvania Republican Governors Club; $351.43, 1976, President Ford Committee; $5,000, 1976, Republican National Committee.

Spouse: Mrs. William W. Scranton, $1,000, October, 1975, President Ford Committee.

Children and Spouses—

Mr. and Mrs. Richard Wolf (Susan is Mr. Scranton's daughter), $25, 1972, Citizens for McGovern.

William W. Scranton III (Mr. Scranton's son), $20, 1972, Citizens for McGovern.

Joseph Scranton (Mr. Scranton's son), $10, 1974, Democratic Telethon.

Peter K. Scranton (Mr. Scranton's son), none.

Sisters and Spouses: Mr. and Mrs. Albert G. Issaacs, Jr.

The Issaacs are vacationing and not able to give specific data but Mrs. Issaacs has said "I have given every year to federal candidates or committees but in no year did the total come to more than $2000."

Dr. and Mrs. H. M. Rozendaal—

$50, 1972, Finance Committee to Reelect President.

$50, 1973, State Republican Dinner.

$25, 1974, Committee to Reelect Javits.

$1000, 1976, Pledge to Upstate Finance Committee for Ford.

Mr. and Mrs. James A. Linen III—

$500, 1972, Connecticut Republican Key Committee ($250 each).

$500, 1972, Governors Club of New York.

$1000, 1972, Businessmen for Percy (Mr. Linen).

$500, 1972, Reelect Congressman McKinney (Mr. Linen).

$500, 1972, Reelect Mark Hatfield (Mr. Linen).

$500, 1972, Committee for Senator Case (Mr. Linen).

$500, 1972, Citizens for Boggs Committee (Mr. Linen).

$500, 1972, Brooke Committee (Mr. Linen).

$1,000, 1972, Etherington Fund (Mr. Linen).

$100, 1974, Javits Reelection Committee (Mr. Linen).

$100, 1974, McKinney's 5000 (Mr. Linen).

$25, 1974, The Ripon Forum (Mr. Linen).

$100, 1974, Republican National Committee (Mr. Linen).

$100, 1974, Javits Dinner Committee (Mr. Linen).

$100, 1975, Fair Campaign Practices Committee (Mr. Linen).

$100, 1975, Republican Congressional Booster Club (Mr. Linen).

Leon Sloss, of the District of Columbia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

(The foregoing nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. BUCKLEY (for himself and Mr. JAVITS):

S. 3059. A bill to amend the Regional Rail Reorganization Act of 1973 to extend the period provided for certain designations made in the final system plan. Referred to the Committee on Commerce.

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

S. 3060. A bill to amend chapter 33 of title 44, United States Code, to change the membership and extend the life of the National Study Commission on Records and Documents of Federal Officials, and for other purposes. Referred to the Committee on Government Operations.

By Mr. CURTIS (for himself, Mr. FANNIN, Mr. HANSEN, and Mr. ROTH):

S. 3061. A bill to amend title XX of the Social Security Act to strengthen the ability of the States to support social services in their communities. Referred to the Committee on Finance.

By Mr. EAGLETON:

S. 3062. A bill for the relief of Chao-Hsiung Chang. Referred to the Committee on the Judiciary.

By Mr. McCLELLAN:

S. 3063. A bill designating Ozark Lock and Dam on the Arkansas River as the "Ozark-Jeta Taylor Lock and Dam." Referred to the Committee on Public Works.

By Mr. GRAVEL:

S. 3064. A bill for the relief of Allen D. Ray. Referred to the Committee on the Judiciary.

By Mr. CANNON (from the Committee on Rules and Administration):

S. 3065. An original bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes. Placed on the Calendar.

By Mr. STONE:

S. 3066. A bill to amend the Older Americans Act of 1965 to provide nutrition programs for handicapped dependents of older Americans. Referred to the Committee on Labor and Public Welfare.

By Mr. STEVENSON:

S. 3067. A bill to authorize funds for comprehensive planning and management assistance under section 701 of the Housing Act of 1954. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. JAVITS:

S. 3068. A bill to authorize appropriations for the National Science Foundation. Referred to the Committee on Labor and Public Welfare.

By Mr. BUCKLEY:

S. 3069. A bill to prescribe the conditions with respect to affirmative action programs required of Federal grantees and contractors in complying with nondiscrimination programs, to prescribe the necessary requirements for a finding of discrimination in certain actions brought on the basis of discrimination in employment and to prescribe reasonable limits on the collection of data relating to race, color, religion, sex, or national origin, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. PERCY:

S.J. Res. 174. A joint resolution to authorize the President to designate the period from March 7, 1976, through March 14, 1976, as "National Nutrition Week." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BUCKLEY (for himself and Mr. JAVITS):

S. 3059. A bill to amend the Regional Rail Reorganization Act of 1973 to extend the period provided for certain designations made in the final system plan. Referred to the Committee on Commerce.

COMPETITIVE RAIL SERVICE IN THE NORTHEAST

Mr. BUCKLEY. Mr. President, the U.S. Railway Association's, USRA's, final system plan for rail service in the Northeast recommended that certain profitable railroads purchase property of the bankrupt carriers for the purpose of offering rail service which would be competitive with that to be provided by the newly created ConRail Corporation.

There were two obstacles which had to be surmounted before these purchases could take place. First, the private railroads desired deficiency judgment protection in the event that the courts were to award damages to the creditors and owners of the bankrupts on the grounds that USRA's "net liquidation value" of the properties was unconstitutionally low. This deficiency judgment protection was granted in the recently enacted Railroad Revitalization and Regulatory Reform Act of 1976—implicitly subject to the February 12, 1976, deadline for the profitable carriers to give final acceptance for their purchases of the properties.

Another obstacle to the provision of competitive rail service was the statutory need for the profitable railroads to reach an agreement with the unions representing employees of the bankrupt carriers. The hopes of those of us who were looking forward to the availability of competitive rail service were shattered when the unions and the railroads were unable to reach an agreement by the February 12, 1976, deadline for acceptance by the profitable carriers.

However, despite the passage of this deadline, the parties involved have a public service obligation to go the last mile in their efforts to reach an agreement. The people of the State of New York and other States as well can hardly be expected to look forward to a monopoly—ConRail—which will have no competitive incentive to provide adequate rail service.

Some changes in the recently-enacted rail legislation will be necessary to insure that the purchases by the profitable carriers would be legal in the event that they can reach an agreement with the unions. I have prepared legislation, which I now send to the desk, which would give the profitable lines and the unions until April 19, 1976, to reach an agreement. Of course, the deadline for delivery of the final plan to the special court would also have to be extended. This will give the parties sufficient time to reach an agreement—if there is any common ground at all—but will not unduly delay the startup of ConRail.

Mr. President, I am aware of the fact that Secretary Coleman and others oppose any delay in implementing the ConRail plan beyond April 1, because of the high cost. I believe, however, that the importance of the matter warrants the additional expense required to allow the parties to reconsider their positions, and to reassess the importance of yielding to the clear public interest.

Mr. President, because my bill deals with railroad issues, I would assume that it will be referred to the Commerce Committee. 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. 3059

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 206(d)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(4)) is amended by striking out "7 days" and inserting in lieu thereof "45 days".

SEC. 2. (a) Section 209(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719(c)) is amended—(1) by striking out "March 12, 1976" and inserting in lieu thereof "April 12, 1976", and (2) by striking out "February 17, 1976", and inserting in lieu thereof "March 27, 1976".

SEC. 3. Notwithstanding any provision of

law in effect prior to the date of enactment of this Act which provided for the termination of designations made in the final system plan, the amendment made by the foregoing provisions of this Act shall take effect as of the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210).

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

S. 3060. A bill to amend chapter 33 of title 44, United States Code, to change the membership and extend the life of the National Study Commission on Records and Documents of Federal Officials, and for other purposes. Referred to the Committee on Government Operations.

Mr. NELSON. Mr. President, on December 19, 1974, the Presidential Recordings and Materials Preservation Act became law. It was enacted to nullify the controversial agreement between the Ford administration and Richard Nixon, which acknowledged the former President to be the owner of the tapes and papers of his administration and gave him a broad license concerning the control and disposition of those materials. Congress overrode that agreement in title I of the act, instructing the General Services Administration to take custody of the Nixon tapes and papers to guarantee their preservation and promulgate regulations making the materials available for use by the Watergate Special Prosecutor and for access by the public while safeguarding Mr. Nixon's legitimate interest in them.

The termination of the Nixon presidency was of course unique, and the possible destruction of Nixon presidential materials could not be discounted. However, even while responding rapidly to an emergency situation, Congres recognized that Nixon's agreement with the Ford administration posed basic questions about the ownership and disposition of vital historical materials which had remained unresolved far too long. For this reason, in title II of the Materials Preservation Act, Congress established the National Study Commission on Records and Documents of Federal Officials. This Commission was charged with the responsibility of studying the problems involved in the ownership and disposition of records and documents of all Federal officials and recommending appropriate legislation and rules. The report of the Committee on House Administration suggested the complexity of the task:

> The issues that should be considered by the commission are both philosophical and procedural. They include a review of procedures to insure maximum preservation of useful historical material and procedures to assure earliest practicable accessibility of these historical materials to scholars for their use and interpretation. The commission should also consider the extent to which procedures for gaining early access to these materials may affect the willingness of officials to preserve to the maximum extent useful historical matter. H.R. Rep. No. 93-1507, 93rd Cong., 2d Sess., p. 9.

The composition of the Commission was designed to insure that the viewpoints of officials in all three branches of Government, as well as those of historians and archivists, would all be expressed. Its membership includes two Members of the House of Representatives; two Senators; three appointees of the President, selected from the public on a bipartisan basis; the Librarian of Congress; one appointee each of the Chief Justice of the United States, the White House, the Secretary of State, the Secretary of Defense, the Attorney General, and the Administrator of General Services; and three other representatives, one each appointed by the American Historical Association, the Society of American Archivists, and the Organization of American Historians. I am privileged to represent the Senate on the Commission, along with the Senator from Connecticut, Mr. WEICKER.

The Commission met for the first time on December 15, 1975, at the call of its chairman, the distinguished former Attorney General of the United States, Herbert Brownell. At that meeting, it became apparent that several amendments to title II of the Materials Preservation Act were needed for the Commission to properly discharge its responsibilities. Accordingly, I am introducing, for myself and Mr. WEICKER, three amendments to the statute which the Commission perceives to be necessary. I believe that these amendments are noncontroversial, and I am hopeful that the Congress and the President will approve them quickly.

The first amendment would extend the life of the Commission for an additional year. The act provided that the Commission would report to Congress and the President by March 31, 1976, and cease to exist 60 days thereafter. It is now evident that this deadline cannot be met, and this legislation would amend the act by extending the due date of the Commission's report to March 31, 1977.

This extension is necessitated by the fact that substantial delays occurred in the appointment of the Commission members. The three Commissioners chosen by the President by and with the advice and consent of the Senate—including Chairman Brownell—were not confirmed by the Senate until early November 1975. Once confirmed and designated chairman, Mr. Brownell moved swiftly to convene the Commission and begin the search for a staff director, but the statutory deadline was scarcely 5 months away and obviously no longer realistic.

Actually, even if the Commission members had been chosen immediately, an extension of time for the Commission would probably still have been advisable. Immediately after the Materials Preservation Act became law, Mr. Nixon filed a lawsuit in the U.S. District Court for the District of Columbia challenging its constitutionality. In that suit, he contended, among other things, that in taking custody of the papers and tapes of his administration, Congress violated the doctrine of executive priviledge and infringed on his rights of personal privacy and political association. These arguments were rejected by a three-judge district court which upheld the constitutionality of the basic statutory scheme on January 7, 1976.

However, in all probability, Mr. Nixon will appeal the decision to the Supreme Court. Given the nature of the constitutional claims involved, a Supreme Court decision would undoubtedly provide important guidance for the Commission. Conceivably, if the Commission had finished its work, and then the Court ruled on Mr. Nixon's claims, some of the Commission's recommendations might have been undermined. For this reason, a 1-year extension of the Commission's deadline appears to be desirable as well as necessary.

The second amendment we are submitting involves a change in the way one of the members of the Commission is to be chosen. At present, the Commission is to include "one Justice of the Supreme Court, appointed by the Chief Justice of the United States." A Justice was included because the Commission is charged with studying the problems relating to the disposition of the papers of members of the Federal judiciary. However, Chief Justice Burger has advised the Commission that because of the likelihood that litigation concerning the constitutionality of the act would reach the Supreme Court, he believes that the appointment of a Supreme Court justice to sit on the Commission would be improper.

The Chief Justice has suggested to the Commission that it would be preferable for him to appoint another member of the Federal judiciary to the Commission, if that would be acceptable to Congress. It is the consensus of the Commission that the judiciary should be represented, as Congress intended, and that the Chief Justice's suggestion is sound. Consequently, this legislation would amend the relevant subsection to include on the Commission "one member of the Federal judiciary appointed by the Chief Justice of the United States." The possible candidates would include all circuit or district judges, in active or senior status.

The final amendment is of a technical nature. At present, the act provides that "while away from their homes or regular places of business in the performance of service for the Commission, members of the Commission shall be allowed travel expenses in the same manner as persons employed intermittently in the service of the Federal Government are allowed expenses under section 5703(b) of title 5, United States Code." Because of a 1975 amendment, the provision governing travel expenses for a person employed "intermittently in Government service as an expert or consultant" is now section 5703, rather than section 5703(b). Accordingly, this third amendment would simply substitute "5703" for "5703(b)" in the proper subsection of the Materials Preservations Act.

The task before this Commission is formidable. Our system of Government requires that some confidentiality be accorded the thoughts of policymakers so they will state their views in a complete and uninhibited way. However, the public understanding of Government necessary to a democracy requires that the historical record be as complete as possible and that access be permitted to the record within a reasonable period of time. It is these potentially conflicting

demands of the governing process and the historical record which the Commission must balance and resolve.

By Mr. CURTIS (for himself, Mr. FANNIN, Mr. HANSEN, and Mr. ROTH):

S. 3061. A bill to amend title XX of the Social Security Act to strengthen the ability of the States to support social services in their communities, Referred to the Committee on Finance.

FEDERAL ASSISTANCE FOR COMMUNITY SERVICES ACT

Mr. CURTIS. Mr. President, I am today introducing the proposed Federal Assistance for Community Services Act, which was transmitted to the Congress by President Ford on February 23, 1976. I am pleased to announce that Senators FANNIN, HANSEN, and ROTH, who serve with me on the Finance Committee, have joined with me as cosponsors of this legislation. The purpose of this legislation is to improve the social services programs now funded under title XX of the Social Security Act.

Under present law, $2.5 billion in Federal funds is allocated annually to the States, and apportioned on the basis of population, for social services programs. These social services include day care, family planning, foster care and many others. States receive funds on the basis of a 75–25 percent matching formula.

The new legislation would consolidate into a single block grant program the title XX social services programs together with State and local training activities related to social services. As under existing law, a total of $2.5 billion would be available to the States on a population basis, but the requirement of State matching funds would be eliminated. Also, the proposed legislation contains requirements designed to assure that, as in present law, low-income individuals and families would be the principal beneficiaries of these social services programs. Generally, 75 percent of the Federal funds will go to individuals with incomes below the poverty line, or to those who receive benefits under the AFDC, SSI, or medicaid programs. Moreover, except for information, referral, and protective services, no Federal funds may be expended for the benefit of families with income exceeding 115 percent of the State's median income.

A major change embodied in the proposed legislation is that many of the existing requirements and prohibitions with respect to the use of Federal funds will be eliminated. Thus, for example, the existing title XX restrictions on the use of Federal funds for health and institutional services will be eliminated, as will the controversial child day care staffing ratio standards. However, States will be required to have day-care standards of their own, and an agency responsible for monitoring them. Moreover, fees will not be mandated by Federal law and there will be no ban to fee charging. One additional salutary effect of eliminating many of these requirements and prohibitions is that the burden of State reporting to the Federal Government will be greatly reduced.

The proposed legislation also seeks to strengthen and improve the social services planning process, including the provisions of present law governing public review and comment on the annual State plan. These administrative plan requirements are generally retained, but with reduced Federal monitoring. These requirements include a fair hearing process, protection of information, a merit system of State design, and monitoring by States of their standards for child care and institutions. States will be required to assess the implementation of their services plan, to have an independent audit of expenditures, to monitor compliance with procedures in the administrative plan, and to report publicly on the results of the assessment and audit. A State which fails to comply with these administrative plan requirements is subject to a partial, and perhaps complete, loss of Federal funding.

Mr. President, I am pleased to sponsor this legislation as to have a number of my distinguished colleagues on the Committee on Finance as cosponsors. Our States both want and need greater flexibility and responsibility in the utilization of Federal social services funds. Our States are far better prepared than are we to determine their own social services priorities and to design programs to meet those priorities and not merely to meet Federal regulations. Enactment of this legislation would be an important signal to our States that we in Congress recognize that the States have an important and vital role to play and to make clear an implicit promise in title XX to remove unnecessary vestiges of remote control of State and local social services programs from Washington.

For these reasons, Mr. President, I urge prompt and favorable consideration of the proposed Federal Assistance Community Services Act.

By Mr. STONE:

S. 3066. A bill to amend the Older Americans Act of 1965 to provide nutrition programs for handicapped dependents of older Americans. Referred to the Committee on Labor and Public Welfare.

Mr. STONE. Mr. President, I am today introducing S. 3066, a bill to amend the Older Americans Act of 1965 to include the handicapped dependents of older Americans, who qualify for elderly nutrition programs, as "eligible individuals" for such programs. I believe that this bill is a realistic and humane measure that will eliminate problems presently being faced by individuals who legally qualify for such elderly nutrition programs, but deprive themselves of the opportunity due to consideration for their handicapped children.

That this amendment is necessary is evidenced by the unyielding nature of this family bond. To detail accurately the full implications of this situation, it is necessary that we understand:

First. The living circumstances of older Americans who qualify for elderly nutrition programs.

Second. The excellent services that are available through these programs.

Third. Two specific cases in the State of Florida which graphically exemplify this tragic situation.

First, by virtue of the eligibility requirements of nutrition programs for elderly, all participants must be aged 60 or older and unable to eat adequately because, first, they cannot afford to do so; second, they lack the skills to select and prepare nourishing and well-balanced meals; third, they have limited mobility which may impair their capacity to shop and cook for themselves; or fourth, they have feelings of rejection or loneliness which obliterate the incentive to prepare and eat a meal alone. Therefore, in view of these specifications, it should be immediately evident that the forfeiture of benefits which may be derived from elderly nutrition programs by qualifying individuals is not due to the lack of need.

Second, the funds allotted to any State during any fiscal year will only be disbursed by the State agency to recipients of grants or contracts who agree: First, to establish a "nutrition project" which provides at least one hot meal per day and any additional meals, hot or cold, 5 or more days per week; second, to furnish a site for such a nutrition project in as close proximity to the majority of eligible individuals as is feasible; third, to utilize methods of administration that will assure that the maximum number of eligible individuals will be served; fourth, to provide special menus for those with particular dietary needs for health, religious or ethnic reasons; fifth, to expand the nutrition project to include, as part of the project, recreational activities, informational, health and welfare counseling and referral services; sixth, to provide training for personnel as may be necessary to carry out the provisions of the project; seventh, to establish and administer the nutrition project with the advice of persons competent in nutritional fields, the elderly participants, and persons who are knowledgeable with regard to the needs of the elderly; eighth, to provide periodical evaluations of all aspects of the nutritional project; ninth, to give preference to persons aged 60 or older for staff positions that they may qualify for and to encourage the participation of volunteer groups; and, tenth, to comply with such standards as the Secretary of Health, Education, and Welfare may by regulation prescribe.

Without question, these standards define the excellent services available to qualifying senior citizens. It should be clear, therefore, that forfeiture of benefits, which may be derived from such a useful elderly assistance program, does not stem from inadequacies within the nutrition programs.

Finally, several cases which can be used as examples of this family situation in the State of Florida have been brought to my attention. In particular, I find two of these cases especially noteworthy.

The first case was reported to me by Mr. A. T. Holloman, Jr., chairman of the Jacksonville Nutritional Advisory Council. Mr. Holloman made reference to a variety of incidents in which a qualified parent, in absolute need of the services, refused to take part in area nutrition projects since he would have to leave his hungry handicapped child at home in

the process. In addition, Ms. Naomi Benson, project director of the Jewish Vocational Service Nutrition Project of Miami, has informed me that similar problems have arisen about a half-dozen times in the last 18 months. Ms. Benson went on to site a specific case in which a local philanthropist is temporarily paying for the meal of the 53-year-old daughter of an 82-year-old woman in order that the mother, who is very poor and almost blind, will participate in the area nutrition project.

Certainly, these are only two of many similar cases in the State of Florida, yet their tragic message clearly represents the basic dilemma. In effect, the hardships of already unfortunate family circumstances are compounded by the threat of separating family units for preservation's sake.

The support that this bill offers for the maintenance of the family unit, in relation to participation in elderly nutrition programs, is by no means an entirely original concept. To imply the contrary would be to demean the wisdom of the authors of title VII—Nutrition Program for the Elderly—of the Older Americans Act of 1965—since, at the time of its writing, provisions were made to include the spouses of qualifying older Americans as "eligible individuals" for elderly nutrition programs. This is, of course, in keeping with my basic premise that such elderly nutrition programs must not compel "eligible individuals" to choose between family and survival.

In conclusion, it is evident that the combination of first, the unfortunate living conditions of older Americans who qualify for elderly nutrition programs and second, the excellent services available through elderly nutrition programs, constitutes an extraordinarily painful sacrifice on the part of those who deprive themselves of such benefits. This bill will respond to the needs of these older Americans who would rather starve than alienate their handicapped children, by including their handicapped dependents as "eligible individuals" for elderly nutrition programs.

By Mr. STEVENSON:

S. 3067. A bill to authorize funds for comprehensive planning and management assistance under section 701 of the Housing Act of 1954. Referred to the Committee on Banking, Housing and Urban Affairs.

COMPREHENSIVE PLANNING AND MANAGEMENT ASSISTANCE

Mr. STEVENSON. Mr. President, I am today introducing legislation to provide the comprehensive planning and management assistance program—popularly known as section 701—with an authorization of $125 million for fiscal year 1977. The 701 program came into existence in 1954 as a result of a recommendation by President Eisenhower's Advisory Commission on Urban Housing Policy. Since that time it has provided assistance for comprehensive planning—and more recently for management as well—to States, cities, counties, and regional planning agencies and councils of government in both metropolitan and nonmetropolitan areas.

The 701 program requires that recipients who receive funds engage in a comprehensive planning process including, at a minimum, the preparation of a land use element and a housing element as a part of that process. Recently, amendments which I sponsored and which were enacted as title IV of the Housing and Community Development Act of 1974, permitted 701 funds to be used for management activities necessary to implement planning and for the development of a policy-planning and evaluation capacity, including staff assistance, for recipient jurisdictions and their chief executives.

The program does not impose substantive requirements on recipients but asks them to engage in a process of planning to meet their needs however they define them. The 1974 amendments in particular placed a heavy stress on the development of a planning process and on the implementation of goals and objectives set through that process rather than on the production of one-time static master plans.

The Federal Government's interest in the comprehensive planning program is twofold. First, it provides States, localities, and regional bodies with the capability to plan for and guide their future development. Second, it provides these jurisdictions with the ability to coordinate their various activities, including the large number of functional Federal grant programs, so that these activities are consistent both with each other and, where desirable, with the activities of neighboring jurisdictions. The A-95 mechanism, the primary device by which localities within a metropolitan area or nonmetropolitan region coordinate the various Federal programs they are engaged in, is funded primarily through the 701 comprehensive planning assistance program.

The 701 program thus provides the overarching framework within which a State, locality, or region can plan, coordinate, and evaluate its activities, both from its own sources and from Federal funds. It differs sharply from functional planning attached to specific programs—the community development plan attached to the community development block grant program or health planning—which plans for activities only within one specific substantive area and does not attempt to coordinate the program with other activities or place the program within the context of the broader needs of the jurisdiction.

I would have hoped that a relatively inexpensive program whose intent was to foster sound and rational planning and management processes and to strengthen State and local governmental institutions would have been embraced by the Ford administration. Unfortunately this is not the case. Rather than cutting government spending selectively, the administration has engaged in a meat-axe approach, and useful programs such as 701 have suffered. The Housing and Community Development Act of 1974 authorized, through my amendment, $130 million in fiscal year 1975 and $150 in fiscal year 1976 for the section 701 program. The administration requested an appropriation of $110 million for fiscal year 1975, then when Congress enacted an appropriation of $10 million less than that request, the administration unaccountably requested a deferral of $50 million of that amount. Congress denied the request. In fiscal year 1976, the administration asked for an appropriation of $75 million which it received, and for the coming fiscal year it is asking for a new authorization of only $25 million and an appropriation of equal amount.

The effect of the administration's actions is to slowly strangle a viable and productive program. Since there is a 1-year lag in the program between appropriation and outlay, the impact of the budgetary stringency has not yet been fully felt in State, local, and regional planning activities. It will be soon. At a time when the evident need is for more coordination, efficiency, and advance planning, we shall be receiving less. Program outlays—the amount of money actually spent each year—have been between $95–$110 million each year since fiscal year 1974, but they will fall to $75 million in fiscal year 1977, and to $25 million in fiscal year 1978, if the administration has its way.

My legislation is an effort to reverse this trend by providing an authorization for the comprehensive planning program sufficient to permit it to at least continue, after accounting for inflation, its present level of activity.

By Mr. JAVITS:

S. 3068. A bill to authorize appropriations for the National Science Foundation. Referred to the Committee on Labor and Public Welfare.

NATIONAL SCIENCE FOUNDATION AUTHORIZATIONS, 1977

Mr. JAVITS. Mr. President, as the ranking minority member of the Labor and Public Welfare Committee, I introduce today the administration's bill to authorize the activities of the National Science Foundation for fiscal year 1977. The special subcommittee on the NSF will review fiscal year 1977 NSF authorization in detail at hearings scheduled in March.

The bill authorizes a total of $802 million in new budget authority for the coming fiscal year. It also contains a provision for $10 million in deferred fiscal year 1976 funds, primarily in the science education area.

The $812 million budget for NSF represents an 11-percent increase for the agency over its fiscal year 1976 program. Since 1968 Federal support for basic research has declined some 23 percent in constant dollars. The proposed NSF program seeks to reverse that trend. I approve the administration's decision to move in this direction before the damage to our great scientific establishment proves irreversible.

The National Science Foundation, as the only Federal agency charged with overall responsibility for the health of our Nation's scientific research and the quality of its scientific manpower, has a key role to play in this effort. It is the principal Federal agency concerned with assuring that the United States maintains its world leadership in science and technology—a leadership that has en-

abled the quality of American life to become one of the most stable, productive, and humanitarian in the world.

There is a more important reason than the status quo for support of science. The challenges of the future will tax man's ability to meet basic human needs while maintaining the delicate and complicated balance of Earth, oceans, and atmosphere necessary to preserve the quality of life on this planet for the generations to come. Thus it is vital today that this Nation continues its strong support for basic scientific research.

The proposed program for the National Science Foundation for fiscal year 1977 represents a major effort on the part of the administration to strengthen basic research. The budget request will provide support for research programs in all major fields of science and engineering, not only to counter the impact of inflation over the past several years, but to move ahead strongly in basic scientific research, especially in the universities. This represents an improvement over the trend in recent years in which the administration has requested a level of funds which, in my judgment, did not adequately meet the vital nature of the need.

Significant highlights of the fiscal year 1977 budget include:

First. A 10.5 percent increase in support for basic research. The total requested for this area will be $624.9 million, providing funding for the mathematical and physical sciences, engineering, astronomical and atmospheric sciences, earth and ocean sciences, and the biological sciences.

Second. A continuation of the Research Applied to National Needs—RANN—program, designed to focus U.S. scientific and technical resources on selected problems of national importance. This includes funding for the Intergovernmental Science and R. & D. Incentives to help insure the integration of science and technology at the State and local level.

Third. A program of science education aimed at improving the quality of the Nation's science manpower.

Fourth. Support of foreign policy objectives through expanded international cooperative science activities.

Mr. President, I have long worked to insure that the small businessman has a chance to be considered. I am pleased to note that the NSF does not ignore the small researcher—the individual or firm requesting only a few thousand dollars for a project. Consistent with congressional intent the National Science Foundation has begun a vigorous program to encourage small businesses with research capabilities to apply for funding, especially in the RANN area.

I note that the administration has requested a 1-year extension of the NSF authorization. While this has been the practice since 1968, I would like to take this opportunity to suggest that both Congress and the administration begin consideration of extension of the authorization of NSF programs for longer periods of time. A 2-year authorization would render greater program stability to the NSF, while enabling Congress to devote more time to its oversight responsibility and less to the more routine reauthorization matters.

Mr. President, I ask unanimous consent at this pont to include in the RECORD the text of the administration's NSF authorization for fiscal year 1977, a section-by-section analysis of the bill, and an NSF summary of the fiscal year 1977 budget request.

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

S. 3068

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated to the National Science Foundation for the fiscal year ending September 30, 1977, to enable it to carry out its powers and duties under the National Science Foundation Act of 1950, as amended, and under Title IX of the National Defense Education Act of 1958, out of any money in the Treasury not otherwise appropriated, $796,000,000.

SEC. 2. Appropriations made pursuant to authority provided in sections 1 and 4 shall remain available for obligation, for expenditure, or for obligation and expenditure, for such period or periods as may be specified in Acts making such appropriations.

SEC. 3. Appropriations made pursuant to this Act may be used, but not to exceed $5,000, for official consultation, representation, or other extraordinary expenses upon the approval or authority of the Director of the National Science Foundation, and his determination shall be final and conclusive upon the accounting officers of the Government.

SEC. 4. In addition to such sums as are authorized by section 1, not to exceed $6,000,000 is authorized to be appropriated for fiscal year ending September 30, 1977, for expenses of the National Science Foundation incurred outside the United States to be paid for in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States.

SEC. 5. (a) (1) Sections 1869a and 1882 of Title 42, United States Code, are hereby repealed; and

(2) Section 2(b) of Public Law 94-86 (89 Stat. 427) is hereby repealed.

(b) (1) The notes appearing at section 1864 of Title 42, United States Code, which refer to the directions to the Director of the National Science Foundation to prepare comprehensive plans for establishing a "Science for Citizens Program" and for facilitating the participation of members of the public in the formulation, development, and conduct of the National Science Foundation programs, policies and priorities, are hereby struck from the Code; and

(2) The note appearing at section 5820 of Title 42, United States Code, referring to the coordination of all National Science Foundation project awards in the conduct of energy research and development activities with the Administrator of the Energy Research and Development Administration or his designee, is hereby struck from the Code.

SEC. 6. This Act may be cited as the "National Science Foundation Authorization Act, 1977."

STATEMENT OF FY 1977 BUDGET

A total of $812 million, $802 in new funds and $10 million in proposed FY 1976 deferrals, is included for the National Science Foundation (NSF) in the Budget of the United States for Fiscal Year 1977.

The $80.4 million increase in overall budget authority, 11 percent above the program level for FY 1976, is aimed primarily at strengthening Federal support of basic research in all major fields of science.

Dr. H. Guyford Stever, Director of the NSF, said, "The National Science Foundation's proposed program for FY 1977 represents a major effort on the part of the Administration to bolster science and to ensure for the United States a strong basic research program in all major fields of science and engineering. A specific aim of this program is to counteract the gradual decrease of Federal support for basic research which has declined about 23 percent in terms of constant dollars since 1968. Other Federal agencies are also increasing their commitment to basic research, where the research is tightly coupled to the agency's mission objective.

"Since much of the basic research of the nation is conducted in colleges and universities, where about 87 percent of the NSF program is performed, NSF support is a key to the effectiveness of the college and university system in expanding the frontiers of knowledge. This new knowledge is expected to strongly underpin the activities of some other Federal agencies. In this sense, the NSF research program will serve to balance the total Federal R&D effort."

In FY 1977, the NSF program will contribute significantly to the Nation's scientific strength by:

Increasing support for basic research in FY 77 to $624.9 million—nearly 19.5% over the FY 76 level. Included in this increase are higher funding levels for Mathematical and Physical Sciences and Engineering; Astronomical, Atmospheric, Earth and Ocean Sciences, and Biological, Behavioral and Social Sciences.

Continuing at an effective level Foundation programs—primarily Research Applied to National Needs—focusing U.S. scientific and technical resources on selected problems of national importance for the purpose of contributing to their timely, practical solution.

Providing education programs designed to help assure the quality of the Nation's science manpower and the availability of quality science education to the public.

Increasing support of foreign policy objectives through expanded international cooperative science activities.

For FY 1977 the NSF program will include:

An increase of $39.9 million for Mathematical and Physical Sciences and Engineering to a total of $233.2 million. Subactivity totals for FY 1977 are: mathematical sciences, $20.9 million; computer research, $15.8 million; physics, $55.45 million; chemistry, $42.35 million; engineering, $44.65 million; and materials research, $54.1 million.

Expanded computer sciences research will explore technical aspects of privacy and security, techniques for improving the quality and reliability of computer software, the best steps towards solving complex problems with ordinary and micro-computers, and other areas.

Increases in physics support will permit greater use of nuclear accelerators in studies of newly discovered particles, and a more concentrated effort in the investigation of plasmas—a state in which most of the matter of the universe exists but many of whose properties are unknown.

Increased engineering research on two-phase fluid systems, such as solid and gaseous components in combustion by flames, will be supported to help solve problems involving energy and the environment. Additional research related to extremely small optical and electronic devices is expected to lead to small lasers and computers and open the way for optical communication and other information processing systems.

Astronomical, Atmospheric, Earth and Ocean Sciences will increase from $219.3 million to $245 million with the following area support: astronomical sciences, $54.7 million; atmospheric sciences, $51.4 million;

earth sciences, $32.2 million; and ocean sciences, $56.4 million; U.S. Antarctic Research Program, $45 million; Arctic research program, $5.3 million.

New emphasis in astronomy will be placed on observational and theoretical research related to the unusual processes occurring at the centers of galaxies that can generate energy at the rate of ten billion billion times that of the sun, on research related to pulsars, quasars, black holes, and on a search for stars with planetary systems.

Construction, installation, and testing of additional components of the Very Large Array will continue. The four-meter optical telescope at the Cerro Tololo Inter-American Observatory, in Chile, placed in operation January 12, will be in full-time use.

Expanded atmospheric sciences studies will continue to focus on investigations of the basic chemistry of the upper atmosphere, on large and small-scale motions of the atmosphere and stratosphere, as well as on major international cooperative projects.

The Climate Dynamics Program, increased to $4.9 million, is an increasingly concentrated effort to improve our understanding of global climate as a basis for predicting climate variations and assessing their impact on matters important to man.

The increased support for earth sciences will be used to initiate or emphasize selected research in support of the U.S. Program for the International Geodynamics project. In addition, new emphasis will be placed on earthquake research as part of the national effort in earthquake prediction and hazard reduction.

The highly productive Ocean Sediment Coring Program continues with its international phase during FY 1977.

The International Decade of Ocean Exploration will continue in FY 1977 with large international projects focused on the role of the oceans in climate, food production, pollution, energy, and natural resources.

An increase in support of Biological, Behavioral and Social Sciences from $110.4 million to $132.3 million. Area support totals are: physiology, cellular and molecular biology, $54.2 million; behavioral and neural sciences, $24.4 million; environmental biology, $32.5 million; and social sciences, $21.2 million.

Research in the plant sciences, particularly in photosynthesis and nitrogen fixation, will be expanded as will investigations in genetics and differentiation where new cell structure capabilities have opened opportunities.

Studies of key aspects of behavior and the nervous system during early development, and research on brain structure and its function in cognitive processes will be increased in FY 1977. Increased emphasis will be placed on studies of social psychology in real life settings.

Research in environmental biology will be expanded to increase our understanding of population biology, physiological ecology, aquatic ecosystems and other areas.

Provisions will be made for increased study of economic theory and advanced measurement for techniques to analyze inflation, energy, resources, productivity, and international economic problems.

Fundamental research will be continued to increase our understanding of how human beings and man-made organizations and institutions function.

Support for Science Education will provide $65 million, including $10 million in funds proposed for deferral from FY 1976, for programs aimed at providing training for scientists and engineers, including the increased entry into science of women and minorities historically under-represented in those fields. A strong effort in three new programs started by the Congress—Comprehensive Assistance to Undergraduate Science Education (CAUSE), Research Initiation and Support (RIAS) and Science for Citizens—will be continued. Programs aimed at strengthening science education and research training capabilities of schools, colleges and universities will be continued with a small increase in funding to $26.9 million.

Support of efforts to identify and develop technologies, methods, and course materials to increase the effectiveness of science instruction at all levels will continue at the same level as in FY 1976. A program to increase the amount and quality of communication between the scientific community and the public and the use of science by the public will continue with an increase from $3 million to $3.4 million.

Research Applied to National Needs (RANN) efforts will continue to be applied to selected problems of national concern in five major program areas: resources, environment, productivity, intergovernmental science and R&D incentives, and exploratory research and problem assessment. The level of RANN support is reduced from $73.6 million in FY 1976 to $64.9 million in FY 1977, reflecting phase down and shift of responsibility of energy resources and environmental effects of energy to the Energy Research and Development Administration and phase down and transfer of fire research to the Department of Commerce.

RANN resources research will apply $10 million to research designed to lead to improvement of the Nation's management of its natural resources through the development of alternative solutions to emerging scarcity problems before a crisis stage is reached.

Special emphasis in the $24.5 million RANN environmental program is placed on chemical threats to the environment and man, regional environmental management, earthquake engineering, weather modification and societal response to natural hazards. $24.4 million will support policy research and experiments with new technologies to help improve productivity of public and private sectors of the economy.

In Scientific, Technological, and International Affairs an increase of $1.69 million will provide for regionally oriented international cooperative programs as well as increased support for 21 ongoing cooperative programs. A reduction of $1.9 million in science assessment, policy, and planning is made in anticipation of the establishment of the White House Office of Science and Technology.

SECTIONAL ANALYSIS

A Bill to authorize appropriations for activities of the National Science Foundation, and for other purposes.

Section 1. Authorizes appropriations for fiscal year 1977 in the amount of $796,000,000 which equals the amount shown in the President's Fiscal 1977 Budget.

Section 2. Provides that appropriations made pursuant to sections 1 and 4 to remain available for obligation and expenditure for such period, or periods, of time as may be specified in appropriations acts.

Section 3. Authorizes an allowance of up to $5,000 for official consultation, representation, and other extraordinary expenses to be expended at the discretion of the Director.

Section 4. Authorizes, in addition to the funds appropriated by section 1, an appropriation for fiscal year 1977 not to exceed $6,000,000 for expenses of the National Science Foundation incurred outside of the United States to be financed from currencies which are determined by the Treasury Department to be in excess of normal requirements of the United States.

Section 5. Repeals sections 1869a and 1882 of Title 42, U.S. Code, and strikes certain notes appearing at sections 1864 and 5820 of Title 42, United States Code. Section 2(b) of P.L. 94-86 is also repealed.

Section 6. Permits the citation of the Act as the "National Science Foundation Authorization Act, 1977."

By Mr. BUCKLEY:

S. 3069. A bill to prescribe the conditions with respect to affirmative action programs required of Federal grantees and contractors in complying with nondiscrimination programs, to prescribe the necessary requirements for a finding of discrimination in certain actions brought on the basis of discrimination in employment and to prescribe reasonable limits on the collection of data relating to race, color, religion, sex, or national origin, and for other purposes. Referred to the Committee on Labor and Public Welfare.

AFFIRMATIVE ACTION

Mr. BUCKLEY. Mr. President, 12 years ago, the United States made it illegal to discriminate in employment on grounds of race, color, religion, sex, and national origin. That was accomplished when the Civil Rights Act of 1964 became law, and it was properly heralded as the end of one era and the beginning of another. What had been a readily accepted element of the American tradition, equality of opportunity, was made a matter of legal right for all Americans.

There is no question but that some Americans, most notably for reasons of race, were being denied equality of opportunity. This legislation not only defined legal rights and duties, but it also proved to have a profound and largely beneficial social impact on the United States. Whatever enforcement problems have subsequently developed, the case for the passage of the law has, it seems to me, been fully vindicated. But, unfortunately, there is more to the story of the Civil Rights Act of 1964 and the national commitment to end discrimination.

To understand the present problem one must go through the details of the legislation in question. First, title VI of the Civil Rights Act of 1964 requires that any program or activity, including State and local government, which receives Federal financial assistance must, as a matter of law, treat all participants equally without regard to race, religion, color, sex, or national origin. The act, in title VII, further prohibits any Federal contractors, private employers, or labor organizations from discriminating against applicants for employment on any of the above grounds. In effect, the Congress in passing the legislation was abstracting the social policy articulated in Brown against Board of Education, the landmark school segregation case handed down in 1954 by the U.S. Supreme Court, and extending it to Federal programs and private employment. The policy was one in which discrimination on grounds of race, religion, color, sex, or national origin was prohibited as constituting the antithesis of the principles of individual equality, individual dignity, and individual justice on which the American Nation was founded; principles which the civil rights movement was designed to translate into full practice.

The second step in the process was taken on September 24, 1965, when then President Lyndon Johnson issued Executive Order No. 11246 requiring Federal contractors to take affirmative action "to insure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin." Later a sex discrimination prohibition was added to the affirmative action requirements.

The point was clear: The policy of the U.S. Government was not only to prohibit discrimination on the grounds of race, religion, color, sex, or national origin, but to force action to end inherently discriminatory practices. There would be no substantial issue today if, in the intervening years, the Federal Government had not changed its policy. While the civil rights law has not been amended with respect to any of the antidiscrimination provisions and while the Executive orders have not been revised in any substantial way, the policies of the Federal Government have changed substantially. It is to this change that the legislation I am today introducing is addressed.

Lest there be any doubt about congressional intent behind the Civil Rights Act, and specifically on the question of the nature of discrimination, the Senator from Minnesota (Mr. HUMPHREY), a leading supporter of the act, stated that there "must be an intention to discriminate" before one could be held to have violated the law. He also stated that the act "does not require an employer to achieve any kind of racial balance in his work force by giving any kind of preferential treatment to any individual or group—the express requirement of intent" would prevent de facto circumstances from being manipulated into a finding of discrimination. Senators CASE of New Jersey and CLARK of Pennsylvania joined Senator HUMPHREY in that analysis.

The first notable change came in February 1970, when the Department of Labor adopted regulations which included the language:

> An affirmative action program is a set of specific result-oriented procedures to which a contractor commits himself to apply in good faith. The objective of these procedures plus such efforts is equal employment opportunity.

It is important to make note of the point that within this rather obscure rhetoric is the redefinition of "opportunity" to mean "result." The transposition of Federal policy occurred when opportunity was defined in terms of result, or in the later language of composition.

A more explicit change in Federal policy came about in late 1971 with the adoption of revised order No. 4 by the U.S. Department of Labor, which was adopted pursuant to both the Civil Rights Act and the Executive order. In revised order No. 4, there is no attempt to define "discrimination," as such. A reading of the order requires the conclusion that for purposes of affirmative action requirements, discrimination is equated with "underutilization," which is defined "as having fewer minorities or women in a particular job classification than would reasonably be expected under their availability." The order then details a long series of factors which are to be relied upon in determining whether there is "underutilization."

But the unreasonableness or lack thereof of the criteria begs any serious questions of public policy. Wherever in the law did the doctrine of "underutilization" become the controlling factor in determining whether a party subject to the Civil Rights Act was in violation of the act?

The change came about subtly, through the use of the relatively anonymous mechanism of rulemaking whereby an enforcing agency, such as the Department of Health, Education, and Welfare—HEW—can expand and even redefine the essence of the law it is supposed to enforce. The legal requirement which was initially intended to guarantee equality of opportunity was now being defined as specifically requiring the manipulation of results. It is at that point that the prohibition against discrimination was turned into a positive duty to discriminate. There is no way to insure a certain result other than by discriminating.

There are a number of examples which illustrate the point. One of the most striking is to be found in the case of the University of California, at Berkeley, of all places, where the Federal Government relied solely upon the racial and sex composition of the work force to prove a violation of the Civil Rights Act. In June 1971, HEW descended upon the campus to conduct a compliance review. The study lasted for 1½ years.

Berkeley personnel did their best to supply all of the data HEW requested. The review culminated in a demand that the university adopt an affirmative action hiring program, although the university was never specifically charged with having discriminatory hiring practices. Nor was the university told what it had to do. The frustration of the university was best expressed by Robert Kerley, the vice chancellor for administration, who said:

> It was a bit like being in a ballgame against a team that was making up the rules as it went along.

The university never really had the benefit of a clearcut Government position. There was never any explicit charge or specific demand.

The responsibility for developing an "acceptable"—to HEW—affirmative action program was on the university. What the university was required to overcome was not a charge of discrimination, but of "underutilization" of minorities, a determination that was in part based upon the population composition of the bay area. What that had to do with Berkeley's hiring practices is unclear, but it was part of the utilization formula against which the university was judged by bureaucrats having the discretionary power to withhold substantial Federal funding.

In order to come into compliance with the Civil Rights Act, as implemented by HEW and its guidelines, and to retain the $2.8 million in Federal contracts which the university held, the campus administration commenced to gather the necessary data in order to develop "goals"—quotas—which would bring the school up to full "utilization." The project was costly, consuming the time of 10 staff members and countless hours of many others connected with the university. But the first Berkeley plan did not satisfy the HEW officials and the threat to cut off the Federal contracts was carried out, resulting in the delay of $2.8 million in contracts and no doubt creating severe administration problems with staff payroll and other budgetary obligations. Still HEW did not take an overt position on what would constitute "compliance."

Faced with such an intolerable situation, the university had its own statistics department develop plans for hiring minority personnel, with specific goals and timetables. The plan was acceptable to HEW. The utilization formula which was agreed to called for, among other things, certain goals which implied that the university was "under-quota" or "underutilizing" minority personnel. Included in the plan was the university's commitment to hire 1.38 black professors in the social welfare department and 1.39 Spanish surnamed and Native Americans—Indians—as professors in the civil engineering department. Monitoring the affirmative action program continues to cost the university at least $400,000 per year. We must remember all this comes against a background wherein the university was not charged with discrimination. But in order to come into "compliance," the university would most certainly have to discriminate and expend substantial resources.

In a less complex situation, but one which is just as outrageous, Congresswoman Edith Greene, in November 1972, testified in a House of Representatives hearing regarding her own city of Portland, Oreg., which was found to be in noncompliance by HEW. Portland, with a black population of 5 percent of the total, had minority representation in the school system of 15 percent of the whole. But because Portland did not have 15 percent representation in each and every job classification within the school system, the city was found to be guilty of discrimination as defined by HEW.

As recently as August 1975, HEW made a computer run to determine what school systems, if any, assigned faculty to schools in majority/minority patterns that did not mathematically reflect the ratios within the school system in which they were employed. Ninety school systems, including Buffalo, N.Y., were indicted by computer for no reason other than the fact that the school administrations had not kept the ratios relatively uniform in schools throughout the system. Here there was not even a charge of underutilization. It was asserted that random assignment was per se discrimination. In Buffalo, and perhaps elsewhere, HEW withheld Federal funds under the authority of the Civil Rights Act.

In another recent case, the Depart-

ment of Justice, using the goals and guidelines theory of discrimination developed by the Departments of Labor and HEW, filed a civil rights suit against the Sheet Metal Workers Union, Local 28, of New York City. The suit charged the union with discrimination. The allegation of discrimination relied upon the composition of the union membership for proof of discrimination. A court-ordered quota has been set requiring the union to hire minorities until the membership in the union has been brought up to 29 percent minority. But again, as in the cases brought under agency guidelines, there was no charge of discrimination as such. Underutilization was held to be discrimination, pure and simple.

A second element, in the case of the Sheet Metal Workers Union, was a test administered by the union as part of the application process for apprenticeships. In the landmark Griggs against Duke Power Co. case, the Supreme Court held that when a test eliminates more minorities than nonminorities, it becomes the duty of those administering the test to prove its relevance to the job. But since that decision, EEOC and others have moved Federal Government policy to the point where validation of the test is a practical impossibility. Prof. Nathan Glazer's research in "Affirmative Discrimination"—New York Basic Books, 1975—forced him to conclude that the only test which could be safely administered was a typing test, and the Equal Employment Opportunity Commission is not entirely sure about that. But because minorities in New York City did not do as well as nonminorities in the test scores, the Court upheld that the minorities had been "victimized" and ordered the union to eliminate the test and to pay back pay to those allegedly victimized. But all of this happened in spite of section 703(h) of the Civil Rights Act, where the clear meaning of the language restricts the review of tests to the question of whether they are "designed, intended, or used to discriminate because of race, color, religion, sex, or national origin."

To comply with the Federal district court order, the Sheet Metal Workers Union has been ordered to discriminate, even against those longstanding members presently unemployed and standing by until construction work again becomes available. Nothing in the court's decision addressed the rights of those who would now be discriminated against and the justice due them. Again, this is all against a background where there is no charge of discrimination.

There is also the problem of costs. The Congressional Research Service has, at my request, been collecting what data there is on the question of the financial costs of the affirmative action programs now being imposed. CRS found that the costs of affirmative action for the Federal Government alone in fiscal year 1976 are estimated at, unbelievably, $329,296,367. The estimated costs to higher education for the academic year 1974–75 was more than $75 million. The study is not complete, but the initial indication is that the costs are literally astronomical.

After having complained to the executive agencies over the past years over these distributors of the concept of civil rights, I am now convinced that the only solution rests with the Congress of the United States. While it seems to me that the 1964 act makes the congressional intent crystal clear, others in the Federal Government, courts and agencies alike, have succeeded in perverting the law to the point of rendering it unrecognizable.

Discriminatory hiring practices have no place in our country. America should pride itself upon guaranteeing each of its citizens an equal opportunity to earn a decent living. To benefit one man at the expense of another, for reasons no more relevant than sex, or race, or national origin, is a perversion of civil rights. Reverse discrimination is discrimination, and it was discrimination the Congress prohibited 12 years ago.

Consequently, today I am introducing the Antidiscrimination Act of 1976. The legislation is designed to reinforce the 1964 law and to clarify any ambiguities which may have been created through agency rulemaking and overly broad court decision.

The bill contains three major provisions:

First. It would reaffirm the Federal Government's role in requiring as a condition of receipt of any grant or contract that the recipient submit an affirmative action program which assures nondiscrimination on the basis of race, religion, color, national origin, or sex, along the lines of Executive Order No. 11246. Such programs would not be allowed to impose the establishment of employment goals, timetables, or quotas based on race, religion, color, national origin, or sex.

Any affirmative action program undertaken by contractors, grantees, private employers, or labor organizations, whether fashioned by a Federal agency or a Federal court, would be limited to attempts to expand the pool of applicants or participants. Plans could include an expansion of recruiting practices, including, but not necessarily limited to the expansion of normal advertising and promotion methods, consistent with the financial ability of the concerned parties to undertake such a program. Such programs could—in fact should—preclude any qualifications that are unrelated to job requirements, and hence a potential vehicle for discrimination.

The goal would be to insure that no particular group would encounter any unusual difficulty in seeking out information regarding the opportunity which is advertised, or in being judged on the basis of qualifications alone.

Second. In all cases arising under the law of the United States, or any Federal regulation or Executive order, where the Federal Government seeks a finding of discrimination, no finding would be allowed solely on the basis of the composition of the workforce or membership in the business, union, or program. Such statistical data would be admissable as evidence, however, in any hearing before an appropriate agency or court.

Third. The Antidiscrimination Act of 1976 would prohibit the Federal Government from requiring that data be collected regarding race, color, religion, sex, or national origin. The acceptance by the Government of such information would be limited to discovery proceedings under the direction of a Court.

There is a certain difficulty in offering this legislation. The plain meaning of the original legislative language does not need changing. Moreover, this legislation would not be offered but for the actions taken and interpretations made by the various departments and agencies charged with enforcing the law.

The challenge before the Congress is to do away with quotas, goals, and timetables which necessarily result in discrimination against some for the benefit of others. There is no suggestion made by me that we as a nation withdraw one iota from our commitment to end discrimination on the grounds of race, religion, color, sex, or national origin. To the contrary, the legislation I am offering today will, if enacted into law, reinforce the principles of nondiscrimination and equality of opportunity that are essential to a just and free society.

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. 3069

A Bill to prescribe the conditions with respect to affirmative action programs required of Federal grantees and contractors in complying with non-discrimination programs, to prescribe the necessary requirements for a finding of disscrimination in certain actions brought on the basis of discrimination in employment and to prescribe reasonable limits on the collection of data relating to race, color, religion, sex, or national origin, and for other purposes

Be it enacted by the Senate and House of Representatives of the United of America in Congress assembled, That (a) in carrying out the provisions of—

(1) title VI or title VII of the Civil Rights Act of 1964,

(2) Executive Order No. 11246, issued September 24, 1965, as amended by Executive Order No. 11375, issued October 13, 1967 and Executive Order No. 11478, issued October 8, 1969, or

(3) any other provision of Federal law or regulation relating to non-discrimination on the basis of race, color, religion, national origin, or sex, each department and agency of the Federal Government may require that any grantee or any contractor subject to a grant or contract made by that department or agency and any employer, employment agency, or labor organization subject to such title VII shall submit as a condition of such a grant or contract or as a condition of relief an affirmative action program if that affirmative action program is in accordance with the provisions of this act.

(b) No affirmative action program authorized by this Act may require—

(1) provisions relating to quotes or ratios of individuals on the basis of their race, color, religion, national origin or sex as a portion of the statistical composition of the business enterprise, labor organization, association, society, or other entity of that grantee or contractor; or

(2) provisions for goals or objectives for that grantee or contractor designed to establish quotas or ratios as described in clause (1) of this sentence.

(c) Affirmative action programs authorized by this Act shall be designed to expand, on the basis of individual or aptitude qualifi-

cation and without regard to race, color, religion, national origin, or sex, the pool of applicants and participants in the program, membership, or enterprise which is subject to the provisions of such a plan. Any such affirmative action plan may include provisions for the expansion of normal advertising and promotional methods reasonably designed to assure that no special group of individuals classified on the basis of race, color, religion, national origin, or sex would encounter any unusual difficulty in obtaining information regarding the opportunity for employment or participation in the program, membership, or enterprise subject to such a plan, if the provisions relating to such advertising or methods are consistent with the financial ability of the employer, employment agency, labor organization, association, society, or other entity which is subject to the affirmative action plan.

SEC. 2(a) Notwithstanding any other provision of law in carrying out or enforcing the provisions of—

(1) title VI or title VII of the Civil Rights Act of 1964,

(2) Executive Order No. 11246, issued September 24, 1965, as amended by Executive Order No. 11375, issued October 13, 1967 and Executive Order No. 11478, issued October 8, 1969, or

(3) any other provision of Federal law or regulation relating to nondiscrimination on the basis of race, color, religion, national origin, or sex, no officer or employee of any department or agency of the Federal Government and no court of the United States shall make any finding of discrimination based solely on the composition of the work force or the membership of an employer, employment agency, or labor organization.

(b) In any action brought to enforce the provisions of any law specified in subsection (a) of this section before an appropriate department or agency of the Federal Government or in any court of the United States, statistical data on the composition of the work force or membership of any employer, employment agency, or labor organization is admissible.

(c)(1) In any action brought to enforce any law specified in subsection (a) of this section before an appropriate department or agency of the Federal Government or in any court of the United States, no relief shall be granted unless that department or agency or court finds that an act of discrimination has been committed by the employer, employment agency, or labor organization.

(2) No department or agency and no court may grant any remedy to enforce the provisions of law specified in subsection (a) of this section if that remedy includes the establishment of—

(A) quotas or ratios of individuals on the basis of their race, color, religion, national origin, or sex as a portion of the statistical composition of the business enterprise, labor organization, association, society, or other entity of that employer, employment agency, or labor organization;

(B) goals, timetables, or objectives for that employer, employment agency, or labor organization designed to establish quotas or ratios described in clause (A) of this paragraph.

SEC. 3. No department or agency of the Federal Government may require that any employer, employment agency, labor organization, or grantee or contractor which is or may be subject to any provision of law specified in the first section of this Act collect data regarding the race, color, religion, national origin, or sex of any employees, members or program participants, or accept such information, except as a result of discovery procedures under the order of a court of the United States after reasonable grounds have been established that discrimination exists with respect to that employer, employment agency, labor organization, grantee or contractor.

SEC. 4. For the purposes of this Act, the term—

(1) "contractor" includes any contractor subject to part II or part III of Executive Order No. 11246, issued September 24, 1965, as amended;

(2) "employer" means the United States, any employer subject to the provisions of title VII of the Civil Rights Act of 1964, and any employer subject to part II or part III of Executive Order No. 11246, issued September 24, 1965, as amended;

(3) "employment agency" means any employment agency subject to the provisions of title VII of the Civil Rights Act of 1964;

(4) "grantee" includes any person subject to the provisions of title VI of the Civil Rights Act of 1964; and

(5) "labor organization" means any labor organization subject to the provisions of title VII of the Civil Rights Act of 1964.

SEC. 5. This Act shall be referred to as the "Anti-Discrimination Act of 1976."

By Mr. PERCY:

S.J. Res. 174. A joint resolution to authorize the President to designate the period from March 7, 1976, through March 14, 1976, as "National Nutrition Week." Referred to the Committee on the Judiciary.

NATIONAL NUTRITION WEEK

Mr. PERCY. Mr. President, I am introducing a joint resolution to mark the week of March 7, 1976, through March 14, 1976 as "National Nutrition Week."

For the past 4 years the American Dietetic Association has promoted good nutrition through commemoration of a National Nutrition Week. This year the theme is the Bicentennial. Throughout the year, historical events pertaining to dietetics and nutrition will be spotlighted. National Nutrition Week provides an opportunity for the American Dietetic Association, with the cooperation of the food industry and allied organizations, to work toward improving nutrition for the Nation.

I ask unanimous consent that the joint resolution be printed in the RECORD.

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

S.J. RES. 174

Joint resolution to authorize the President to designate the period from March 7, 1976, through March 14, 1976, as "National Nutrition Week."

Whereas every American has the right to optimum nutritional health; and

Whereas every American has the right of access to a variety of safe foods that will promote good nutrition and improve resistance to disease; and

Whereas every American has the right to nutrition education, to make informed choices from available foods, and, to have protection against food and nutrition misinformation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the period from March 7, 1976, through March 14, 1976, as "National Nutrition Week," and calling upon the people of the United States and interested groups and organizations to observe that week with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 12

At the request of Mr. MCCLELLAN, the Senator from Washington (Mr. MAGNUSON) was added as a cosponsor of S. 12, a bill to improve judicial machinery by providing benefits for survivors of Federal judges comparable to benefits received by survivors of Members of Congress, and for other purposes.

S. 953

At the request of Mr. STEVENSON, the Senator from Washington (Mr. JACKSON) was added as a cosponsor of S. 953, a bill to amend the Export Administration Act of 1969 to clarify and strengthen the authority of the Secretary of Commerce to take action in the case of restrictive trade practices or boycotts.

S. 969

At the request of Mr. HARTKE, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 969, a bill to amend chapter 34 of title 38, United States Code, to extend the basic educational assistance eligibility for veterans under chapter 34 and for certain dependents under chapter 35 from 36 to 45 months.

S. 1911

At the request of Mr. HARTKE, the Senator from Georgia (Mr. TALMADGE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from California (Mr. CRANSTON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Wyoming (Mr. HANSEN), the Senator from South Carolina (Mr. THURMOND), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of S. 1911, a bill to amend title 38, United States Code, to provide certain persons insured under servicemen's group life insurance (SGLI) with a choice of conversion to either an individual term or whole life insurance policy or veterans' group life insurance policy upon the expiration of their servicemen's group life insurance coverage, and for other purposes.

S. 2489

At the request of Mr. JAVITS, the Senator from Alabama (Mr. SPARKMAN) was added as a cosponsor of S. 2489, the Allied Services Act of 1975.

S. 2525

At the request of Mr. HARTKE, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 2525, a bill to provide for the coverage under medicare of dental care, eye care, dentures, eyeglasses, and hearing aids.

S. 2572

At the request of Mr. MCCLELLAN, the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 2572, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a Federal death benefit to the survivors of public safety officers.

S. 2598

At the request of Mr. PACKWOOD, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 2598, a bill to require that imported meat and meat

food products made in whole or in part of imported meat be labeled "imported," to provide for the inspection of imported dairy products, to require that imported dairy products comply with certain minimum standards of sanitation, and to require that imported dairy products be labeled "imported," and for other purposes.

S. 2789

At the request of Mr. TAFT, the Senator from Mississippi (Mr. EASTLAND) and the Senator from Washington (Mr. JACKSON) were added as cosponsors of S. 2789, a bill to amend title 38, United States Code, to provide counseling for certain veterans; to permit acceleration of monthly educational assistance payments to veterans; to revise the criteria for approval of nonaccredited courses; and for other purposes.

S. 2910

At the request of Mr. SCHWEIKER, the Senator from Pennsylvania (Mr. HUGH SCOTT) was added as a cosponsor of S. 2910, a bill to establish the National Diabetes Advisory Board and to insure the implementation of the long-range plan to combat diabetes.

S. 2939

At the request of Mr. SCHWEIKER, the Senator from Alabama (Mr. SPARKMAN) and the Senator from Tennessee (Mr. BAKER) were added as cosponsors of S. 2939, a bill to provide a special program for financial assistance to Opportunities Industrialization Centers.

S. 2945

At the request of Mr. HUGH SCOTT, the Senator from Utah (Mr. MOSS) was added as a cosponsor of S. 2945, a bill to amend the act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations for the Smithsonian Institution for carrying out the purposes of said act.

S. 2946

At the request of Mr. HUGH SCOTT, the Senator from Utah (Mr. MOSS) was added as a cosponsor of S. 2946, a bill to amend the act of July 2, 1940, as amended, to remove the limit on appropriations.

S. 2949

At the request of Mr. HUGH SCOTT, the Senator from Utah (Mr. MOSS) was added as a cosponsor of S. 2949, a bill to authorize the Smithsonian Institution to construct museum support facilities.

S. 2962

At the request of Mr. HUGH SCOTT, the Senator from Kentucky (Mr. FORD), the Senator from Texas (Mr. BENTSEN), the Senator from New Mexico (Mr. DOMENICI), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Oregon (Mr. HATFIELD), the Senator from Nebraska (Mr. HRUSKA), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Vermont (Mr. LEAHY), the Senator from Minnesota (Mr. MONDALE), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of S. 2962, a bill to amend title 39, United States Code, to require the U.S. Postal Service to make certain considerations prior to the closing of third and fourth class post offices.

S.J. RES. 161

At the request of Mr. TAFT, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of Senate Joint Resolution 161, a joint resolution regarding the conduct of recent negotiations concerning the International Monetary Fund (IMF) and the position of the United States with respect to future sales of IMF gold and a proposed trust fund.

S.J. RES. 163

At the request of Mr. NELSON, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Tennessee (Mr. BAKER), the Senator from Indiana (Mr. BAYH), the Senator from California (Mr. CRANSTON), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. FANNIN), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. GRIFFIN), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New York (Mr. JAVITS), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Pennsylvania (Mr. HUGH SCOTT), the Senator from Alabama (Mr. SPARKMAN), the Senator from South Carolina (Mr. THURMOND), the Senator from Connecticut (Mr. WEICKER), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of Senate Joint Resolution 163, a joint resolution to authorize and request the President to issue a proclamation designating the week beginning May 9, 1976, as "National Small Business Week."

SENATE JOINT RESOLUTION 168

At the request of Mr. HUGH SCOTT, the Senator from Utah (Mr. MOSS) was added as a cosponsor of Senate Joint Resolution 168, a joint resolution to provide for the reappointment of James E. Webb as a citizen regent of the Board of Regents of the Smithsonian Institution.

AMENDMENTS SUBMITTED FOR PRINTING

OKLAHOMA SENATORIAL CONTESTED ELECTION—SENATE RESOLUTION 356

AMENDMENT NO. 1420

(Ordered to be printed.)

Mr. CANNON proposed an amendment to Senate Resolution 356, a resolution relating to the Oklahoma senatorial contested election.

VETERANS OMNIBUS HEALTH CARE ACT OF 1976—S. 2908

AMENDMENT NO. 1421

(Ordered to be printed and referred to the Committee on Veterans' Affairs.)

Mr. STAFFORD submitted an amendment intended to be proposed by him to the bill (S. 2908) to amend title 38, United States Code, to improve the quality of hospital care, medical services, and nursing home care in Veterans' Administration health care facilities; to require the availability of comprehensive treatment and rehabilitative services and programs for certain disabled veterans suffering from alcoholism, drug dependence, or alcohol, or drug abuse disabilities; to make certain technical and conforming amendments; and for other purposes.

ENERGY CONSERVATION IN BUILDINGS ACT OF 1975—H.R. 8650

AMENDMENT NO. 1422

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

Mr. TOWER (for himself, Mr. GARN and Mr. MORGAN) submitted an amendment intended to be proposed by them, jointly, to the bill (H.R. 8650) to assist low-income persons in insulating their homes, to facilitate State and local adoption of energy conservation standards for new buildings, and to direct the Secretary of Housing and Urban Development to undertake research and to develop energy conservation performance standards.

Mr. TOWER. Mr. President, today, I am submitting an amendment to H.R. 8650. It is my intention to call up this amendment when we consider this bill. This amendment would strike section 205 from title II of the Building Energy Conservation Standards Act of 1976. The effect of this amendment would be to remove the sanctions embodied in section 205. Presently, section 205 requires each community in the United States to adopt a minimum building energy conservation standard which would be developed by FEA. Should the community not adopt such a standard, then all lending institutions in that community would be precluded from making any kind of a loan for the construction of any new residential or commercial building. In my opinion, this sanction is too harsh. The role of the Federal Government should be to encourage compliance with a building energy conservation standard. The Federal Government should not mandate such compliance, as a failure to comply with the standards would mean bringing to a halt all new construction in a community.

Mr. President, in addition to title II of this bill, as I have stated in the additional views in the report filed with H.R. 8650, I have serious concern about the provisions of title I of this bill, the Residential Insulation Assistance Act of 1976. I find that I am not alone in doubting many of the provisions of this title. I have recently received a letter from Mr. Frank Zarb, Administrator of the Federal Energy Administration, the agency that originally proposed this legislation. In his letter, Mr. Zarb cites 13 major defects he has found in title I. He strongly thinks that no bill should be passed which contains these objectionable provisions, and urges support of a Residential Insulation Assistance Act as

passed by the House. Mr. President, I ask unanimous consent that my amendment and Mr. Zarb's letter to me of February 23, 1976, be printed in the RECORD.

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

Beginning with page 39, line 15, strike out all through page 41, line 18.

Redesignate succeeding sections accordingly.

On page 42, line 4, strike out "or State certification procedures".

On page 42, line 5, strike out "of section 205".

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., February 23, 1976.

Hon. JOHN G. TOWER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TOWER: The purpose of this letter is to convey the Administration's position on Title I of H.R. 8650, as reported by the Senate Banking, Housing, and Urban Affairs Committee and which the Senate is expected to consider shortly.

As passed by the House on September 8, 1975, the Weatherization Assistance Act, Title I of H.R. 8650, is a modification of an Administration proposal submitted one year ago as part of a comprehensive energy bill. The purpose of this energy conservation program is to encourage the development and implementation of weatherization programs for the dwellings of low-income persons in each State. The fuel savings from such programs will lower heating bills of low-income persons and lessen our dependence on imported fuels. The bill as proposed by the President and passed by the House allows the States maximum flexibility in determining how to best administer the program within their own jurisdictions, and at the same time keeps administrative burdens to a minimum.

The House-passed bill, which was strongly supported by the Administration, has been considerably modified by the Senate Committee on Banking, Housing, and Urban Affairs. The Senate bill contains objectionable provisions which, among other things, could seriously delay program implementation and place unnecessary bureaucratic burdens on the States. FEA strongly recommends that such provisions be removed before final passage of the legislation. Our major objections of the Senate bill follow:

Dual Concurrence on Regulations.—Section 105(a)(1) of the Senate bill requires that the Administrator of FEA obtain the concurrence of the Director of the Community Services Administration (CSA) on weatherization program regulations. FEA has been working closely with an interagency task force that includes CSA, and has received helpful advice from many of the participants. We intend to continue this process, but object strongly to a requirement for concurrence of another agency in regulations regarding the weatherization program. Such a requirement is administratively burdensome, diffuses responsibility, spawns bureaucratic entanglement, and generates delays in providing assistance to the needy.

Dual Oversight.—Section 108 of the Senate bill gives both the FEA Administrator and the CSA Director the authority to monitor, evaluate and provide technical assistance. Reference to the "Director" should be struck since only one Federal agency should be accountable and the States should be responsible to only one Federal agency. For the same reasons, reference to the "Director" should also be removed from Sections 109(c) and 113 which provide, respectively, for audit authority and for an annual report to the Congress and the President.

Transfer of Funds.—Section 105(d) of the Act permits the Administrator of FEA to transfer funds to the Director of CSA for programs under Section 222(a)(12) of the Community Services Act of 1974. The Administration believes that this program is designed to foster State action and enable States to integrate the program within their borders to best meet their own local needs. This is best accomplished by the development and funding of State plans, not by Federal interagency fragmentation.

CAA Funding Mandate.—Section 107(b) requires FEA to guarantee that on a national basis the Governors will allocate fifty percent of program funds to CAA's. While CAA's doing effective conservation work should, of course, be eligible for funds through the States, inclusion of this mandatory restrictive clause in the legislation will not only limit State flexibility, but will require the institution of an administrative procedure whereby FEA would have to delay funding any State application until all applications are received, in order to guarantee that the requirement of the provision is met. FEA would prefer to fund meritorious State applications as received.

Role of Local Community Action Agencies.—Section 105(c) requires FEA to bypass a State and contract with CAA's upon application if the State has not properly applied within 150 days after enactment of the legislation. As originally conceived, the legislation was designed to encourage State leadership in this field. It is anticipated that States will be able to supplement Federal funds and continue the program with State funds after Federal developmental funds are awarded. By inserting this provision, the Senate bill punishes States who may, for some legitimate reason, not be able to submit an application within 150 days. If this did happen and the CAA's were awarded a State's funds, serious geographical inequities would result because CAA's do not cover all of the Nation's poor population.

Moreover, the provision is defective in that the time limit would start running upon enactment of the legislation rather than on the date that the regulations are promulgated. This severe restraint would inhibit the States from accepting the responsibility of carefully planning an effective weatherization program.

Application Procedures.—Sections 106 and 107, in general, place unnecessary bureaucratic burdens on the States, restrict the administrative discretion of the Governors and will require submission of very lengthy applications that will be of little help in promoting program success. FEA believes in giving the Governors reasonable administrative latitude in the planning and implementation of the program, emphasizing output requirements rather than mere promises on how the program will be run. The House language should be retained.

Standards.—Section 105(b)(2)(A) of the Senate bill requires that FEA "prescribe standards of insulation materials, energy conservation techniques, and the combinations thereof," subject to approval by the National Bureau of Standards. The weatherization program should not be burdened with national standards issued in Washington. States are better equipped to adjust the program to their varying needs and conditions. To achieve agreement on national standards could potentially delay program implementation. Furthermore, while FEA has contracted with NBS for retrofit studies, it is only one of many contractors used by the agency in this field. We do not believe there is a single set of standards for weatherization that should be promulgated for the Nation as a whole. Accordingly, the requirement for development of Federal insulation standards with NBS approval should be deleted.

Definition of Low-income.—Section 104(7) of the Senate bill contains a definition of "low-income" that would open the provisions of the Act in many areas to persons with incomes above the national average and would thus dilute the targeting of funds away from the truly needy. At the same time, families with incomes below the poverty level in very poor areas of the Nation could be excluded from receiving assistance under the Senate definition. We do not believe that the objectives of the weatherization program are well served by the perverse outcome of inclusion of this definition applied on an area basis.

In contrast, the House definition, by using established Government property level statistics, would not create these inequities.

Transfer of Funds for Native Americans to Other Federal Departments or Agencies.—Section 105(a)(2) authorizes the FEA Administrator to transfer funds to other Federal departments or agencies to serve native Americans. This provision is objectionable because it treats native Americans as a distinct group apart from other citizens. It assumes that the Administrator and the States will not assure that native Americans are treated like other citizens and receive their fair share through the regular procedures under the weatherization program.

If special provision is made for native American communities we believe it would be preferable to adopt the approach and definitions in section 104 of the Older Americans Amendments of 1975 that would allow the Administrator to grant funds for weatherization directly to an Indian tribal organization if he determines that members of the tribe are not receiving benefits equivalent to those provided other persons in the State and that the members of the tribe would be better served by direct grants.

Mandatory Public Hearings.—Section 107(c) mandates funding of CAA's in a State unless sufficient reasons for non-funding are shown through public hearings by the Governor. Such a provision adds nothing positive to accomplishing the purposes of the Act but would create unnecessary delays and conflicts in program administration. In addition, this provision is contrary to our position of granting flexibility for each State to determine how best to deliver weatherization services. States should not be dissuaded from selecting the best delivery systems for weatherization assistance because of a requirement for a presumptive service deliverer.

Use of the Terms "Supplementary" and "Supplant".—The idea appears several places in the bill that the new weatherization program would be supplementary to other programs. The proposed FEA weatherization program is not a supplement to any other legislation but is a major independent initiative to assist low-income people to save energy by weatherizing their homes. The wording of these sections should be conformed to reflect the true characteristics of the new program.

Materials.—Section 104(6) contains too broad a definition of materials, in our view, by including mechanical equipment. FEA prefers the House language under which items such as furnace filters could be purchased but items such as portable heaters could not. FEA also prefers the House language to that contained in Section 107(a) of the Senate bill, which would make it possible for FEA and the States to spend less than ninety percent of the funds on materials; FEA believes that sufficient volunteer, trainee and occupant labor can be mobilized to assure that the largest number of homes are winterized without the unnecessary expenditure of funds on non-material costs.

Definitions.—In Section 104 FEA is concerned that the Senate has placed less emphasis on the most needy elderly as a priority population by broadening the definition

from persons 65 years or older to 60 years or older. Moreover, the term "state" has been broadened to include the Virgin Islands and Puerto Rico, neither of which have significant needs for this program in light of the temperature climates of those possessions.

We urge the Senate's consideration of these matters.

The Office of Management and Budget advises that there is no objection to the submission of this letter from the standpoint of the program of the President.

Sincerely,

FRANK G. ZARB,
Administrator.

NOTICE OF HEARINGS

Mr. METCALF. Mr. President, in accordance with the rules of the Committee on Interior and Insular Affairs, I wish to advise my colleagues and the public that the following hearings and business meetings have been scheduled before the committee for the next 2 weeks:

MARCH 2

Parks and Recreation Subcommittee—10 a.m., room 3110, hearing: S. 72, S. 1092, to designate land in the Pinnacles National Monument as wilderness; S. 1093, S. 2472, to designate certain lands in the Point Reyes National Seashore as wilderness; S. 97, S. 1099, to designate certain lands in Yosemite National Park as wilderness.

MARCH 2

Energy Research and Water Resources Subcommittee—10 a.m., room 1318, DSOB, hearing: Continuation of hearings re ERDA authorization for fiscal year 1977.

MARCH 3

Full Committee and National Fuels and Energy Policy Study—10 a.m., room 3110, hearing: S. 1864, Energy Information Act.

MARCH 4 AND 5

Indian Affairs Subcommittee—9:30 a.m. on March 4 and 10 a.m. on March 5, room 3110, hearing: S. 2010, repeal of Public Law 280 which allows the Federal Government and Indian tribes to ressume jurisdiction of civil and criminal matters in Indian country.

MARCH 8 AND 9

Full Committee and National Fuels and Energy Policy Study—10 a.m., room 3110, hearing: S. 1864, Energy Information Act.

MARCH 10

Parks and Recreation Subcommittee—10 a.m., room 3110, hearing: Oversight hearing on park concessions.

MARCH 11

Environment and Land Resources Subcommittee—10 a.m., room 3110, hearing: Omnibus wildlife refuge wilderness bills.

MARCH 12

Full Committee and National Fuels and Energy Policy Study—10 a.m., room 3110, hearing: S. 1864, Energy Information Act.

MARCH 15

Indian Affairs Subcommittee—9:30 a.m., room 3110, hearing: S. 2634, Community College authorization.

NOTICE OF HEARINGS

Mr. HATFIELD. Mr. President, at the request of the Senator from Wyoming (Mr. MCGEE), chairman of the Appropriations Subcommittee for the Department of Agriculture and Related Agencies, I ask unanimous consent that a statement in reference to the subcommittee's schedule for congressional and public witnesses be printed in the RECORD.

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

STATEMENT BY SENATOR MCGEE

I wish to advise all who are interested that the Agriculture and Related Agencies Subcommittee of the Appropriations Committee has scheduled final hearings for March 23, 24, and 25. By that time the Subcommittee will have concluded its hearings on Departmental witnesses and these days have been set aside for public and Congressional witnesses.

If any Senators wish to testify they should contact Dudley Miles, the staff member on 224-7272, and I am certain that we can accommodate all Members who wish to testify during that 3-day period.

In view of the time constraints facing the Appropriations Committee this year I hope that we can have the cooperation of all of my Colleagues. We hope to close the hearing record and send it to final printing shortly after the March 25 hearing and I hope we can have all statements and comments by that time.

ADDITIONAL STATEMENTS

A STRONG UNITED STATES ESSENTIAL TO PEACE AND STABILITY

Mr. BENTSEN. Mr. President, President Ford yesterday announced that détente no longer describes United States-Soviet relations and that the United States would deal with the Soviet Union from a position of strength. I applaud the President's recognition of the realities of United States-Soviet relations. There is much to be said for his new approach.

As the President indicated, the only way to build an effective and lasting peace is through the maintenance of a strong defense and a realistic, hard-nosed bargaining position. I support the continued pursuit of better relations with the Soviet Union but, as I have frequently insisted, that relationship must be a more balanced one with mutual benefits to both parties and a clearer understanding of the goals and methods of implementing that policy.

Few would argue with the need to lessen tensions between the United States and the Soviet Union. The Cold War dragged on for far too long. Indeed feuds and tensions among nations serve the interests neither of peace nor economic stability.

At the same time I believe it is important to analyze the Soviet position on détente. Contrary to the belief in this country that détente would lead to an era of peace and relaxing of tensions between our two countries, the Soviets have quite a different view. They have frequently emphasized that for them détente is confrontation by other means. They have called for the intensification of ideological warfare and have stated that détente is itself a reflection of their growing military prowess. In addition, recently Secretary General Leonid Brezhnev endorsed détente only to the extent that it advances communism. In view of these statements the United States can draw little comfort for the future of peaceful equilibrium in United States-Soviet relations.

It behooves us all, Mr. President, to be more aware of the revolutionary theme which has dominated Soviet foreign policy for several decades and which continues to dominate it. We should certainly be more realistic about Soviet tactics and foreign policy goals.

I support the continued pursuit of better relations with the Soviet Union but, as I have frequently insisted, that relationship must be a more balanced one with mutual benefits to both parties and an agreed interpretation of détente. Indeed, the balance sheet on détente is at best a murky one. We have only to remember the startling transfer of technology to the Soviet Union highlighted by recent revelations that the United States may have provided the Soviets the means to develop MIRV capability or at the very least substantially speeded up their MIRV development; the bellicose Soviet role in the Middle East and its support for the 1973 Arab oil embargo; the SALT I agreement which gave the Soviets a strategic edge; the rapid expansion of Soviet military capability; and Soviet support for the Cuban involvement in Africa.

A strong United States is essential to international peace and stability. The best means of achieving that peace and stability is through a position of strength. It is imperative that we replace the illusions of détente with the reality of a strong U.S. defense posture tempered with a readiness to negotiate effective realistic agreements to achieve real peace.

MIHAJLO MIHAJLOV, IMPRISONED YUGOSLAV WRITER

Mr. PELL. Mr. President, on the Op-Ed page of the New York Times of March 1, 1976, Thomas Fleming, an American historian and novelist, describes the tragic plight of the Yugoslav author Mihajlo Mihajlov, who is near death in a Yugoslav prison. We, in this country, are often told that the Yugoslav brand of communism is different from the forms practiced in the Soviet Union and elsewhere in Eastern Europe—that Yugoslav communism is, in effect, communism with a heart.

Judging from the Yugoslav Government's treatment of Mr. Mihajlov, however, it appears that the only difference between the Yugoslav and other Communist parties is that the Yugoslav party is not subservient to a foreign government. As regards human rights, it seems that "communism is communism is communism." Mr. Mihajlov has committed a sin which is considered just as unpardonable by Tito as it would be by the hardest of the Soviet hardliners—he criticized his country's one-party system and controlled press.

Last year, Mr. Mihajlov was sentenced to 7 years' hard labor for disseminating "hostile propaganda" about Yugoslavia and was placed in solitary confinement in a virtually unheated prison cell and denied books and writing materials. In desperation, he began a hunger strike in December and is near death today.

Tito has refused to grant Mr. Mihajlov

permission to emigrate. Even the supposedly more repressive Soviet Union, faced with a similar dilemma in dealing with Solzhenitsyn, allowed that writer to leave the country. It is ironic in this regard that Tito has taken a line reminiscent of his arch-foe Josef Stalin.

I agree with Mr. Fleming that with every day that Mr. Mihajlov spends in jail, American friendship and admiration for Yugoslavia is declining. In refusing to allow Mr. Mihajlov to emigrate, Yugoslavia is jeopardizing the substantial good will which it has enjoyed in the United States.

Mr. President, I ask unanimous consent that the New York Times article cited above be printed in the RECORD.

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

[From the New York Times, Mar. 1, 1976]

AS MIHAJLOV NEARS DEATH

(By Thomas Fleming)

For over a decade the writer Mihajlo Mihajlov has been struggling to make the freedom of expression promised by Yugoslavia's Constitution a reality. This has led him to criticize his country's one-party system and controlled press. Unable to publish his articles at home he sent them abroad, where they appeared in a number of European and American publications, among them The New York Times. In 1975, Mr. Mihajlov was sentenced to seven years' hard labor for disseminating "hostile propaganda" against Yugoslavia. He was placed in solitary confinement in a virtually unheated prison cell and denied books and writing materials. Visits from his wife and lawyer have been limited to the vanishing point. In desperation, he began a hunger strike in December. Today he is near death.

The American Center of P.E.N. as part of its commitment to free expression everywhere has tried to persuade the Yugoslav Government to permit Mr. Mihajlov to emigrate to this country, where a teaching post has been offered him. Marshal Tito has stonily refused, ignoring pleas from over 40 distinguished United States writers. Worse, the Yugoslavs have lied about the conditions of Mr. Mihajlov's imprisonment and the reason for his sentence.

Toma Granfil, the Ambassador of Yugoslavia, informed P.E.N. by letter on Oct. 7, 1975, that the report of Mr. Mihajlov's being in solitary confinement was "inaccurate and without foundation." The rest of his letter is worth reading in part:

"M. Mihajlov, by his activities through contacts with the émigré quarters abroad, hostile to the Yugoslav Constitutional order, has committed a criminal act punishable under the Yugoslav Law. . . . The current campagin pursued on behalf of the American Center of P.E.N. cannot be considered otherwise but as an attempt of political pressure on the Socialist Federal Republic of Yugoslavia. . . . Yugoslavia has never succumbed to such and similar pressures wherever they come from. Accordingly, Yugoslavia will not succumb to the current pressures, either. Finally, I wonder whose interests and objectives this organized and concerted campaign against socialist Yugoslavia should promote?"

In response to this question P.E.N. replied: "Whose interest is served by keeping Mr. Mihajlov in jail? Certainly not Yugoslavia's interests. Every day that he remains in jail, Americans, who have long been friends of Yugoslavia, feel that friendship cooling, their admiration declining."

His reply was more of the same rhetoric and an attempt to link Mr. Mihajlov with terrorist acts by Yugoslav émigrés. Abandoning diplomatic niceties, P.E.N. told the Ambassador that this was "bunk, pure and simple." Meanwhile, a writer was dying.

Thomas Fleming, historian and novelist, is a past president of the American Center of P.E.N.

GEOTHERMAL HEAT COST SAVINGS

Mr. PACKWOOD. Mr. President, I have addressed the need to emphasize geothermal energy as a viable energy source often before the Senate. Whether we are considering major energy legislation, research, and development appropriations, or working on individual grants to individuals and organizations working on geothermal energy, I have supported these efforts.

Recently, it was reported that the Klamath County Museum had reduced its normal $1,000 natural gas heating bill to $4.19 during the month of January 1976, because the museum has adapted geothermal heat in its main heating system.

This is certainly a fine example of innovation and use of available natural resources. Moreover, it shows the cost savings of using geothermal heat in those areas where it is readily available. I commend the county and city officials, and those involved in this effort. I take my hat off to them because they have written another page in the development of a viable geothermal heat foundation for Klamath Falls, for Oregon, and for the Nation.

Mr. President, I ask unanimous consent that an article which appeared in the Herald and News, Klamath Falls, on February 5, 1976, be printed in the RECORD.

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

[From the Klamath Falls (Oreg.) Herald and News, Feb. 5, 1976]

GEOTHERMAL HEAT REDUCES COUNTY GAS BILL

(By Chris Beeson)

A normal $1,000 bill of natural gas during January was reduced to $4.19 last month because geothermal energy is now being used to heat the Klamath County Museum, Harry Drew, museum curator, told county commissioners Wednesday.

"January was the first month that we have used geothermal energy to heat the museum," Drew reported during the regular monthly public hearing of commissioners. "Our previous bills for natural gas during January have been around $1,000. Our bill for January of this year was $4.19. The added electricity needed to operate with geothermal heat has increased our power bill by about $5. So our average winter heating bill is about $10 a month."

AIRBAG PASSIVE RESTRAINT SYSTEM

Mr. MOSS. Mr. President, within the next few weeks, the National Highway Traffic Safety Administration will be proposing revised requirements for occupant restraint devices for motor vehicles. While the merits of various occupant restraint systems have been the subject of intense public debate since the late 1960's, the tide of support is shifting toward the adoption of passive restraint systems.

Most recently, the National Association of Insurance Commissioners have issued a resolution which supports the airbag passive restraint system. Mr. President, I ask unanimous consent that the letter and resolution of the association be printed in the RECORD.

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

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS,
Carson City, Nev., January 30, 1976.

Hon. WILLIAM T. COLEMAN,
Secretary of Transportation, Washington, D.C.

Dr. JAMES S. GREGORY,
Administrator, National Highway Traffic Safety Administration, Washington, D.C.

GENTLEMEN: As Chairman of the Executive Committee and President of the National Association of Insurance Commissioners, we take this opportunity to forward to your attention the attached resolution which has been adopted by the National Association of Insurance Commissioners.

With the critical condition facing the industry in regard to increased rates as a result of injuries and property damage, the insurance commissioners of this country feel that they have a responsibility to the citizens of this country to urge that all safety factors be considered in an attempt not only to stabilize the insurance rates that are necessary to compensate injured parties, but more importantly for the protection of those persons who may be injured victims of automobile accidents.

Yours respectfully,

LESTER L. RAWLS,
Chairman, Executive Committee, NAIC, Insurance Commissioner, State of Oregon.

DICK L. ROTTMAN,
President, NAIC, Insurance Commissioner, State of Nevada.

RESOLUTION

Whereas, thousands of motor vehicle occupants are killed each year and nearly two million are seriously injured causing an intolerable level of human pain, suffering, anguish, and bereavement, and billions of economic loss;

Whereas, this tragic toll of death and injury will substantially increase in the next ten years as a result of the increased use of compact and subcompact automobiles in order to meet our nation's fuel conservation goals;

Whereas, the national tragedy of death and injury on our highways and anticipated increase from the growing use of such compact and subcompact automobiles will increase the costs of automobile insurance for the American automobile and will place a heavier burden on the health care resources of our nation;

Whereas, air bag passive restraint systems promise to substantially increase the protection against such highway deaths and injuries;

Whereas, the Department of Transportation has earlier proposed passive restaints (air bags) as standard equipment for 1972 model year, postponed to 1974 model year, postponed to 1976 model year, and again effectively postponed to 1978 model year, with no final standard yet issued;

Now, therefore, be it resolved, that the National Association of Insurance Commissioners urge the Department of Transportation to: (1) promulgate without further delay Motor Vehicle Safety Standard 208, requiring air bag passive restraint systems to

be installed on all new automobiles sold in this country at the earliest practicable date; or (2) satisfactorily explain to the American public why such regulation is not adopted.

SIHANOUK'S FORMER CHIEF AIDE EXPLAINS NONRETURN TO CAMBODIA

Mr. FONG. Mr. President, on November 14, 1975, I made a statement in this Chamber concerning the deplorable conditions in Cambodia. At that time, I advised my colleagues that Marshal Lon Nol, President of the Khmer Republic before its collapse under the Communist onslaught, had written me about his appeal to the United Nations to condemn the massacres by the new Khmer Rouge regime in Cambodia. Both Marshal Lon Nol's letter to me and his letter to the United Nations were printed in the CONGRESSIONAL RECORD then.

Marshal Lon Nol, who now resides in Hawaii, wrote me again recently, expressing his appreciation of the efforts of the senior Senator from Hawaii to keep the Congress informed about the situation in Cambodia. This time, Marshal Lon Nol has also provided me with a copy of a letter sent to Le Figaro, a French newspaper, by Mr. Buor Noll, former chief aide-de-camp to Prince Norodom Sihanouk, the titular chief of state of Cambodia.

In way of background, soon after the fall of Cambodia last year, there was great confusion concerning the fate of many of Cambodia's former political and military leaders. Initially there were reports that former Premier Long Boret and General Lon Non, previously interior minister and brother of Marshal Lon Nol, were killed by enraged mobs. Before long, bits of information began to trickle through to the outside world and were later confirmed by Prince Sihanouk's associates and staff that there were in fact deliberate executions going on in Cambodia. Both Premier Long Boret and General Lon Non were victims of such "out of hand" executions, we subsequently learned.

Mr. President, you will recall that about 50 members of the staff that served under Prince Sihanouk during his exile in Peking became concerned that their future and ultimate fate in Cambodia, should they choose to return there with their leader, might become untenable. On October 17 last year, Prince Sihanouk's former press secretary Nouth Cheoun told the Far East Economic Review in an interview in Hong Kong that the Khmer Rouge had double-crossed Sihanouk. Those former aides of Prince Sihanouk, protesting the actions of the new Cambodia regime to suppress basic freedoms, decided to seek political asylum in Europe.

News from Cambodia is still sketchy. According to a radio report from Pnom Penh on January 5 this year, Prince Sihanouk presided at a Cabinet meeting in Cambodia on January 3. He had again returned to his homeland in the last days of 1975—after having left there for extended travels abroad just 3 weeks following his earlier end of exile in China and return to Cambodia on September 9, 1975.

My colleagues will recall that Prince Sihanouk addressed the United Nations General Assembly on October 6 and then returned to Peking on October 12 last year. According to an Agence France-Press report out of Pyongyang, North Korea, in August 1975, Prince Sihanouk was said to be wary of going back to Cambodia the first time because the new regime there did not welcome the return of Sihanouk's entourage with him. Thus it is unclear as to the real role and power that Prince Sihanouk will have in his country in the future.

I certainly hope that normalcy and freedom will someday return to Cambodia. The situation there is still in a state of flux. Turmoil seems to persist. Mr. David Andelman of the New York Times reported from Thailand on January 19 this year that, according to refugees pouring across the border to Aranyaprathet in Thailand, residents of Pnom Penh and other towns were being forced by the "hundreds of thousands" to relocate to the less populated regions of northwestern Cambodia. Meanwhile, the Khmer Rouge has reportedly established a "People's Representative Assembly" under a new constitution. I read that nationwide elections are to be held March 20—this month. It is difficult to foretell how the future government of Cambodia will shape up. However, I am concerned about the millions of people in Cambodia who have been suffering so much under the new regime.

In the months ahead, more news may yet come out of Cambodia. Since the press there is tightly controlled, any news from Cambodia will undoubtedly represent an outpouring of propaganda.

As a point of illustration, just last Friday, February 27, Radio Pnom Penh fabricated an outrageous story, accusing the United States for the bombing of Siem Reap, a provincial capital 150 miles northwest of Pnom Penh, by jets described as "F-3 jets." According to press dispatches out of Thailand, it was believed that the Cambodian broadcast was referring to F-111 bombers, some of which used to be based in Thailand during the Vietnam conflict. Radio Pnom Penh further asserted that the warplanes made two bombing raids, allegedly killing 15 people and wounding 40.

The U.S. Embassy and military authorities in Thailand said the "report is ridiculous and without truth," according to a news dispatch by United Press International. A Pentagon spokesman too denied the charge and said: "The report is totally false, it is a damn lie."

It was further reported that foreign diplomatic sources in Thailand were puzzled by the Cambodian allegation because United States F-111 aircraft had already been withdrawn from Thailand last June. In fact the last U.S. warplanes left Thailand in December 1975. So much for background and recent developments in Cambodia.

Mr. President, in my judgment, it will be constructive for the Congress and everyone to have an awareness of the feelings, aspirations, and fears harbored by those who were closest to Prince Sihanouk during his exile in China. They have expressed their disapproval of the inhuman acts of the new leaders in Cambodia. Mr. Buor Noll explained in his letter to Le Figaro, the French newspaper—to which I alluded earlier in my remarks—as to why he and certain of his compatriots decided not to accompany Prince Sihanouk in going back to their homeland. Mr. Buor Noll pointed out that Prince Sihanouk himself gave his aides his blessings and approval of their actions in refusing to return to Cambodia.

I believe my colleagues would benefit from the insight of Mr. Buor Noll and the explanation he gave in his letter. I ask unanimous consent that the translations of both Marshal Lon Nol's letter to me and the text of Mr. Buor Noll's letter to Le Figaro be printed in the RECORD at the end of my remarks so that all may learn of the views of Marshal Lon Nol and especially the views of Mr. Buor Noll with respect to Cambodia. I wish to express my appreciation to the Congressional Research Service of the Library of Congress for having made the translations for me.

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

(See exhibit 1.)

Mr. FONG. Mr. President, I have on a number of occasions in the past commented upon the truly alarming erosion of freedom in the world. On November 15 last year, when I was addressing a gathering of scholars, diplomats, and officials at the Embassy of the Republic of China in commemeroration of the birthday of Dr. Sun Yat-sen, the founder of the Republic of China, I made an observation on the erosion of freedom as follows:

> Since the end of World War I the light of freedom has been extinguished for more than 30 once-free nations and more than 1.2 billion people. In 1975 alone, two nations, South Vietnam with some 20 million people and Cambodia with its 7½ million people, have lost their freedom. Laos, with 3.3 million people, is in mortal peril. Thailand's 36.3 million people and South Korea's 35 million people are in perpetual danger. Portugal is torn apart in a struggle to determine if her 8.6 million people will live under totalitarian rule. Israel's 3.4 million live in constant fear of attack.

The alarming trend that I cited a scant 3½ months ago had not improved. In fact it has become worse. In Laos, the Pathet Lao has emerged supreme; the Laotians lost their freedom. Now Angola and its 5.8 million people too have lost their freedom under the onslaught of the MPLA—Popular Movement for the Liberation of Angola—aided and abetted by the Soviet Union and Cuba. I close by repeating what I said last November 15, that no people, including Americans, should delude themselves that freedom will last forever. We must remain ready and prepared to take those steps that are necessary to maintain strong defenses and to preserve our freedom and independence.

EXHIBIT 1

[Translation—French]

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., January 12, 1976.

HAWAII, *December 15, 1975.*

His Excellency HIRAM L. FONG,
Senator, U.S. Congress,
Washington, D.C.

YOUR EXCELLENCY: Thank you very much for your speech in the U.S. Congress, an excellent account of which, published on

page 36732 of the Congressional Record of 14 November 1975, reached me four days ago, together with a French translation of it by my assistant Chhang Song.

I wish to stress here again the impression made by the facts which I had presented earlier, by sending you, attached herewith, an open letter addressed to Figaro, the French newspaper, by a companion of Prince Sihanouk (his former Chief aide-de-camp), stating why he and other companions of the Prince (about forty people) chose to renounce life in their Country and voluntarily seek political asylum either in France or Yugoslavia.

The U.S. Congress will gain from knowing these facts, for your country honors liberty on which it is founded.

Your Excellency, your speech in the U.S. Congress informed the Congress of the awful massacres by the Khmers Rouges of the Khmer people, after the white flag of cease-fire of 17 April 1975 had been raised and before their triumphant entry into the U.S., to sit there among so-called civilized countries of the 20th century, who [despite their acts] adopted a charter full of international rights and democratic principles.

Your action, Honorable Senator, is historic and will remain forever in the annals of world civilization, and in the memory of the Khmer people, who will not forget this and who thank you solemnly through me.

Many Khmers at present live outside their country; they know that it was a mistake to have chosen peace and the white flag, and they only wait, like the French during the Second World War, for a favorable opportunity to liberate their vanquished country.

Kindly accept your Excellency, the assurance of my very high esteem and my very high regard for you.

MARSHAL LON NOL,
President of the Khmer Republic.

PARIS, *October 29, 1975.*

DIRECTOR OF THE NEWSPAPER LE FIGARO,
14 Rond Point des Champs Elysee,
75380 Paris Cedex 08.

DEAR SIR: I have read in your newspaper, dated 27 October 75, an article on the statement made by the Royal Embassy of Cambodia in the People's Republic of China, condemning as traitors to the Nation and the Pracheachon people, members of the suite of Prince Norodom Sihanouk, Chief of the State of Cambodia, [members] who decided to seek exile abroad instead of returning to their Country. We have even been branded as CIA agents, infiltrating the Funk to sow discord within Funk-Peking itself.

Indeed, members of the Royal Embassy in Peking had been forced to make this statement to hide the real image of their chiefs in Phom Penh and to mislead international opinion and that of all our Cambodian brothers, having been strongly impressed by the refusal of all the members of Prince Norodom Sihanouk's suite to return to Cambodia.

We wanted, indeed, to emphasize our total disapproval of the inhuman, fascistic acts of the leaders at present in power in the interior of Cambodia and have decided to go into exile to France or Yugoslavia, leaving the People's Republic of China, with, furthermore, the approval and blessings of our very respected and beloved Chief, Prince Norodom Sihanouk, Chief of State and President of the United National Front of Cambodia.

Think of the suffering of thousands of Cambodians (women, children, the old, and the sick who had been driven out of hospitals), who had gone through five years of war and who are forced to leave their homes, to live huddled together like animals in the streets, to walk hundreds of kilometers in order to reach the sites of their animal-like pens, without food, water, or medication, and separated, furthermore, from their families.

National and international opinion will be the judge as to who among us are traitors to the Nation and the Pracheachon people—the members of the suite of Prince Sihanouk, who had decided to seek exile abroad, or the present Khmer Rouge leaders who are in power and who engage in fascistic acts in their encounters with the innocent inhabitants of the Capital and the provincial capitals, acts confirmed by Mr. Khieu Samphan himself at a conference held recently in Peking with members of the FUNK-PEKING (first, out of fear of American bombardment, secondly because not having enough food to feed the three million inhabitants of Phon Penh, he was obliged to take all the people from Phon Penh into the country to have them fed there by the people of the Pracheacon countryside).

If we are traitors, then the followers of Sihanouk in Cambodia, who were deported and massacred for their loyalty to the Prince, are also traitors, as are the masses of innocent Khmer victims of exoduses and summary executions, as well as those belonging to the most venerated religious orders who had been driven from their pagodes and dishonored and killed, and also the thousands of Cambodians who had fled in blind terror and who are now suffering and dying in the camps of Thailand—and finally, the little motherless children, who have lost their parents, they too are traitors.

Testimony abounds; our enemies, our friends, the indifferent, the entire world is learning the truth, no denying will change anything, and we are now in shame for this horror perpetrated by Cambodians on our Cambodia.

The FUNK, i.e. the United National Front of Kampuchea, had been a movement of national resistance made up of many factions (the followers of Sihanouk, progressive nationalists, communist Khmer Rouges)—all fighting for a common goal: to win the war against Lon Nol's tyrannical and fascist regime and institute a well-defined political program.

But after total victory, that is the fall of Phnom Penh on 17 April 1975, the Khmers Rouges, as soon as they seized power, engaged in fascist actions contrary to the fundamental liberties of the political program of the FUNK, thus deliberately undermining that program.

It is for this reason that I decided to go into exile and ask for asylum in France.

I am not a communist, nor am I against the communists. I had never sold out and never will sell out to the CIA (I had been arrested and imprisoned by the Lon Nol regime for a period of 3 years for not agreeing to collaborate with a regime arising from a coup d'etat), but I am against the criminal abuses perpetrated on the Cambodian people by the present Khmer Rouge leaders.

I am not afraid of working the earth, but I love my freedom and I always want to remain free and to work in freedom. I also want my Country, Cambodia, to regain the peace and joy of life that it had before the war.

Thanking you in advance, I beg you, Mr. Director, to accept my expression of gratitude.

BUOR NOLL,
Former Chief Aide-de-camp of Prince Norodom Sihanouk, Chief of State and President of the United National Front of Cambodia.

GE ENGINEERS TESTIFY ON HUMAN FACTOR IN NUCLEAR SAFETY

Mr. GRAVEL. Mr. President, in last Wednesday's CONGRESSIONAL RECORD, the testimony of three former General Electric nuclear engineers was printed.

The testimony concerned specific design deficiencies which compromise the safety of power reactors in the United States. It was the first section of a 70-page paper prepared for the Joint Committee on Atomic Energy.

In the second part of the paper, the engineers described other problems they have observed in our nuclear energy program. One of these—that of human error—is especially important because, unlike the correctible technical difficulties cited in the first section of the paper, human error is going to be with us no matter how nearly perfect our machines may be.

And human error can cause nuclear catastrophe. The closest we have come to a nuclear power disaster was the fire at the Brown's Ferry reactor. Brown's Ferry was considered the best, the safest of our reactors—but human error brought it close to a catastrophic meltdown accident.

Of particular interest, I believe, are the letters of resignation written by the three engineers: Dale Bridenbaugh, Richard Hubbard, and Gregory Minor. These letters are attached at the end of the paper.

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

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

EXCERPTS OF TESTIMONY OF GE ENGINEERS

NRC QUALITY ASSURANCE PROGRAM REQUIREMENTS ARE INADEQUATE

A total Quality Assurance Program has many aspects. The Quality Assurance Program should encompass all activities involved in the design, manufacture, installation and operation of the safety-related equipment.

A. NRC Inspection of Manufacturers Inadequate

The ASME Codes were initially developed in 1911 to protect the public from boiler explosions in public facilities such as schools, auditoriums, and office buildings. In the 1960's, Section III of the Code was developed and applied to nuclear power plant components, such as primary pressure-bearing portions of the reactor system, including the reactor pressure vessel, incore instrument guide tubes, and primary loop valves.

These procedures apply only to those items covered by the ASME Code. A problem exists with respect to non-Code safety-related equipment. NRC requirements for safety-related equipment are less stringent than for the ASME Boiler Code items. Because nuclear power plant accidents pose potentially the greatest risk to the health and safety of the public, NRC inspection of all (Code and non-Code) safety system items should be at least as strict as those developed by ASME. The following comparison illustrates the problem:

Quality Assurance Program Requirement	*Section III, ASME Code*	*NRC Regulations Non-Code Safety-Related Items*
1. Certification of design specification.	1. Certified by a Registered Professional Engineer by the owner or his agent.	1. No requirement for certification by a Professional Engineer.
2. Certification of stress report.	2. Certified by a Registered Professional Engineer by the manufacturer.	2. No requirement for certification by a Professional Engineer.
3. Review of stress report.	3. Transmitted to owner or his agent for review.	3. No requirement for review by the owner or his agent.
4. Q.A. Program and Program changes.	4. Detailed implementation Q.A. Program surveyed and approved by the ASME. No changes can be made in the program prior to receiving approval from the Engineering Specialist of the Authorized Inspection Agency.	4. NRC surveys program to the generic program document, for instance for GE, Section 17 of the GESSAR. No requirement for prior NRC approval of changes to documents that implement the program.
5. Material verification.	5. Authorized Inspector reviews all material certifications prior to release of the material for processing.	5. No requirement for third-party review of materials.
6. Review of manufacturing process sheets.	6. Authorized Inspector reviews manufacturing process sheets and places his checks and hold points in the process.	6. No review of manufacturing process sheets. No check or hold points.
7. NDE (non-destructive examinations).	7. Authorized Inspector witnesses or reviews the records of all NDE examinations.	7. No witness or review of NDE examinations.
8. Final acceptance tests-hydrostatic or pneumatic tests.	8. Final acceptance tests witnessed by Authorized Inspector.	8. No requirement for third-party witness of final acceptance tests.
9. Repair of nonconformances.	9. Repair procedures reviewed by the Authorized Inspector.	9. No requirement for third-party review.
10. Release for shipment.	10. Final review and release by Authorized Inspector.	10. No requirement for third-party review and release.
11. Internal audit of Q.A. Program.	11. Results of internal audits are reviewed with the Authorized Inspector.	11. No requirement for review of internal audit results with the NRC.

There is a lack of adequate regulation and enforcement by the NRC. For non-Code safety-related equipment, the NRC should immediately implement a program of detailed third-party inspection similar to the disciplined program presently conducted for ASME Code items.

B. NRC regulation of product qualification is inadequate

Underwriters Laboratories, Inc. ("U.L."), founded in 1894, was chartered to establish, maintain, and operate laboratories for the investigation of materials, devices, products, equipment, constructions, methods and systems with respect to hazards affecting life and property. Many household electrical appliances receive the third-party review by the U.L.

In contrast, the NRC has no requirement for independent third-party evaluation and product proof testing of the Class I safety-related electrical equipment that controls and protects a nuclear power plant.

The public has a right to know that an electrical appliance, such as a toaster or hair dryer, has more stringent safety checks than the electrical instruments that control a nuclear plant. This is a clear demonstration of the inadequate attention given by the NRC towards protecting the public safety.

If the manufacturer of a commercial appliance should desire to redesign or change the process requirements for a U.L.-listed device, the Underwriters Laboratories must review the proposed change to determine if the listing is still valid, or if requalification testing is required. But here again, the NRC regulations contain no similar requirement for third-party review to safeguard the public from the effects of improper product changes.

For all safety-related equipment, the NRC should immediately implement a program of third-party product qualification which is at least as stringent as is required for commercial products listed by U.L.

C. NRC regulations must be amended to prevent common-mode failures of safety-related items

The NRC Quality Assurance Program, as defined in 10 CFR 50, Appendix B, requires that the identification of the safety-related item is maintained by heat number, part number, serial number, or other appropriate means. When malfunctioning devices, such as protective system relays, are detected in service, other like devices can be identified and repaired or replaced. But this is only part of the problem. An acceptable Quality Assurance Program should be designed primarily to prevent problems, not just identify the problems after they occur.

In the manufacture of any control and instrumentation equipment, as well as mechanical systems, there is the constant problem of subassemblies with quality deficiencies reaching the manufacturing floor without being detected. This may be due to a change by the vendor of a parameter of the subassembly which would be undetected in normal screening, but which may eventually affect the performance of the equipment.

The risk involved in this practice is the potential danger of common-mode failure of several safety-related devices of a similar type which would result in rendering of critical safety systems inoperative.

For example, early reactor designs relied heavily on the use of GE-type H.F.A. relays as logic elements in the safety systems and the core cooling systems. These relays had been considered infallible.

They had been used for a sufficient number of years without serious problems and no one considered the possibility of common-mode failure of such a trustworthy device. However, because of inadequate parts and process control, these relays proved to be subject to a common-mode failure on more than one occasion. In one case, at the Monticello plant, varnish appeared on the pole faces of the relay, which, when heated and then cooled, produced a substance sticky enough to hold the pole face down and not allow the relay to de-energize as required to perform its safety functions. Thus, a potential common-mode condition existed where, if a number of these relays in the final logic circuit had experienced the stuck pole face, the actual output condition of the logic would not be able to be achieved.

These same relays experience additional problems with aging of coils and with the cracking of the bobbins on which the coils are wound. All of these problems have been detected and have been reviewed in the field to make sure they are not continuing safety problems. However, they point up the ever-present danger of common-mode failures in the critical safety systems.

NRC regulations, 10 CFR 50, Appendix B, should be revised to require that changes in the design or fabrication of subassemblies of safety-related devices by the original manufacturer can only be accomplished in a disciplined system requiring appropriate device design reverification and performance requalification.

D. NRC should require reporting and analysis of all field failure data

Identification of in-service parts failures and an analysis of the causes of failure are key ingredients in a total Quality Assurance Program. With the exception of the requirements to report "significant deficiencies," as defined by 10 CFR 50-55e, the NRC does not require plant owners to report field failures.

Field failure data is presently reported informally by some of the nuclear plant owners to the Edison Electric Institute which issues reports to the manufacturers. Excessive filtering of data and data omissions are inherent in the present undisciplined procedures. The present field failure identification and analysis system lacks the discipline and regulatory attention appropriate to its importance.

All field failure data should be reported to the NRC. The NRC should inform the appropriate manufacturers of the failures, failure trends affecting plant safety should be analyzed by the NRC, and the manufacturers should be required to analyze the failures and report on the appropriate corrective actions.

10 CRF 50, Appendix B, should be revised by the NRC to incorporate the requirements for a disciplined, NRC-managed, field failure identification and analysis system.

E. NRC regulation and enforcement of the control of replacements is inadequate

All of the efforts that were put into the initial design, manufacture, and construction of a nuclear plant may be abrogated during the replacement of parts.

For example, at most plants, instruments are added to control panels after installation of the panels at the site. Metal chips are strewn throughout the panels as holes are added in the panel steel; seismic response spectrums are changed by the weight of the additional instruments; and potential heat sources unanticipated by the original designer are added to the panel. Design responsibility is now splintered.

During operation, parts fail. The regulatory process does not ensure that the replacement materials and parts are equivalent to

the original equipment, that the replacement is installed in accordance with an adequate process procedure, and that the item with its replacement parts is adequately proof tested. Responsibility for authorizing substitutions for obsolete or unavailable materials and parts is not clear.

Existing industry standards provide inadequate guidance. A statement concerning "replacements" is just now being added to the ASME Code. An IEEE standard on replacement parts for Class I electrical equipment was initiated in late 1975, but has still not resulted in a first draft of the standard.

As equipment design improvements are developed by the original manufacturers, inadequate procedures exist to ensure that the plant owner is notified of all design improvements and that the owner has incorporated into his equipment all of the recommended equipment alterations.

Increased NRC regulations and in-plant inspections are needed in order to maintain plant safety levels during replacements.

NUCLEAR POWERPLANTS CANNOT BE DESIGNED TO ELIMINATE THE IMPACT OF HUMAN ERROR IN OPERATION

Every technology is replete with tales of human error. Nuclear technology is no exception—except for the immeasurably greater impact that the nuclear accident, from whatever cause, has on our society.

The effects of human error in operation of nuclear powerplants are well known:

1. Jumpered safety interlocks at the Vermont Yankee plant in 1973 were used during a refueling outage to permit an extra rod to be withdrawn. Removal of the jumper was subsequently overlooked. The result was an unplanned criticality of the core with the head off and personnel on the refueling platform. Only a quick scram function prevented injury in this situation.

2. Dresden 2 blowdown in 1971, where the reactor operator relied on a defective reactor water level instrument, when other instruments were available to check the operation. The results were overfilling the vessel, reactor blowdown into the containment, and considerable common-mode failures of instrument cables.

3. Millstone seawater intrusion in 1972, where seawater was pumped into the reactor and primary system, resulting in damage to critical components such as control rods, incore neutron sensors, and other high stressed stainless steel components and may have resulted in substantial weakening or incipient cracking of primary systems.

4. Brown's Ferry fire in 1975, where human error in the design of wall penetrations for the cables resulted in the use of flammable foam sealant, failure to comply with the wire and cable separation criteria, and failure to understand and implement emergency procedures. Another human error in testing the penetration caused the fire which narrowly missed causing a melt down of the core.

5. Inversion of control rods where, through human error, control rods were assembled upside down in the control blades—an error not discovered until the rods were in operation at several plants.

6. Rancho Seco control rod drives in 1975, where operator error resulted in the common mode failure of 59 control rod drive motors, thereby disabling the control feature of the rods.

7. Release of radioactive wastes. There are many examples where human error has resulted in release of radioactive wastes into the environment. The most recent was at the Millstone plant last week.

The issue is not the fact of human error—but the realization that despite nuclear reactors being designed to account for human error, innumerable events have occurred where human error has seriously jeopardized plant and public safety.

There are a number of specific areas where the likelihood of human error can and must be reduced.

A. Design of control rooms should be standardized

A critical need for design standardization to minimize human error is in the control room design. At this vital interface, the operator must make the critical decisions which determine whether the plant will operate, shut down, ride through a transient, or experience further difficulties due to human error.

The control rooms in today's operating reactors contain as much as 70 feet of operator control panels. Here, the operator interacts with more than 50 systems (Nuclear Steam Supply and Balance of Plant) through several thousand devices and functions. The operator is expected to evaluate the data presented, decide on his action, and respond quickly to keep the plant on line. Experience has shown that there is too much information to read, comprehend and respond effectively to, particularly in a crisis.

Another factor is the variation of utility operating practices. Different utilities require different types of switches, lights and controls. Some utilities (e.g., Pennsylvania Power & Light) require the operator to stand up so that he will be alert and on his feet. Other utilities (e.g., Commonwealth Edison) require him to sit down so that he won't get too tired. As a result, there is little consistency from one control room to the next.

One example which is particularly conducive to introducing human error is a plant where two control boards in adjacent units of a two-unit plant (Dresden 2 & 3) are mirror images of each other. To complicate the hazard, operators are not restricted to operate in only one of the two plants. Thus the operator one day may be working on a control board where his feedwater control is on the left and his turbine control is on the right; the next day he may be working on a similar board with identical dials, but his turbine control is on the left and his feedwater control is on the right.

Standardization of control rooms is a vital element of safety and, as a minimum, needs to be implemented across the plants which any one operator may be expected to operate. Without standardization, we are increasing the likelihood of a serious human error in operations.

B. Control room simulators should be updated

Some control room simulators represent a design of a control room which is over 10 years old (for example, the General Electric simulator at Morris, Illinois). The outdated simulators no longer represent the control philosophy which has evolved over the 10 years into a different form; specificially, in the type of equipment, presentation of data, and the form of the operator's control board. Yet this is the place where operators are trained to respond to the accident conditions which may occur in a nuclear plant. The operators must be able to make the transition from the simulator training to actual control room conditions where they must use that knowledge to mitigate the consequences of any safety danger to the operating plant and the public.

It is unrealistic to expect an operator to make the transformation from the simulator to actual control room, and to remember the accident procedures through time without very frequent update. Tests on operators have shown that for a majority of operators this information is not retained for requisite periods of time, and the retraining periods are too infrequent to keep the operator aware of his special procedures under accident conditions.

To prevent human error in critical operating control room conditions, it is essential that up-to-date simulators be available and that retraining be a more frequent activity for operators.

C. Strengthening of procedural requirements

Most human errors in reactor plants result from one of two causes: inadequate procedures or insufficient knowledge of existing procedures. Here again, the Brown's Ferry fire is a prime example. The emergency fire procedures were not known to responsible authorities. On the other hand civilian evacuation procedures were not known to responsible authorities. It is recommended that the NRC review operational and maintenance procedures to ensure adequacy of both scope and content. Secondly, it is recommended that the NRC surveillance of training processes be stepped up to ensure the procedures are fully understood and implemented.

THE OPERATION, MAINTENANCE AND DECONTAMINATION OF NUCLEAR POWER PLANTS REQUIRES EVER-INCREASING EXPOSURE OF PERSONNEL TO EVER-INCREASING LEVELS OF RADIATION

A. Normal operation and maintenance requires increased personnel radiation exposure

The NRC/AEC in recent years has begun to accumulate radiation exposure data for in-plant operating and maintenance personnel. These data, which correlate radiation history with plant operating time, were documented in WASH 1311 "A Compilation of Occupational Exposure From Light Water Cooled Nuclear Power Plants 1969–1973". This four-year study indicates a substantial increase in personnel radiation exposure required to operate and maintain nuclear plants, indicating a substantial build up of radiation levels in the plants. The major use of these statistics to date has been in commercial presentations by the reactor vendors in order "to prove" that theirs is a superior system for minimum personnel radiation exposure.

The data are limited, but a distinct trend has emerged. In 1969, the average nuclear plant required a total of 188-man rem per year exposure to perform all necessary operation and maintenance functions. By 1973, the average had increased to 544-man rem per year (404 cumulative average). Almost all of the increase in exposure occurred during the maintenance activities experienced at the plants. It seems certain that as plants get old, requiring more maintenance, exposures will increase to a much higher level. Experience in some foreign plants has been even more disturbing. The Tarapur plant in India reportedly has required the mass utilization of more than 1,000 support personnel to operate and maintain that plant.

If a concerted effort is made to back-fit operating plants with necessary safety improvements, personnel exposure will increase to an even higher level. This presents the utility and the country with a real personnel health dilemma. It is absolutely essential that plant safety levels be improved to ensure that the "incredible" accident does not occur, yet performing the modifications will require the exposure of technicians and mechanics to a relatively higher level of radiation, particularly those with special skills such as nondestructive testing and welding. The plant management staff is faced with the moral dilemma of making decisions affecting employees' health and welfare as counterbalanced by improved safety to the public. The labor unions have a similar dilemma in deciding whether or not to work under those conditions.

Individual exposures of many skilled personnel will average close to the maximum of five rem per year. Yet, no design standards have been enforced to make the plant designs compatible with minimum personnel exposure.

Material selection is made with little thought given to its effect (for example, stellite valve seats are commonly used—a high source of Cobalt 60).

Scientists have recently indicated uncertainty in levels of biologically allowable radiation. The Environmental Protection Agency (EPA) has recently been petitioned by the NRDC to reduce the current occupational maximum of five rem per year to a maximum of 0.5 rem per year. The uncertainty involved in exposure limits and management provides a large uncertainty in the continued viability of the nuclear power program. Certainly there is a question as to whether or not such exposures should be allowed. With more and more plants going on line, and radiation levels increasing, this situation will become even more critical in the near future. A serious effort must be launched to minimize, to the extent possible, the impact of in-plant radiation exposure.

B. Decontamination

1. Personnel Radiation Exposure

Decontamination of the nuclear system poses another risk of radiation exposure to personnel. To date little attention has been paid to the total decontamination of reactor primary systems.

Chemical decontamination is a proposed but untested procedure that may jeopardize the integrity of the primary system, since the chemicals required to remove the radioactive deposits may also result in cracking and failure of the primary system materials themselves. No successful total decontamination of a commercial reactor has been attempted, although Commonwealth Edison Company has proposed decontamination of their Dresden 1 station. Decontamination will be required one or more times during the life of most nuclear plants, and as yet it has received little, if any, attention on an industry-wide basis.

2. Radioactive Waste

Decontamination of nuclear plants also brings about the problem of generation and safeguarding of thousands of gallons of highly corrosive, highly radioactive chemical solutions. The radioactive waste systems currently installed at nuclear plants are not designed to handle this type of material, and no design criteria has been developed for the design of such systems. Further, the reactor systems themselves have not been designed to be chemically cleaned.

Even if effective chemicals and procedures are developed, the removal and disposal of more highly radioactive corrosive products can only aggrevate the existing radioactive waste storage dilemma.

3. End of Plant Life

Another aspect of nuclear plant decontamination is the problem of what to do with the plant at the end of its useful life, normally expected to be 30–40 years. Nuclear plant construction permits and operating licenses generally anticipate that no permanent on-site waste burial will be permitted. Permanent burial of radioactive materials is planned only for appropriately licensed facilities. To effectively decontaminate, the total plant site must be capable of being returned to a completely clean, uncontrolled condition. This will require that all waste materials be removed from the storage tanks on site. The entire nuclear primary system, including structures, foundations, drain systems, piping systems, must ultimately be cleaned up, disassembled and packaged to meet necessary shipment regulations, and hauled to permanent waste burial grounds for longterm storage.

Virtually nothing has been done to develop the procedures to do this work.

What plans exist to enable normal operation and maintenance and necessary retrofit of nuclear plants without exceeding the personnel radiation exposure limitations imposed by law?

What plans or programs exist for decontamination of nuclear power plants at the end of their 30–40 year life?

VI. OLDER NUCLEAR PLANTS SHOULD BE REQUIRED TO RETROFIT TO MEET CURRENT SAFETY REQUIREMENTS; THE NRC PRACTICE OF "GRANDFATHERING" (WAIVING OF CURRENT SAFETY REQUIREMENTS FOR OLDER PLANTS) SHOULD CEASE

The investigation and analysis of each accident at any operating nuclear plant results in an advance in the state of the art of nuclear plant safety.

Despite the accumulation of new safety data, neither the NRC nor the industry has a consistent and cohesive policy with respect to incorportaion of such data into not only the design and operation of older nuclear plants, but also plants currently being constructed.

Most of the incidents which gave rise to design safety evaluation are well known. The question is will the NRC require the revised safety criteria to be incorporated into plants being constructed and older nuclear plants; and, if not, why not?

Here are but a few examples of recently discovered safety issues which raise the question of "grandfathering".

A. Improved Cable Separation—To avoid the loss of redundancy as in the Brown's Ferry fire.

B. Cable Insulation Modification—To prevent propogation of fire and to avoid the conversion of burned polyvinyl chloride insulation to the highly toxic and corrosive HCL, as happened at Brown's Ferry.

C. Provide Improved Remote Shutdown Capability—Again, a lesson learned from Brown's Ferry, but not included in most plants built before that plant.

D. Redesign of Cable Spreading Room—To decrease the vulnerability of this critical area where cabling is concentrated to acts of terrorism, sabotage, fire or accident which result in disablement of plant safety systems, again, as happened at Brown's Ferry.

E. Installation and Improvement of Emergency Core Cooling Systems—Two of the first commercial nuclear plants, Commonwealth Edison's Dresden 1 and Consolidated Edison's Indian Point No. 1, were built and placed in operation in the early 1960's with no provision for emergency core cooling to preclude core melt down if a loss of coolant accident should occur. Dresden 1 plant continued to operate without an emergency core cooling system until 1972 when it was modified, but it still is not adequate by today's standards, lacking in redundancy and other aspects. Indian Point No. 1 unit to this day has no ECCS system installed and is currently shut down for an extensive period of time during which an emergency core cooling system is to be installed. Each of these two plants operated for upwards of 12–13 years with no ECCS system in place, giving reason for deep concern over the NRC's policy toward "grandfathering" of difficult safety issues. The policy is of even greater concern when the retrofit required for safe operation is technically difficult or very expensive to install.

F. Seismic Criteria—Current standards call for multi-frequency, multi-axis, testing or suitable seismic analysis of major components, particularly those in the safety systems. The purpose is to consider transient loads due to the seismic events and to find the simultaneous effect of the loads from different frequencies and different directions of excitation. Experience has shown that the results of a seismic test of a major reactor component are generally quite different from analytical results and often difficult to reconcile. Older plants have been designed to less severe design basis earthquake criteria, and modeling of the reactor buildings was less sophisticated in the early days, resulting in a lower expected excitation at some of the floor locations where the safety related equipment was mounted.

The risk is that an older plant would experience earthquake loads in actual operations which would be much greater than the original design criteria due to any of several causes: (1) inadequate modeling, (2) the effect of combined loads compared to single frequency tests, and (3) design criteria changes after the design basis is set. This can be brought about by advancements in the state of the art or specific site criteria changes due to new information. For example, because of the discovery of the previously unknown earthquake fault at the Diablo Canyon Plant, the design is possibly inadequate and the plant should not load fuel until its seismic capability is reconciled.

A generic study should be conducted by the NRC of older plant designs to see that they are safe to operate under the known conditions of seismic loading established by current techniques. It is further recommended that generic studies be conducted by the NRC to prove the validity of the models used in determining seismic loads for the different plants, including the impact of multi-frequency and multi-axis excitation on older equipment designs.

G. Effluent Discharge and Waste Systems—All early commercial reactors had minimal liquid waste treatment systems and had little or no treatment other than elevated release for gaseous radioactive waste discharge handling. Over the years, and as the technology has improved, substantial improvements have been made in the effluent handling systems, most notably the development of near-zero release systems which provide substantial hold-up times in the discharge cycle of radiogases and bring to nearly zero the discharge of liquid radio-active wastes to the environment. In some cases, these improvements have been retroactively applied to operating plants, but no consistent policy has been adopted and utility response has been one of primarily responding to random pressure by NRC or environmental groups. Reduction of radioactive releases to the environment for new plants has been regulated to a condition of "as low as practicable" but it certainly has not been uniformly applied to existing operating plants. Examples of this are found at PG&E's Humboldt Bay No. 3, Commonwealth Edison's Dresden and Quad Cities Plants, of where required operation of backfitted offgas systems has been extremely slow or at Consumer's Powers Big Rock Point where it has been non-existant.

The NRC should initiate a strict policy of enforcing this requirement.

H. Safety and Relief Valve Discharge Venting to Wet Well—Commonwealth Edison's Dresden 2 and 3 are examples of the generation of boiling water reactors that were constructed without piping the discharge of safety valves to the pressure suppression wet well. Subsequent plants, BWR–4's and later BWR–5's and 6's have all safety-relief valves piped to the suppression pool to minimize the possibility of accidental steam pressurization and thermal cycling of the primary containment dry well and enclosed equipment. In 1971, two events at the Dresden plant resulted in opening of safety valves to the dry well and resulted in extensive damage to wiring within the containment. These events prompted investigation by the State of Illinois. The recommendations of that investigation may or may not have been made public, but implementation of the piping of the discharges to the wet well has not been performed on these or similar plants. NRC should investigate this situation and a safety evaluation be made as the desirability of such plant modifications.

VII. SUMMARY AND RECOMMENDATIONS

For all of the reasons stated in this testimony, we believe that the continued operation of nuclear power plants creates severe hazards to the public.

Some of the design defects and deficiencies alone create severe safety hazards. For example, the possibility of failure of the Mary I pressure suppression containments. But the one most important point, and the point we want to emphasize to this Committee, is that the cumulative effect of all design defects and deficiencies in the design, construction and operation of nuclear power plants makes a nuclear power plant accident, in our opinion, a certain event. The only question is when, and where.

It is for this imperative reason that we submitted our resignations and are now totally committed to educating the public about the truth regarding nuclear power.

The most probable response to many of our concerns from the NRC and from the industry will be that the concerns are not new—and, indeed, many of them are not. Certainly, it is true that intensive efforts are underway to resolve many of the problems. But the level of effort now being expended to resolve the problem has not made the problem go away.

We, therefore, recommend:

1. That, as an urgent matter, the Mark I pressure suppression containment problem be evaluated and the wisdom of continued operation of all 19 domestic nuclear plants containing a Mark I system be reconsidered;

2. A thorough review of the total effect on the in-vessel components of flow-induced vibration, particularly with respect to the failure of feed water spargers and the Local Power Range Monitor;

3. A study of the distribution of cooling water over the hot core, which is the basis for the effectiveness of the core spray cooling system, giving particular emphasis to the result of the European studies of this phenomenon;

4. A study of the full effects of the End of Cycle SCRAM Reactivity Effect;

5. That control rod life be determined and the technical specification requirements be established to ensure that shutdown margins are adequately tested to account for these effects;

6. That the "rod drop" accident be thoroughly reevaluated and satisfactory systems to prevent or mitigate the accident be developed:

7. That the current study of pressure vessel integrity be intensified, with particular emphasis on the possibility of nozzle break between the vessel wall and the biological shield, the problem of excessive loading of the pressure vessel pedestal resulting from pressure waves in the suppression pool, and the structural integrity of the pedestal concrete;

8. That the continuing study of the Mark I containment system give particular emphasis to the effect of seismic slosh and continued erosion of design margins, the corrosion allowance and material thickness, and difficulties with containment electrical penetration seals, and with the wet well/dry well vacuum breakers. It is recommended that full-scale tests be performed on the adequacy of the steam generators to withstand the pressure reversal under LOCA conditions and, if not adequately demonstrated, that pressurized water reactor plants be shut down until it can be verified;

9. That the NRC immediately implement a program of detailed third-party inspections for non-ASME Code safety-related items which is at least as stringent as is required under the ASME Code; and a third-party product qualification procedure for safety-related electrical equipment which is at least as stringent as is required for commercial products listed by the Underwriters Laboratories;

10. That NRC regulations be amended to prevent common-mode failure of safety-related items by requiring that changes in the design or fabrication of subassemblies or safety-related devices can only be accomlished in an NRC-disciplined system requiring appropriate device design verification and performance requalification;

11. That NRC institute a disciplined NRC-managed field failure identification and analysis system, and replacement parts control system;

12. That the design of control rooms be standardized and that NRC require more frequent retraining on updated control room simulators to increase the proficiency of control room operators;

13. That the NRC begin immediately to study the problem of increased personnel radiation exposure required in the operation, maintenance and retrofit of the existing plants, and develop plans and programs for the decontamination of existing plants, and for disposal of radioactive wastes resulting from the decontamination, and for disposal of the decontaminated plant itself;

14. That the NRC practice of waiving current safety requirements with respect to older plants cease, and that older nuclear plants be required to retrofit as is necessary to meet current safety requirements; and

15. That plants currently under construction should not be permitted to start up and become radioactive until all design issues are resolved. This is particularly important with regard to the seismic criteria controversy at PG&E's Diablo Canyon Plant.

EXHIBIT A

Dale G. Bridenbaugh, Manager, Performance Evaluation & Improvement; Manager, Mark I Containment, Nuclear Energy Division, General Electric Co.

Responsible for establishment and management of systems to provide for the monitoring and measurement of Boiling Water Reactor (BWR) equipment and system performance and for the development of performance improvement modifications.

For the past 10 months on special assignment as Manager of Mark I Containment, a special project formed to evaluate the safety and adequacy of the primary containment of 25 nuclear power plants in the United States.

Mr. Bridenbaugh has been involved with nuclear power plants since 1958 when he was assigned as Field Engineer on the installation and startup of the first large-scale commercial nuclear power plant—Commonwealth Edison's Dresden 1 near Chicago, Illinois.

Employed by General Electric Company: 1953–1976.

Degree: GSME, South Dakota School of Mines & Technology.

Richard B. Hubbard, Manager, Quality Assurance, Nuclear Energy Control & Instrumentation Department, General Electric Co.

As Manager of the Quality Assurance Section, Nuclear Energy Control and Instrumentation Department, Mr. Hubbard is responsible for developing and implementing quality plans programs, methods, and equipment which assure that products produced by the Department meet all quality requirements as defined in NRC 10 CFR 50. He is involved in the manufacture of radiation sensors, reactor vessel internals, fuel handling and servicing tools, nuclear plant systems, and control room panels.

With GE, he has held a variety of technical and supervisory positions in the application, manufacture and marketing of instrumentation and control systems for nuclear power plants.

Mr. Hubbard is an active member of the IEEE Standards Subcommittee on Quality Assurance and has published several papers on income neutron detection systems and quality assurance programs.

Employed by General Electric Company: 1960–1976.

Degrees: GSEE, University of Arizona, MBA, University of Santa Clara.

Gregory C. Minor, Manager, Advanced Control & Instrumentation, Nuclear Energy Division, General Electric Co.

Mr. Minor has 16 years of experience in the energy systems business, designing, building and managing control and instrumentation systems.

Mr. Minor began his career with General Electric in 1960 when he was assigned to a position at Hanford, Washington. In 1963 he served as an Electronic Design & Development Engineer in the Nuclear Power Generation Control Department in San Jose. There, he was responsible for design of major instrumentation channels and control systems.

He has served as Manager of Reactor Control Systems Engineering where he was responsible for the design of protection, containment, and related control systems.

Since 1971 he has been Manager of Advanced Control & Instrumentation, responsible for the design of safety systems, control systems, and control room configuration.

Employed by General Electric Company: 1960–1976.

Degrees: BSEE, University of California; MSEE, Stanford nUiversity.

EXHIBIT B

FEBRUARY 2, 1976.

Mr. N. L. FELMUS
Manager, BWR Services,
General Electric Co.,
San Jose, Calif.

DEAR NEIL: This letter is to advise you that I am resigning from the General Electric Company effective immediately.

My reason for leaving is that I have become deeply concerned about the impact—environmentally, politically, socially and genetically—that nuclear power has made and potentially can make to life on earth. As we have discussed in the past, there is an inherent close intertie between commercial power and weapons technologies and capabilities. I am strongly opposed to the deployment of such capabilities and I fear the implications of a plutonium economy. The risk involved in such a system is far too great for the short term benefit. I see no way for us to develop the ability to maintain the perfect human and technical control needed for the long periods of time necessarily involved with the highly toxic materials we are producing. This problem is not something I wish to pass on to my children and to succeeding generations to control. Contributing to the advancement of such proliferation now seems immoral and is no longer an acceptable occupation for me.

Furthermore, in my recent assignment as the Project Manager of the Mark I Containment assessment, I have become increasingly alarmed at the shallowness of understanding that has formed the basis for many of the current designs. It is probable that many more problems will emerge with severe consequences, impacting either the safety or the economic viability of the nuclear power program.

It is hard for the mind to comprehend the immensity of the power contained in the relatively small reactor core and the risk associated with its control. In the past we have been able to learn from our technological mistakes. With nuclear power we cannot afford that luxury!

Much has been entrusted to the corpo-

rate and regulatory decision makers and the tremendous cost, schedule, and political pressures these humans experience have made unbiased decisions, with true evaluation of the consequences, very difficult to achieve. This is not meant as an indictment of any specific individuals; it is just a statement of the human imperfection which leads, ultimately, to the imperfection of the complex technological system. Nuclear power has become a "technological monster" and it is not clear who, if anyone, is in control.

In summary, I am no longer convinced of the technical safety of nuclear power and I fear the high risk of political and human factors that will ultimately lead to the misuse of its byproducts. This makes it impossible for me to work in an objective manner in my current position and I, therefore, have decided that my only choice is to get out of the nuclear business. This seems the only course of action for me to take if I am to be fair to my associates, the Company, to you, and to myself.

I also must tell you that I have become so convinced that nuclear power is not right for this country or for this world, that I have decided to volunteer my time for the next several months to work in support of the California Nuclear Safeguards Initiative. Following this, I will be looking for a job either in a non-nuclear area or, if possible, where I can use my experience to help safeguard the substantial nuclear legacy that has already been created.

I am sorry that I have been unable until now to fully confide in you the concerns I have had. This has not been an easy decision for me to make, but I finally came to the conclusion that it is something I must do. Perhaps my action will cause other people to consider the vast implications of the nuclear power program before it is too late.

I have come to believe very deeply that we cannot afford nuclear power and I intend to do whatever I can to get the message to the public where the decision on its continuation must ultimately be made.

Sincerely,

DALE G. BRIDENBAUGH,
Manager, Performance Evaluation and Improvement
Manager, Mark I Containment Program.

MR. ABDON RUBIO,
General Manager, Nuclear Energy Control & Instrumentation Department, General Electric Co., Nuclear Energy Systems Division, San Jose, Calif.

DEAR DON: During the past year and a half I've experienced a series of events which have forced me to question the continued operation and proliferation of nuclear power plants. I see that we have become an industry of narrow specialists with little comprehension of the total impact of our individual actions. I feel it is imperative that the people of California know the truth about nuclear power and know that there are people within the industry who have serious doubts and reservations about continuing our present course.

Consequently, I have decided effective today, February 2nd, to terminate my employment with General Electric and to devote myself full time to the task of educating my fellow Californians on the moral and technical issues encompassed by the Nuclear Safeguards Initiative.

When I joined the nuclear division in 1964 I was very excited about the promise of the new technology—the promise of a virtually limitless source of safe, clean and economic energy for this and future generations. Like many of my colleagues, I consciously chose to bypass the technical and financial glamour of the defense/aerospace industries, and instead to pioneer in the infant nuclear industry. There was a common sense of excitement in the industry that approached a missionary zeal in those early years. Now, twelve years later, the vision has faded and the promises are still unfulfilled.

I have seen too many instances where engineers did not consider all the relevant parameters, where craftsmen did not follow the prescribed manufacturing and construction methods, where the plant operator acted in error when called upon for a split-second decision, and where plant maintenance decisions were based on continued power production—not plant safety. I know that very few people are aware that one of the plant wastes, plutonium, must be safeguarded from the biosphere for nearly 500,000 years; that there are presently no long-term radioactive waste storage facilities; that the genetic effects of the wastes challenge our continuing existence; and that the disposal safeguard record of the existing government weapons and submarine fuel facilities is replete with failures.

In addition to the ecological significance of the radioactive legacy, the global political impacts of a plutonium energy economy must be faced. India's construction of an atom bomb from nuclear fuel clearly demonstrates that nuclear power plants and nuclear weapons are inseparable. If the forecasted nuclear power plants are constructed in the U.S. and if the rush to export the nuclear technology to the emerging nations continues unabated, the plutonium will be readily available for weapons diversion, hijacking, sabotage, and ransom. The power of the atom will be available to any tyrant or dissident group. We Californians cannot ignore our global interdependence.

I have struggled hard in arriving at today's decision. I considered continuing in my position, hoping that technology could somehow overcome all the obstacles. After my experience, I am now convinced that businesses and individuals can no longer take the risk of contaminating our environment, upsetting the ecological balance, or take any other steps which could irreversibly affect future generations. The limited comprehension of the present technology, coupled with the technological requirement for 100% human perfection, is a situation I can no longer rationalize as responsible or acceptable.

I came to San Jose with the vision and hope that I could benefit mankind through my contributions in harnessing the atom. Now I sense an even greater purpose—the sharing of the knowledge gained in this pursuit to help awaken the people to the dangers and to the imperative to act now in order to preserve our planet. The issue we face is not the survival of an industry, rather it is the survival of mankind.

Sincerely,

RICHARD B. HUBBARD,
Manager, Quality Assurance.

FEBRUARY 2, 1976.

MR. HARRY H. HENDON,
Manager, C & I Engineering, General Electric Co., San Jose, Calif.

DEAR HARRY: This is to inform you that I am resigning from the General Electric Company effective today.

My reason for leaving is a deep conviction that nuclear reactors and nuclear weapons now present a serious danger to the future of all life on this planet.

I am convinced that the reactors, the nuclear fuel cycle, and waste storage systems are not safe. We cannot prevent major accidents or acts of sabotage. I fear the continued nuclear proliferation will quickly consume the limited uranium supply and force us into a plutonium-based fuel economy with even greater dangers of genetic damage and terrorist or weapons activity.

From my earliest days at Hanford, I have been deeply concerned about the dangers of radioactivity. I can still remember my wife's shock of having a container for urine sampling placed on our front doorstep for the use of our family. I wonder now, if that police-state atmosphere at Hanford wasn't an omen for all people for the future.

I cannot be a part of an industry that promotes a policy that would lead our generation to consume 30 years of nuclear power for our own selfish purposes and leave behind radioactive wastes that will be a health hazard for thousands of generations to come.

In recent months I have become increasingly dismayed at the industry's opposition to the Nuclear Safeguards Initiative. I have seen the attempts to confuse and whitewash the issues by claiming that there are no unsolvable problems and appealing to individual's fears for their jobs. The public must be told that there are many problems. I am confident that an informed public—given the truth—will decide against continued nuclear proliferation.

I am also sure that there are others in the industry who share my concerns and I hope my decision will cause them to stop and consider the enormous implications and dangers of the nuclear legacy we are creating.

Sincerely,

GREGORY C. MINOR,
Manager, Advanced Control & Instrumentation.

EMPLOYMENT OF ILLEGAL ALIENS

Mr. PACKWOOD. Mr. President, last Wednesday, the U.S. Supreme Court unanimously reversed a California court decision holding a California law prohibiting the employment of illegal aliens unconstitutional. The California law read as follows:

Section 2805 of the California Labor Code:

(a) No employer shall knowingly employ an alien who is not entitled to lawful residence in the United States if such employment would have an adverse effect on lawful resident workers.

(b) A person found guilty of violation of subdivision (a) is punishable by a fine of not less than two hundred dollars ($200.000) nor more than five hundred dollars ($500.000) for each offense.

(c) The foregoing provisions shall not be a bar to civil action against the employer upon a violation of subdivision (a).

The substance of the Court's decision is basically threefold:

First. Only Congress has jurisdiction of immigration matters, but merely because a State statute deals with aliens does not mean it confronts congressional immigration jurisdiction.

Second. It is within a State's police power to regulate the employment relationship and Congress in enacting immigration laws has not manifested an intent to exclusively preempt States from legislation affecting the employment of illegal aliens.

Third. A California law prohibiting employers from hiring illegal aliens is, therefore, not unconstitutional on its face and it is for California courts to construe the law and determine whether the law as applied would conflict with Federal immigration laws or regulations.

It should be pointed out that while the Court's decision might open the way for States to deal affirmatively with the matter of illegal alien employment, it does nothing to diminish the responsibility of Congress to come to grips with this problem now. Indeed, States are going to have a supremely difficult time if they try to

limit the incidence of illegal alien employment without Federal help. In the first instance, States have no way of determining who illegal aliens are. Those not entitled to employment have that status by virtue of Federal not State laws. When such laws are violated by aliens the U.S. Government has the services of the Immigration and Naturalization Service to locate and apprehend them. In turn, INS utilizes the services of other Federal agencies such as the Social Security Administration in their search for illegal aliens. Further, INS itself has a vast store of information they have collected over the years on literally millions of aliens who have attempted to thwart our immigration laws, many of whom are repeated offenders. How a State is going to locate those not entitled to employment within its borders and prosecute employers for hiring them without any of these resources is beyond my comprehension.

Last year I introduced legislation that proposed a partnership between the Federal Government and employers for the purpose of finding those aliens illegally employed in this country at the present time and discouraging such employment in the future. S. 1928 prohibits the hiring of illegal aliens but recognizes the limited role that employers, like States, can assume in assisting the Federal Government in carrying out this objective. Under this legislation employers are entitled to use a form, which, when completed at the time of hiring an employee, puts the Government on notice as to whether that person might not be entitled to employment. Furnishing employers with such a simple and expedient means of satisfying their responsibility not to hire illegal aliens has the additional benefit of significantly reducing the likelihood of discrimination against employees who, because of appearances or language, might appear to be illegal aliens.

Legislation to prohibit the employment of illegal aliens must call for action by the Federal Government to be effective. Determining who is illegal and sending them home is a job only the Federal Government can do. States and employers can help, but illegal aliens are on the job to stay until Congress decides to do something about it.

SENATOR CANNON BEGINS 18TH YEAR IN THE SENATE

Mr. MOSS. Mr. President, I would like to take this opportunity to call attention to the fact that our distinguished colleague, Senator HOWARD W. CANNON of Nevada, recently began his 18th year of service in the Senate. As one who has known Senator CANNON for many years—we passed the Utah bar exams together—and who has worked closely with him, serving with him on two major committees, the Space Committee and the Commerce Committee, I feel impelled to cite the really outstanding record of his service to the people of his State and to the Nation. Indeed, I have long considered him one of the most forceful, and able, and effective Members of the Senate.

Since his election to a first term in 1958, Senator CANNON has consistently upheld the Democratic principles on which this Nation was founded 200 years ago, and he has consistently fought for the best interests of the people of Nevada and of the United States. He has, as we well know, sponsored, adopted, espoused, and worked very hard for legislation to favor the development of his State's resources, to conserve its water, to improve its schools, expand its airports, build its business and industry, improve its highways, support its agriculture, foster the tourism so vital to Nevada's economy, and otherwise improve the quality of life for all who live there. And this service to the people of his State has been a benefit to the country as a whole.

Senator CANNON authored, for example, the Airport and Airways Development Act of 1970, a major piece of legislation providing the whole country with the means of expanding and maintaining an adequate national air transportation system vital not only to his State's basic tourist industry, but to our Nation's whole economy. His subcommittee has just reported the 1976 Airport and Airways Development Act.

A much decorated military pilot in World War II, a pilot with thousands of hours of flying time in everything from Piper Cubs and 747's to the F–111 and F–15, the distinguished Senator from Nevada still covers much of his vast State as his own pilot, and has long been recognized as a national authority on aviation safety and on the problems of this major national industry. In 1970, in fact, he won the Wright Memorial Award for his years of outstanding service to aviation in the United States. And he has, since then, remained in the forefront, fighting, for example, for one-stop charter tours and their lower fares which have done much to spark air travel during these months of continuing recession. He is also foremost in perceiving and in fighting for recognition of general aviation's role in tying together the smaller towns and cities of our vast rural areas with the major air transportation hubs in our urban centers of commerce and industry.

There is a reason why Senator CANNON is known as Mr. Aviation not only here in the Nation's Capitol, but in Nevada and throughout the country. His outstanding expertise and hard work in this field alone complements his chairmanship of the Commerce Committee's Aviation Subcommittee. He also sits on four other Commerce subcommittees, all dealing with issues of vital importance to the Nation: Foreign Commerce and Tourism, Consumer Protection, Communications, and Surface Transportation.

On the Senate Armed Services Committee, he is chairman of both the Tactical Air Power and increasingly important National Stockpile and Naval Petroleum Reserves Subcommittees. He is also a member of the Military Construction Subcommittee.

But that is not all. The enviable record of this distinguished Senator includes chairmanship of the Rules and Administration Committee and of three of the four Rules subcommittees on which he sits. He is further, as I have indicated, a member of the Aeronautical and Space Sciences Committee in which, as in the Commerce Committee, it has been my good fortune and my pleasure to work with him on many key issues of national importance.

Let me, if I may, cite some other of the many key issues in which Senator CANNON has been closely involved. These include the hearings confirming the nominations of both the Honorable Gerald Ford and NELSON ROCKEFELLER as Vice President of the United States, and a broad range of legislative efforts for the Federal Election Campaign Act bill, the comprehensive budget reform bill, consumer protection, revenue sharing, and pension reform, to name but a few.

In his years of close and effective association with former Nevada Senator Alan Bible, Senator CANNON helped to engineer legislation and funds for continuing development of the Lower Colorado River Basin and the vital southern Nevada water and the Washoe reclamation projects, so important to all the Southwestern United States.

Over the years, he has worked hard to develop and support military facilities for the Hawthorne Ammunition Depot, Nellis Air Force Base, and the naval air station at Fallon, in his home State. He worked as hard for the Nevada nuclear test site as he did for the expansion and improvement of McCarran International Airport in Las Vegas and Reno International and other airports throughout Nevada.

Senator CANNON is, as you know, also chairman of the Senate Select Committee on Standards and Conduct, vice chairman of the Joint Committee on Printing, chairman of a similar Joint Committee on the Library of Congress.

One might observe, that there is no limit to the range of his interests or to the Senator's willingness to serve on any matter, great or small, of importance to his people. Over and over again, during his 18 years of distinguished membership in the Senate he has proved himself a rock of strength and determination, a man of profound integrity, an astute and powerful antagonist. He is a colleague which it is my pleasure and honor to commend.

REMARKS OF SENATOR MATHIAS AT WORCESTER COUNTY LINCOLN DAY DINNER

Mr. BROOKE. Mr. President, recently the distinguished senior Senator from Maryland was in Worcester, Mass., to address the Worcester County Lincoln Day dinner. In his thoughtful speech, Senator MATHIAS discussed the prevailing mood of a voter alienation and disillusionment, which has adversely affected not only the Republican and and Democratic Parties, but indeed the entire political process. And he suggests what must be done if we are to restore confidence in our two-party system. I would like to share his perceptive and provocative remarks with the Senate.

Mr. President, I ask unanimous consent to have Senator MATHIAS' remarks printed in the RECORD.

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

WORCESTER COUNTY LINCOLN DAY DINNER

Tonight we come together to honor our first Republican President, Abraham Lincoln.

Lincoln was a man I think each of us would like to have known personally. There are not many great figures in history you can say that about. But it would be comfortable to sit in the living room with Abraham Lincoln and to talk with him about the problems of *your* day, maybe swap a few stories, or listen to him figure out answers to *his* problems.

One of the problems that preoccupied Lincoln in the early days of the Civil War was how to get General George McClellan moving in the direction of the enemy. His solution has always delighted me.

McClellan (who, incidentally, was a Democrat) was in charge of the Peninsular campaign. Though his troops far outnumbered General Lee's, he was constantly being outskirmished, outflanked and outfoxed by Lee.

Eventually, McClellan was pushed back to the banks of the Potomac where he made camp, as if for the duration, or so it seemed to Lincoln. Nevertheless, dispatches from this camp were invariably and arrogantly headed: "McClellan—Headquarters in the South". Finally, an exasperated Lincoln fired off a dispatch of his own. It read "McClellan, I believe your headquarters are in your hindquarters. Please advance."

Each of us, I'm sure, would enjoy the company of the man who wrote that dispatch. In fact, we could pass a delightful and instructive evening here simply recalling Lincoln anecdotes, each one illustrative of some facet of his richly diverse nature.

Tonight, however, I have a broader purpose in mind. It is one which I think you will agree is appropriate both to the place and to the occasion.

We have gathered here in Worcester to honor the memory of Lincoln. But with all the honor we pay him, we should each of us take to heart that just as the President as chief of state is not the nation, so even President Lincoln as head of the Republican party was not the party.

In our party, as in our nation, there are many jobs for every citizen and many responsibilities for average grass roots Republicans.

And so, in honoring Lincoln tonight, I would like to think about another founder of the Republican party, a man whose political career "took off" in Worcester, a man central to the formulation of the principles of the party: Senator Charles Sumner of Massachusetts.

First, though, let me sketch in a little background. To appreciate Sumner's importance to the party, you should bear in mind that Lincoln was a cautious politician. It took a lot of pushing before he became a Republican. At the close of 1854, Lincoln was still a whig and still believed a whig could be elected to the U.S. Senate in Illinois. Two years later, in the presidential campaign of 1856, the whig party expired.

Actually, the Whig Party only lasted about 20 years as a force in the American political arena. Twice during that time—in 1840 and again in 1848—it managed to elect presidents. It is the 1848 election that has particular significance to the genesis of the Republican Party and to the city of Worcester as well.

By the late 1840's Whig leadership was faltering. The party's achievement has been compromise. But, compromise on the issue of slavery or freedom, was an achievement few prized—least of all, men of conscience, or the conscience Whigs as the abolitionists of the free states were called.

The alienation of the conscientious men of Massachusetts expressed itself on June 28, 1848 when a mass convention was held here in Worcester to protest the Whig Party nomination of General Zachary Taylor a slaveowner as its presidential candidate. (The Democrats had nominated General Cass who also straddled the slavery issue).

To the conscience Whigs of Massachusetts there seemed no choice. From the office of Charles Sumner a call went forth for a convention of all the citizens of the Commonwealth who opposed both Taylor and Cass.

Some five thousand people impelled by their common devotion to freedom, showed up. Their numbers overflowed the city hall so they gathered on the Worcester Common where speakers expressed the general determination to stand by conviction even if it meant renouncing old party ties.

Last to speak was the meeting's chief organizer Charles Sumner. "I was a Whig," he said, "because I thought the party represented the moral sentiments of the country—that it was the party of humanity. It has ceased to sustain this character. It represents no longer the moral sentiments of the country. It is not the party of humanity."

"A party which renounces its sentiments," he continued, "must expect to be renounced. In the coming contest I wish it understood that I belong to the party of freedom—to that party which plants itself on the declaration of independence and the Constitution of the United States."

These words, spoken here in Worcester, were the seeds of a new party which would eventually become the Republican Party—named, some say, by Horace Greeley, others say by Allan Bovay—founded, some say, in Ripon, Wisconsin; others in Ohio, still others in Worcester.

Theodore Roosevelt maintained that establishing the paternity of the Republican Party was almost as difficult as nailing jelly to a wall. Establishing the party's principles, however, is not difficult. As a life-long Republican, I revere the principles on which our party was founded. It was the "party of humanity." It did reflect the "sentiments of the American people." It stood for the principles of equality, equal opportunity, freedom and justice that were hammered out for us in the Constitution by our Founding Fathers.

Charles Sumner had no difficulty identifying these principles to the throngs assembled on Worcester Common that June day when our party was aborning. He was an impressive figure—6'4" tall with a deep resonant voice—he later became famous for his oratory.

"The Constitution was the crowning labor of the men who gave us the Declaration of Independence," he told the crowd, "it was established to perpetuate, in organic law, those rights which the declaration had promulgated, and which the sword of Washington had secured. 'We hold these truths to be self-evident: that all men are created equal; that they are endowed by their creator with certain unalienable rights; that among these are life, liberty and the pursuit of happiness.' Such are the emphatic words which our country took upon its lips, as it first claimed its place among the nations of the Earth. These were its baptismal vows. And the preamble to the Constitution renews them, when it declares its objects, among other things to 'establish justice, promote the general welfare and secure the blessings of liberty to ourselves and our posterity.'

"Mark this," Sumner emphasized, "not to establish injustice; not to promote the welfare of a class, or of a few slaveholders, but the general welfare; not to foster the curse of slavery but the blessings of liberty . . . it was lately said . . . that the movement in which we now are engaged is the most important since the American Revolution. Something more may be said. It is a continuance of the American Revolution. It is an effort to carry into effect the principles of the Declaration of Independence, and to revive in the administration of our government the spirit of Washington, Franklin and Jefferson—to bring back the Constitution to the principles and practices of its early founders—to the end that it shall promote freedom . . ."

Sumner's exhortation has a very contemporary flavor, doesn't it? He was disillusioned with political parties, he was turning his back on them and he was seeking a reaffirmation of basic principle.

Today we too face such a crisis. The Republican party can claim the allegiance of less than 18 percent of our registered voters. Less than one voter in five wants to own up to being a Republican. If our showing is this poor among registered voters—the people who care enough to participate in the election process—imagine where we must stand with the tens of thousands of Americans who have grown too cynical, too apathetic and too frustrated by the political shadowplay of our times to even register.

They are the real warning sign, they are the unknown, a vast threatening amorphous growth on the political scene.

It's not that they are turning to the Democratic party either. That might even be a healthy sign, for at least then we could say that the inevitable pendulum swing of our two-party system might turn back our way someday.

Rather, it appears that the growing numbers of unaffiliated independents are simply disillusioned with the entire political process.

They're disenchanted and disappointed by the way our government operates, or more precisely doesn't operate.

They see a political system that has failed to live up to its promise and that has failed to live up to its principles.

This alienation is not a fad. It's not merely an aberration brought about by the post-Watergate blahs. It's not a temporarily-out-of-order sign.

I believe it is rooted in growing mistrust of our political institutions' ability to respond to the needs of the people, and in the fear that government cannot resolve any of our problems either.

The litany of our probems is indeed long and discouraging. Our schools don't work. Our prisons don't work. Our cities don't work. Our economy keeps getting blown up like some gargantuan innertube that's been glued and patched with old bicycle tape—every couple of years it hisses and blows another patch. There are seven and a half million Americans out of work, and most of them are young, black, uneducated and desperate. Our Constitution is being trampled on by invasions of privacy and evasions of court orders. Thirty million Americans have no health insurance and face financial ruin should serious illness strike. Our taxes march onwards and upwards simply to put another patch on the hissing innertube. And across this great land of ours there is the oppressive knowledge that life is losing its quality, that it will grow worse in our time, and much worse in our children's time, if something is not done to reverse the process of deterioration.

Meanwhile, seemingly oblivious to it all, too many politicians are falling all over each other in New Hampshire and elsewhere, obsessively intent only on getting a shot at the brass ring, with no apparent idea of what to do with it once it's had.

It seems to me that both the Republican Party and the Democratic Party have sacrificed principle to expediency. I suggest they both are more concerned with whom they can get elected than with why they should be elected. The people sense this and probably would agree with Theodore Roosevelt's 1912 remark: "It is not I who have left the party, it is they who have left me."

Our situation today is discouraging but I don't believe it is irretrievable. In plotting our future course, we can learn much that is instructive from the example of Charles Sumner. From that June day in Worcester, when he issued his clarion call to freedom and justice for all, to the very moment of his death, Charles Sumner never lost sight of the principles of the Constitution and Declaration of Independence. He dedicated his life to securing them for all Americans and, on one occasion, came close to losing it by his vehement pursuit of principle.

Sumner was elected to the United States Senate in 1851. There he led the opposition to slavery and to the spread of slavery in America. He was mercilessly vilified by his southern colleagues who, on one occasion, even tried to have him expelled from the Senate but failed to get the two-thirds vote necessary. They called him, among other things, a "miscreant" and a "sneaky, sinuous, snake-like poltroon."

You'll not be surprised to hear that in these verbal exchanges Sumner gave as good as he got. This is how he defended himself against Senator Douglas, of Illinois:

"No person with the upright form of a man can be allowed, without violation of all decency, to switch out from his tongue the perpetual stench of offensive personality. Sir, that is not proper debate, at least not on this floor. The noisome, squat, and nameless animal to which I now refer is not the proper model for an American Senator. Will the Senator from Illinois take notice?"

I can assure you debate on the Senate floor today provides no such tangy rhetoric.

But, unfortunately, these matters weren't limited to rhetoric.

On May 22, 1865, infuriated by Sumner's speech of two days earlier denouncing the Kansas-Nebraska bill and its southern advocates, a member of the House of Representatives from South Carolina accosted Sumner on the Senate floor. The Senate was not in session but Senator Sumner had remained at his desk writing letters. Contemporary accounts report that Senator Sumner looked up and saw a "perfect stranger, who said, 'I have read your speech twice over carefully. It is a libel on South Carolina and on Mr. Butler who is a relative of mine.'" He then set upon Sumner, who was pinned under his desk, with a heavy cane and beat him insensible. Sumner was incapacitated for the next three and a half years but, to its everlasting credit, the Massachusetts legislature returnd him to his Senate seat by a near unanimous vote nonetheless.

When Sumner resumed public life, it was, of course, to pursue his fixed principles. In October 1861 at the Massachusetts Republican convention he became the first statesman of any prominence to urge emancipation. To Sumner belongs the credit for public acceptance of the emancipation proclamation when it was finally issued.

Early in the second year of the Civil War, Sumner already had begun work to secure civil rights for all citizens, regardless of race, creed or color. Looking to the future he insisted that states which had seceded must have inserted in their constitutions provisions for equal suffrage for whites and blacks before they would be accepted back in the Union.

As the Civil war ended the two most influential men in public life in America were Lincoln and Sumner. Time has dealt differently with them and I think it is good in this place and on this occasion to redress the balance a little. I think Mr. Lincoln would approve.

There was a close bond between these two remarkable, principled men. When Sumner heard the news of Lincoln's assassination he went straight to him. A witness described the scene:

"Senator Sumner was seated on the right of the president's couch, near the head, holding the right hand of the President in his own. He was sobbing like a woman with his head bowed down almost on the pillow of the bed on which the President was dying".

Several days later Sumner received from Mrs. Lincoln the President's cane with the following note: "Your unwavering kindness to my idolized husband and the great regard he entertained for you prompt me to offer for your acceptance this simple relic."

Sumner had lost a powerful ally in his fight for civil rights. In response, he redoubled his own efforts. Eulogizing Lincoln in Boston shortly after his death, Sumner used the occasion to press his point that Negro suffrage was essential to lasting reconstruction. Of Lincoln he said:

"The inevitable topic to which he returned with the most frequency and to which he clung with all the grasp of his soul was the practical character of the declaration of independence in announcing liberty and equality to all men. No idle words were there, but substantial truth, binding on the conscience of mankind."

Sumner carried on the struggle for equal suffrage to the very moment of his death. His next to last words as he lay dying, were to admonish his friend Judge Hoar:

"You must take care of the Civil Rights Bill,—my bill—the Civil Rights Bill,—don't let it fail."

His last thoughts though were of Ralph Waldo Emerson. "Judge, tell Emerson how much I love and revere him," he said.

Emerson himself described Sumner as having "the whitest soul of any man I ever knew." He declared him to have been "the conscience of the Senate."

Perhaps I have dwelt too long on the example of Charles Sumner but it seems to me a particularly apt one. Sumner's great work was not so much in framing laws but in kindling moral enthusiasm, in inspiring courage and hope. His fearlessness in denouncing compromise and in demanding equal justice for all was a major force in the struggle that ended slavery.

What is lacking in America today and what is most needed, it seems to me, is just such moral enthusiasm. No one is sounding the call to greatness. No one is inspiring courage and hope. No one is kindling moral enthusiasm.

I do not believe we, the American people, are ready to write off the Republic as a noble experiment that failed. The American people are not prepared to abandon the hopes and aspirations of our declaration of independence. But we are desperate for someone to listen to us and to rekindle our faith in the system and in ourselves.

The lack of creative thinking in our highest offices, the failure to listen, the failure to keep up with the people, much less inspire and lead them—these are the reasons the Republican party is losing its mandate.

It's not just the bright young liberals who are deserting our party. It's the thousands of thoughtful, concerned moderate men and women of every age and every walk of life.

At the bottom line, I believe our party has to be true to its principles or there can be no party.

This is not simply a matter of restating our goal and then of redoubling our promises. We've got to examine and define those goals. We've got to determine our priorities and then we must address them in a positive, realistic way.

There is work at hand for Republicans to do!

We can, if we work hard enough at it, provide an income floor so that all Americans can achieve a minimum standard of living.

We can provide decent housing for people, housing they can afford—if we work hard enough at it and decide we want it.

We can provide jobs for everyone who wants to work—if we work hard enough at it.

We can improve our educational system so that it does educate.

We can improve our prisons so that they re-educate and rehabilitate rather than destroy the hearts and minds of those inside.

We can become blind to race.

We can protect all our families from the financial disaster of illness.

We can provide new hope for older Americans and new challenges for younger Americans.

And we can improve the quality of life and its significance in our cities, in our suburbs and in our small towns across the land.

We can do all these things if we work hard enough at it and if we decide that we want to do them.

There is a conservative task for us as well—we must prevent big government from opening our mail, eavesdropping at our windows, tapping our telephones and clandestinely entering our homes and our offices.

If being a conservative does not mean eternal opposition to these violations of the Constitution, then I think the words "conservative" and "republican" have lost their meaning and I think the Constitution is no longer familiar to us or understood.

Every task I have mentioned here is dictated to us by the traditional and fundamental principles of the Republican Party which include the belief, best stated by your own John Adams that: "The proper end of government is the happiness of society."

All of our challenges can be measured and met if we have the courage, the compassion and the creative spirit to do it.

Think back for a moment to Senator Sumner, lying insensible on the Senate floor, felled for pursuing principle. Now, ask yourselves whether we are giving principle the place it deserves in party life? How can we live up to the principles of Abraham Lincoln and of Charles Sumner, if we are not responsive to the disillusioned, the angry and the frustrated millions who have left us, or who believe we have left them?

Americans have a unique capacity for bouncing back. We are resilient. We can change. We can bend. We can absorb blows and come back with renewed spirit. Nothing yet—not the Civil War, not the riots in our cities, not Watergate, has been able to destroy the essential toughness of our spirit.

When Charles Sumner addressed those five thousand freedom seekers here at Worcester he urged:

"Come forward, men of all parties. Let us range together. Come forth, all who thus far have kept aloof from parties. Here is occasion for action. Men of peace, come forth. And we call especially upon the young. You are the natural guardians of freedom. In your firm resolve and generous souls she will find her surest protection."

I can think of no better exhortation with which to end my talk. Let me only add that no amount of eloquence can rally people to a cause that sacrifices its past and its principles to expediency. We *were* the party of humanity—let us once again *be* the party of humanity.

KUWAIT INDEPENDENCE DAY FEBRUARY 25, 1976

Mr. HARTKE. Mr. President, since Kuwait achieved independence in 1961, the country has experienced an era of unprecedented prosperity. The per capita income exceeds $3,700 and it has a highly developed welfare program.

Kuwait's broad range of government social services perhaps surpasses that of the Scandinavian countries in sheer scope and paternalism.

Year after year, Kuwait has expressed such views in various international forums. In recognition of Kuwait's active role in this field of development, its membership to the Governing Board of the United Nations Development Programme has been renewed for 3 more years after 4 years service on the board. Kuwait is also active in several other committees of the U.N. Economic and Social Council, the U.N. Industrial Development Organization, the U.N. Conference on Trade and Development and various other United Nations agencies dealing with development. Kuwait's contributions to the various U.N. agencies totalled $14,955,077 in 1974.

To match its words with deeds, Kuwait initiated an aid program a long time ago—a program which had developed and expanded with the passage of years.

Expressing his country's views on the development of the third world, Kuwait Foreign Minister, His Excellency Sabah Al-Ahmad had this to say in a statement before the U.N. General Assembly 5 years ago:

My country, which takes pride in the role which has enabled it to assist effectively in promoting the economic and social development of sister and friendly developing countries, attaches special importance to the Second Development Decade. It is not sufficient to lay down broad objectives. We must also define policy measures and programs of action. Commitments therefore must be very precise and of binding character. The strategy should emphasize the interdependence of the world economy and the necessity of making the opportunities equally available to all nations, especially the developing countries.

Since its independence, Kuwait has been evolving its own international identity and has joined a number of specialized agencies including the International Bank of Reconstruction, the United Nations and the International Monetary Fund.

Kuwait is the largest contributor to the Special Arab Fund for Africa and has contributed over $70 million for special projects.

We wish the State of Kuwait, His Highness Shaikh Sabah Al Salim Al Sabah, and the people of Kuwait, continued peace and prosperity on their day of Independence—February 25, 1976.

DR. GLEN P. WILSON

Mr. MOSS. Mr. President, it is not often that we recognize the contributions made by the dedicated individuals who comprise the professional staffs on our committees. And so when other institutions give special recognition to their achievements, then it is altogether fitting that the Senate takes time to recognize their distinction as well.

It is my sincere pleasure to announce to my colleagues the award presented to Dr. Glen P. Wilson, who has served on the professional staff of the Senate Committee on Aeronautical and Space Sciences since its inception in 1958.

At the Annual Honors Night Banquet of the American Institute of Aeronautics and Astronautics, he was given the following award:

JANUARY 29, 1976.

SPECIAL AIAA PRESIDENTIAL CITATION

Trained as an aeronautical engineer and psychologist, Congressional Staff Member of extraordinary dedication, Glen P. Wilson is hereby cited by his AIAA colleagues for his thoughtful counsel to the Institute, since the formative years of the nation's space program, on the importance of helping legislators and government officials understand the policy implications of developments in aerospace technology.

GRANT HANSEN,
President, American Institute of Aeronautics and Astronautics.

Dr. Wilson, we salute your service to the Senate and to the Nation.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I wish to report that, according to current U.S census approximations, the total population of the United States as of March 1, 1976, is 215,169,680. This represents an increase of 1,710,407 since March 1 of last year. It also represents an increase of 66,841 since February 1 of this year; that is, in just 1 short month.

Thus in this last year we have added enough additional people to our population to fill Columbus, Ohio, Denver, Colo., and San Antonio, Tex., combined. And in 1 month our population has expanded enough to fill an additional city the size of Boulder, Colo.

GEORGE WASHINGTON PEACE ACADEMY

Mr. HARTKE. Mr. President, I invite the attention of my colleagues to an editorial written by Howard Flieger that appeared in the U.S. News & World Report, December 29, 1975, issue concerning the George Washington Peace Academy as established in my bill, S. 1976.

The article is very thought provoking and raises questions which will be answered by distinguished scholars at hearings to be held on the bill by the Senate Subcommittee on Education in March. However, I believe that Mr. Flieger set the tone for the hearings and consideration by the country of the Academy when he charged:

It would almost take a warmonger to find fault with the goals of "Senate Bill 1976."

As I have stated before, the Academy will not lessen nor abate the role or posture of the Defense Establishment in this country. When peace initiatives have failed, and there is no other course to protect the foundations of democracy then the military services will be there when called upon just as they have been in the past.

It was my great pleasure this past Monday, February 16, to read in the Senate Chamber the farewell address written by George Washington announcing his retirement from the Presidency.

As we celebrate the birthday of our first President, George Washington, we should look to his writings and conclusions for sound reasoned evaluations of policies for the United States. In a circular to the States, June 8, 1783, George Washington wrote:

As there can be little doubt but Congress will recommend a proper Peace Establishment for the United States.

And in another circular to the States in the same year, George Washington believed peace should be a pillar—a cornerstone of the new Republic:

There are four things, which I humbly conceive, are essential to the well being, I may even venture to say, to the existence of the United States as an Independent Power . . . Thirdly, the adoption of a proper Peace Establishment.

It is vitally important that this country give full discussion to the establishment of the George Washington Peace Academy during our Bicentennial Year in order to set the direction our country takes during the next 100 years.

I ask unanimous consent to have printed in the RECORD an editorial by Howard Flieger appearing in the U.S. News & World Report of December 29, 1975.

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

THE PEACE ACADEMY

(By Howard Flieger)

It would almost take a warmonger to find fault with the goals of "Senate Bill 1976."

The proposal, whose sponsors want it to be the first order of business of the Bicentennial year, is for peace on earth. It was introduced by Senator Vance Hartke (Dem.), of Indiana, with two others, Mark Hatfield (Rep.), of Oregon, and Jennings Randolph (Dem.), of West Virginia, as co-sponsors.

They want the Government to establish a "George Washington Peace Academy," much along the lines of the present military academies operated by the Army, Navy and Air Force. The purpose of the new academy would be to train specialists in the arts of peace, as the others do in the arts of war.

It is hard to imagine a higher objective. But, to be realistic, it is equally difficult to figure out just what a peace academy would do. How do you teach peace?

One can yearn for it—presumably most people do—and pray that it will be everlasting. But how can the subject be refined to a course of study? And by whom?

Dictionaries define "peace" as freedom from war, the absence of hostilities. History has made it an abstraction.

War—ugly and inhumane—is a positive force with real, physical components. Its terrible skills can be taught.

Peace is the state of the world in the historically rare interludes when nobody is shooting up the place. It is, in other words, a negative. And negatives are difficult to teach, even harder to set in motion.

The student body of the Peace Academy would be composed of candidates nominated by members of Congress and appointed by the President, much the same way most of those at the military academies are selected for careers in the Army, Navy and Air Force.

After graduation, peace cadets would be expected to spend two years in public service—either in Government or with non-profit organizations. They would be encouraged to make peace their life work.

But how can a faculty be put together for such an institution? What constitutes a discipline in peace?

The most dedicated disciples of peace disagree on how to attain it. Some would turn

the other cheek. Others argue peace is power that comes out of the barrel of a gun. Still others see it as the product of compromise that entices potential adversaries onto an unstable but becalmed plateau.

One man's peace is another's poison.

Senator Hartke, in a statement accompanying the bill, told his colleagues:

"The Academy will train individuals in the development of a posture which would serve to relieve the tension of a conflict situation. The arts of negotiation, arbitration, mediation and conciliation will be explored so as to extrapolate from their methodologies a new art of resolution to be utilized. It will present the facets and factors of any given dispute in the appropriate intercultural context by an international communication system before the appropriate forum to determine a peaceful or nonviolent resolution of the difference."

In simpler words, the academy would teach people and nations how to settle their differences without rattling a saber.

The same thing is the Charter goal of the United Nations, though its approach is parliamentary rather than academic. Its purpose—at least, the purpose of its founders—was to replace war with peace. At best, its record barely rates a passing grade.

The objectives of a peace academy are ennobling. A nation schooled in the ways of peace is an ideal that, once attained, could be civilization's greatest achievement.

But history and human nature being what they are, one is justified in crossing fingers. A peace academy would be only a first step toward a cherished but elusive goal.

A MESSAGE FROM A NURSING HOME RESIDENT

Mr. FONG. Mr. President, as ranking minority member of the Senate Special Committee on Aging, I have received a heartwarming communication from Mr. Walter Gardner, a nursing home resident, which I believe should be brought to the attention of other Members of the Senate.

During the past several years I have shared with my fellow members of the Committee on Aging, and its Subcommittee on Long-Term Care, deep concern about the evidence of fraud and abuses, including mistreatment of patients and inadequate care, in some of the Nation's nursing homes. It is gratifying, therefore, to also receive word which confirms, as has been the committee's opinion, that not all nursing homes are bad and there are a number which actually provide the kind of tender, loving care which all incapacitated and enfeebled older Americans should receive.

I have been informed that Mr. Gardner, a former newspaper writer, is in his late seventies and afflicted with arthritis. What the printed record cannot show is the legible and attractive quality of his handwriting which reflects his pride in self and his determination to live successfully despite his handicap.

Mr. Gardner's letter is in two parts, both of which are worthy of attention. The first part is an expression of appreciation for the high quality of care and concern offered to the 180 residents of Whitewood Manor in Waterbury, Conn. The second part is a brief essay, appropriate to our Bicentennial, "The Stars and Stripes Forever." This reflects Mr. Gardner's great love for this country and its history.

I ask unanimous consent that the material I have referred to be printed in the RECORD.

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

WHITEWOOD MANOR,
Waterbury, Conn., February 7, 1976.

Hon. Senator HIRAM L. FONG,
The Honorable Senator from the State of Hawaii, Honolulu, Hawaii.

DEAR SIR: I am a native New Yorker, but I now live at beautiful Whitewood Manor, a nursing home for 180 aged and disabled people. This is a superior place in a fine location in Waterbury. Mrs. Margaret Hobart, who is our very able administrator, makes every possible effort to insure that this nursing home remains the same. All of us appreciate and are grateful for the type of living provided. The cheerful attitude of the nursing staff, the kindness and thoughtful care shown us are the orders of each day. We would indeed—consider it a delight and high honor if you could some day pay us a visit. A reception and dinner would be planned for this occasion, by our dependable recreation people. We wish you well and ask God's blessing on you and those dear to you.

May Divine Providence guide you and intercede for you in your association with others.

THE STARS AND STRIPES FOREVER

Long ago our flag had but thirteen stars representing the States of the Union. Our country was young then and has grown so mighty that today it boasts of fifty stars on its field of blue. We must all respect the flag. It is a symbol of our birthright, our heritage, the freedom for which countless men have fought and died. Let us revere the memory of the Unknown Soldier. It is important to remember that we are the greatest nation on earth, a nation under God, and a democracy. Loyalty to it means protection of it no matter what the cost. But we must respect the rights of other nations and a brotherhood of all men. Let us take an imaginary trip into space and there build a reviewing stand for our famous leaders. Imagine the thrilling spectacle now ready to unfold before our eyes. Sitting on the stand are Washington, Madison, Lincoln. Now the largest parade ever assembled is putting on a display never to be forgotten. Marching by are the men of the Army, Navy, Marine, the brave of all years past who sacrificed to ensure our liberty. Now the National Anthem is being played. This was written under bombardment during war time. Now we hear the greatest of all band marches, The Stars and Stripes Forever. What patriotic feelings that stirs in all hearts. All regimental flags are being proudly carried by the standard bearers to the rousing music. Standing erect are those in the reviewing stand. All briskly salute the red, white, and blue. Suddenly there is silence and a complete blackout. The stars disappear from the sky and the marching heroes fade, and finally the impressive figures of Washington, Madison and Lincoln vanish. Reluctantly we return to earth in our space ship. All that is left in the sky is the reviewing stand. This experience will be long remembered. It is to be hoped that something of our leaders' spirit will rub off on us. Let us cherish our proud flag and all it stands for. It should never be destroyed or desecrated, but be regarded as something sacred in its symbolism. Let us be proud that it was the first to be implanted on the moon and of the valiant men that made that possible. Long may it wave there over our land and in the hearts of all Americans! God bless America!

Please excuse penmanship and mistakes, my hands are disabled.

WALTER GARDNER.

DISTRICT OF COLUMBIA COMMITTEE RULES

Mr. EAGLETON. Mr. President, in accordance with the Reorganization Act of 1947, as amended, I ask unanimous consent that the rules of the Committee on the District of Columbia be printed in the RECORD.

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

RULES AND PROCEDURES OF THE SENATE COMMITTEE ON THE DISTRICT OF COLUMBIA

Rule 1. Unless the Senate is meeting at the time, or it is otherwise ordered, and notice given, the Committee shall meet regularly at 10:30 a.m. on the second Friday of each month. The Chairman may, upon proper notice, call such additional meetings as he may deem necessary, or at such times as a quorum of the Committee may request in writing, with adequate advance notice provided to all members of the Committee. Subcommittee meeting shall not be held when the full Committee is meeting.

Rule 2. The rules of the Senate and the provisions of the Legislative Reorganization Act of 1970, insofar as they are applicable, shall govern the Committee and its Subcommittees. The rules of the Committee shall be the rules of any Subcommittee of the Committee.

Rule 3. The Chairman of the Committee, or if the Chairman is not present, the ranking majority member present, shall preside at all meetings. A majority of the members of the Committee shall constitute a quorum of the Committee. However, the Committee may authorize a quorum of one Senator for the purpose of taking testimony.

Rule 4. Unless otherwise determined by a majority of the Committee, written proxies may be used for all Committee business, except that proxies shall not be permitted for the purpose of obtaining a quorum to do business. Committee business may be conducted by a written poll of the Committee unless a member requests that a meeting of the Committee be held on the matter.

Rule 5. There shall be kept a complete record of all Committee action. Such records shall contain the vote cast by each member of the Committee on any question on which a yea or nay vote is demanded. The record of each yea and nay vote shall be released by the Committee either at the end of the executive session on a bill or upon the filing of the report on that bill as a majority of the Committee shall determine. The clerk of the Committee, or his assistant, shall act as recording secretary on all proceedings before the Committee.

Rule 6. All hearings conducted by the Committee or its Subcommittee shall be open to the public, except where the Committee or the Subcommittee, as the case may be, by a majority vote, orders an executive session.

Rule 7. The Committee shall, so far as practicable, require all witnesses heard before it to file written statements of their proposed testimony at least 72 hours before a hearing and to limit their oral presentation to brief summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the Committee.

Rule 8. Should a Subcommittee fail to report back to the full Committee on any measures within a reasonable time, the Chairman may withdraw the measure from such Subcommittee and report that fact to the full Committee for further disposition.

Rule 9. Attendance at exceutive sessions of the Committee shall be limited to members of the Committee and the Committee staff. Other persons whose presence is requested

or consented to by the Committee may be admitted to such sessions.

Rule 10. The Chairman of the Committee shall be empowered to adjourn any meeting of the Committee if a quorum is not present within 15 minutes of the time scheduled for such meeting.

Rule 11. Subpoenas for the attendance of witnesses and for the production of memoranda, documents, and records may be issued by the Chairman or by any other member designated by him. The subpoena shall briefly state the matter to which the witness is expected to testify or the documents to be produced. All witnesses subpoened before the Committee who are to testify as to matters of fact shall be sworn by the Chairman or another member.

Rule 12. Accurate stenographic records shall be kept of the testimony of all witnesses in executive and public hearings. The record of a witness' own testimony, whether in public or executive session, shall be made available for inspection by witneses or by their counsel under Committee supervision; a copy of any testimony given in public session or that part of the testimony given by a witness in executive session and subsequently quoted or made part of the record of a public session shall be made available to any witness at his expense, if he so requests. Witnesses not testifying under oath may be given a transcript of their testimony for the purpose of making minor grammatical corrections and editing, but not for the purpose of changing the substance of the testimony. Any question arising with respect to such editing shall be decided by the Chairman.

Rule 13. Subject to statutory requirements imposed on the Committee with respect to procedure, the rules of the Committee may be changed, modified, amended, or suspended at any time, provided, however, that not less than a quorum of the Committee so determines in a regular meeting with due notice, or at a meeting specifically called for that purpose.

WHAT HAS CONGRESS BEEN DOING?

Mr. GOLDWATER. Mr. President, a friend of mine in California, Mr. John Murphy, has sent me a very interesting summation of what Congress has done in the last several months. While my colleagues might not agree with it entirely, it points out an interesting interpretation by an American citizen of just what we have been up to and I ask unanimous consent that it be printed in the RECORD.

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

CONGRATULATIONS

(By John F. Murphy, Jr.)

In the last few months, "our Congress" has successfully accomplished the following (objectives??):

(1) Decimated the morale and effectivity of our counter intelligence agencies. This was performed by publicizing its errors (not its accomplishments), and providing the ammunition for ridicule to irresponsible agents of the press.

(2) Provided the agencies of foreign, nonfriendly, countries with the identity of our agents. This has resulted in the assassination of *at least* one American agent.

(3) Exposed the systems, inner workings, and budgets of the agencies. This has saved "our enemies" incalculable monies and efforts.

(4) Established monetary controls to prevent the future recovery of the agencies.

(5) Started the process of imposing a politically motivated and incompetent group of overseers to guarantee future ineffectual operation of the above agencies.

(6) Fomented anti-Americanism in nations where these agencies operated. This was done on the pretext that the nations involved would appreciate your efforts to help "save" them. The heads of the affected Governments were already aware of these acts and had no need for your publicity and the resultant turmoil.

(7) Imposed the purportedly high sense of congressional morality on our international commercial dealings, thereby seriously handicapping the sales efforts of U.S. based companies. Our foreign competition does not abide by these ideas of "fair play".

(8) Imperiled the continuation of the operations of the Lockheed Aircraft Corporation. The effort to divest the Congress of any responsibility for this potential economic collapse by foisting it off as a result of the subject payments is ludicrous.

(9) Created havoc and the potential collapse of friendly Governments in Japan, Italy, the Netherlands, etc. The enemies of the free world could do no better

(10) Forced, through embarrassment, the cancellation of over two billions of dollars in U.S. aircraft sales. Untold billions of dollars in foreign sales which were not firm are also in jeopardy.

(11) Eliminated the potential for thousands of jobs for Americans through the above actions.

(12) Motivated, through political pressure, the resignation of numerous highly placed, brilliant and respected business leaders. The resulting "shake-ups" will surely decrease the efficiencies of the operations involved and result in more unemployment.

(13) Invited the Communists to establish a major foothold in Africa by refusing to accept responsibility. Those who wished to take a share of the responsibility were quashed by congressional restrictions imposed through emotional fervor.

(14) Impressed political intervention on free enterprise as regards foreign military sales. The result can only be fewer sales, higher unemployment and weaker allies.

(15) Supposedly seduced the public into believing that the socialist experiment currently failing in Great Britain will be our salvation.

(16) Attempted to justify the United States being a second rate power on the basis of the "kill capacity" of our nuclear arsenal which can only be used for Armageddon. (It is ironic that Lockheed was a prime source for a large portion of this arsenal.)

(17) Implied that the 20-year-old B-52 bombers are being scavenged to keep a porstitute an adequate bomber force. These bombers are being scavenged to keep a portion of them flying. Complete overhaul and renovation would cost as much as the B-1 with a resultant inferior weapon.

(18) Allowed the false hope of S.A.L.T. and detente to blind the people and encourage increases in social welfare at the expense of an adequate military force.

Our enemies could do no better in destroying this nation. Examine your conscience and motivation in light of the possible results of your actions. Is re-election worth it? True divergence of opinion seems to be lost to the sense of expedient self-fulfillment. Is loyalty to one's Country a thing of the past?

ARMS RACE

Mr. CLARK. Mr. President, if we are ever to achieve lasting arms control, we will need the support of a wide variety of interests in the international community, not the least of which is the scientific community. Scientists can play a valuable role in alerting the public to the dangers of the continuing arms race. A recent article in the New York Times by William Epstein discusses this point most persuasively. 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 New York Times, Feb. 18, 1976]

SCIENTISTS AND ARMS

(By William Epstein)

The spiraling arms race is no longer a race of numbers but of technology. The strategic-arms-limitation and Vladivostok agreements set numerical ceilings on the number of strategic nuclear weapons and delivery systems. These quantitative limits were set fantastically high, since the Americans and the Russians were already able to wipe out each other's major cities (over 100,000 in population) by 36 times and 12 times respectively.

No limitations whatsoever have been placed on the development of new offensive strategic weapons or conventional ones. Most experts now regard the strategic-arms agreements as mere blueprints for continuing the nuclear arms race under agreed terms and conditions.

President Dwight D. Eisenhower, in his farewell address, warned the nation not only against the "military-industrial complex" but also against the danger of a "scientific-technological elite."

All the weapons of destruction were conceived in the fertile brains of scientists. They invented the atomic bomb, the hydrogen bomb, intercontinental ballistic missile (ICBM's) and submarine-launched ballistic missiles (SLBM's). They invented MIRV's (multiple independently targetable re-entry vehicles) and are now busy MARVing (MARV's are maneuverable re-entry vehicles) the MIRV's, so that they can be maneuvered right onto their targets, and are developing cruise missiles.

They dreamed up biological and chemical weapons, laser-guided "smart" bombs, and the electronic battlefield. We cannot foresee the terrible doomsday weapons that scientists may yet develop.

Current estimates are that over 25 percent of all scientists and engineers in the United States and Soviet Union are engaged in weapons work of some kind. Less than one-hundredth of 1 percent are directly engaged in arms control or disarmament.

Scientists have a truly awful burden of responsibility for the ongoing arms competition. Science may be neutral and amoral, but scientists are not. Though politicians and government officials make the decisions, scientists cannot escape responsibility. They have a moral duty to use their capabilities for the benefit of humanity and not for its destruction.

Scientists must examine the human and social implications of their work. They should refuse to participate in developing new weapons or launchers. They should check their work with other scientists in social, environmental and related fields. They should create some organizations authorized to evaluate their research and to bar weapons work. They should refuse to undertake secret work and insist on their right to publish the results of their research freely and openly.

Since scientists and engineers have greater knowledge of the dangers to human survival, they should intensify their activities for alerting the public and officials to the perils of the continuing arms race. They should become more deeply involved in educational work and in political efforts to achieve arms control and disarmament.

If scientists and engineers were to establish, both nationally and internationally, a

code of conduct along these lines, and unite their efforts behind a sort of "Hippocratic oath" not to engage in developing new means of mass murder, they could have great influence. International organizations, associations of scientists and other professional bodies can provide publicity, moral support and tangible assistance to scientists and engineers, even in dictatorial countries, where imprisonment or harassment might result from their adhering to such standards.

We are losing the race to control the arms race. Scientists can and should take the lead in developing ways and means of stopping that race.

NUCLEAR POWER CONTROVERSY

Mr. BAKER. Mr. President, yesterday morning in the Washington Post, Tom Braden discussed America's energy needs and shortcomings as he saw them under the title of "Nuclear Power: The Ugly Facts." Mr. Braden reaches the same conclusion asserted recently in New Yorker magazine by Barry Commoner:

The entire nuclear program is headed for extinction.

I am somewhat reminded at this point of the response of Mark Twain when informed that the press in America was reporting the occurrence of his untimely demise during a trip abroad. "The reports of my death," cabled Mr. Twain from London, "are greatly exaggerated."

I feel the same sort of comments can be made regarding America's peacetime nuclear power program. It seems to me that there were two or three comments in the article this morning which seemed particularly deserving of response. First, after recounting the testimony of Messrs. Minor, Bridenbaugh, and Hubbard, formerly of General Electric, and after describing in brief detail the past 25 years of the nuclear power industry in this country, Mr. Braden advances the notion that nuclear power has succeeded because it received 60 times more Federal subsidy than its potential alternatives, such as solar energy. What he fails to note, however, is that, while receiving some 60 times as much Federal subsidy by his own analysis, nuclear power has produced at least a 1,000 times more usable energy during that same span than have alternative sources.

As a matter of fact, the successes of other energy sources such as solar, geothermal, wind, et cetera, are infinitesimally small by comparison. Furthermore, those associated with these alternative programs tell us they are receiving all the funding they can reasonably absorb. At a time when nuclear power is generating some 9 percent of America's total electricity output and as high as 30 percent in some of our more populated States such as Illinois, it behooves us to pay special heed to the situation that might exist without nuclear power.

This leads me to my second point, and one to which the article gave special heed this morning. Mr. Braden is very concerned about the growing realization that "the responsibility will seem too great a burden to bear" for Congressmen and others who must make decisions regarding nuclear energy. I would suggest that the problems and the responsibilities are no less great now in regard to support of this program than they have ever been.

As a matter of fact, I, too, have gone through the same soul searching and introspection that some of those who have recently testified before the Joint Committee on Atomic Energy are now going through. I have never suggested that there are no risks associated with atomic energy, but that the risks, when compared to America's energy needs, are risks that should be taken. An equally sobering risk is what will happen to this country if Congressmen and Senators do not act to solve or, at least, address America's energy requirements? I do not believe that either I or my colleagues will shirk a program that we believe to be in the public interest simply because the burden of responsibility attached to it may seem to grow. I would encourage those on both sides of the nuclear debate to pay special attention to the body of testimony which supports, as well as detracts from, the successes of the nuclear power industry.

In closing, Mr. President, there is a final comment by the writer of the Post article to which the Congress needs to address itself. Mr. Braden acknowledges talk in some corridors regarding the abolition of the Joint Committee on Atomic Energy in favor of a Joint Committee on Energy which could more specifically address all energy problems, including those associated with alternative fuel programs. While this Senator is convinced that the overall effort and impact of the Joint Committee on Atomic Energy has been a positive one, I am certainly not opposed to the establishment of a joint committee which could survey and address America's total energy needs. As a matter of fact, on a number of occasions, I have bemoaned the fact that the congressional approach to America's energy needs is too piecemeal and evasive. Perhaps, one of the outgrowths of the current nuclear debate might be not only to focus attention on the nuclear segment, a still relatively small, but yet important, part of America's energy program, but to enable the Nation to come to grips with the entire set of energy dilemmas which confront us.

In the spirit of fair play and open discussion of issues, Mr. President, I ask unanimous consent that a copy of the article by Mr. Braden 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, Mar. 1, 1976]

NUCLEAR POWER: THE UGLY FACTS

(By Tom Braden)

High over the floor of the U.S. Senate there is a windowless hearing room—an early architectural tribute to the needs of security—where there took place last week a confrontation more important than the one in New Hampshire.

On the one side were three men who had resigned their jobs because they honestly believed that what they were doing was too dangerous to their country to keep on doing.

On the other were 18 senators and representatives—members of the Joint Atomic Energy Committee who were facing up to their own fears and failings.

The testimony of the witnesses was dramatic and the kleig lights captured the drama for television news clips. But what they couldn't capture was the history which must have been running through the minds of the congressmen and senators who sat there and listened. After 25 years, after lavish federal subsidies, after almost unanimous support from successive legislatures and Presidents, the promise of safe, reliable nuclear power—"power too cheap to meter," it was once predicted—was going aglimmer in the words coming out of the mouths of the witnesses.

"My reason for leaving the program," said Gregory G. Minor, the General Electric Co.'s manager for advanced controls and implementation, "is my deep conviction that nuclear reactors and nuclear weapons now present a serious danger to the future of all life on this planet."

Dale G. Bridenbaugh, General Electric's manager for performance evaluation and improvement, testified as follows: "The magnitude of the risks, the uncertainty of the human factor and the genetic unknowns have led me to believe that there should be no nuclear power."

And Richard B. Hubbard, General Electric's manager for quality assurance, said this: "There is no way you can continue to build the nuclear plants and operate them without having an accident."

Congressmen and senators asked questions. What they were thinking cannot be recorded. But the thoughts must have ranged from the wistful to the sad. Some of these men and their predecessors through the years built careers supporting nuclear power. They have advanced it as a self-fulfilling prophecy. They have seen to it that nuclear power received 60 times more federal subsidy than its potential alternatives such as solar energy. And until recently, at least, they have all believed that they were presiding over the development of an energy supply that would make the nation independent, no longer a partial hostage to the oil-exporting countries.

Now they were facing reality, recited to them articulately, in dry and measured tones. It cannot have been pleasant.

They will probably thrash around for a while, which is what men usually do when confronted with ugly facts. They will try to find other experts who will try to cast doubt upon the doubts.

But the responsibility for continuing with a program which might lead to disaster is a very grave responsibility. As the testimony sinks in and the doubts grow, the responsibility will seem too great a burden to bear.

There is talk in the corridors now of abolishing the Joint Atomic Energy Committee in favor of a Joint Committee on Energy and of putting money into alternative programs. As energy expert Barry Commoner reported in a recent three-part New Yorker series on the country's energy policies, "The entire nuclear program is headed for extinction."

INEFFICIENCY AT THE COMMUNITY ACTION AGENCY

Mr. MOSS. Mr. President, in past months I have become increasingly aware of the extensive administrative inefficiencies in our Government agencies. One of those agencies with which I have encountered an inordinate amount of inefficiency in recent months is the Community Action Agency.

I recently received from a constituent who must necessarily deal with that

agency, a copy of correspondence which once again describes with great clarity the inefficient administration and waste of money at the Federal level.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD so that all of my colleagues might be made aware of one more example of the Community Action Agency's waste of program dollars for inefficient administration, dollars which could well be spent on the needs of those for whom the agency has been established, the less fortunate and poor people of our communities.

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

BEAR RIVER ASSOCIATION OF GOVERNMENTS,
Logan, Utah, January 27, 1976.

Mr. DAVID MATHEWS,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. MATHEWS: The Bear River Association of Governments has become increasingly concerned in recent months over the many problems, undue expenses, and appalling bureaucratic hindrances resulting from poorly written federal legislation, inflexible program regulations, and insensitive interpretations made by at least some Denver regional office personnel.

The Bear River Association has gone on record as vigorously protesting these types of legislation enacted by Congress, and the subsequent inept involvement of regional bureaucrats, which wastes large sums of taxpayers' money needlessly on program administration. This diverts untold financial resources from their intended use.

One atrocious example of this is the Equal Opportunity Act of 1964 and its successor the Community Services Act of 1974 which funds our public Community Action Program. On July 1, 1974, after considerable effort, time, and involvement on the part of state, local and federal officials, a State of Utah Community Action Agency was created with liaison with all local delegate Community Action agencies. Among other reasons, the purpose of the change was to make the program more responsive to local needs and less expensive to the taxpayers by maintaining an efficient and economical relationship between the local Community Action Agencies and the federal Regional Office in Denver. At that time, the change was endorsed and encouraged by the federal Region VIII Office of Economic Opportunity in Denver.

With the involvement of representatives from the Denver Regional Office, a very conscientious and effective state of Utah CAA Board of 18 public officials, citizens, and participants was organized. A capable State staff to provide close and economical liaison with local delegate agencies was hired. After meeting regularly for a few months (involving from 20 to 30 people) it became clear that the legality of the State Agency was being questioned by some, and the Denver CSA office was asked to clarify the status of the Board and the State as the Agency.

The request for clarification was made formally a number of times by Governor Calvin Rampton, and by others informally. There was, in our opinion, an inexcusably slow and generally incompetent response to this request. A request which should have taken a few weeks to resolve took five or six months. In the meantime, the Board was frustrated, programs were in limbo, the poor people of the State of Utah suffered, State and Board decisions were ignored or reversed at the regional level, and a gross insensitivity to those involved at the State Board level was exhibited.

After being declared in technical violation of the Equal Opportunity Act by legal council of the Community Services Administration (which was party to and encouraged its creation), the State Board was disbanded, after much time, effort and expense had been unnecessarily expended because of, in our opinion, loose and inefficient administration from the Denver regional office.

After this declaration, we were informed that representatives from the Denver Regional Office would need to meet with each of Utah's seven regional associations of government and explain the alternatives for redelegating CAA on a local level. In spite of protests this was done! A telephone call would have sufficed after all of the previous information and discussions had been held. State staff could have handled it very adequately. Regardless, three people flew from Denver to Salt Lake, drove 256 miles round trip from Salt Lake to Garden City, Utah, attended our Bear River Association of Governments meeting, and were of absolutely no help whatsoever! We knew in general what needed to be done, and the details could have been handled by telephone and mail. A gross waste of time and money.

To compound this atrocious fiasco, we were then informed that staff from the Denver regional office would need to attend hearings required to be re-held in order to re-designate local administering units of CAA's. Ridiculous, but this was done. A Denver representative came to the Bear River Association hearing and made absolutely no helpful contribution. Again, anything needed could have been handled by telephone or mail.

If this method were repeated, and we understand it substantially was, in the other several regional areas of the State, consider the waste of time, energy and money. If one to three people from Denver attended each of the seven regional association meetings twice this would be from 14 to 42 round trips from Denver to the various associations in the State of Utah, and 28 to 84 days lost by Denver regional office personnel to perform a very questionable service.

Estimating air fare, per diem, in-state travel, and other expenses at about $200 per trip x 14 to 42 trips, and wages and fringe benefits and lost service from the Denver office at about $100 per day x 28 to 84 days, it would cost between $5,600 and $16,800 *just* to administer or monitor a state program, less efficiently and less effectively, from the Denver regional office. The poor people of the State could use this money to much greater advantage.

We would consider these estimates very minimal. Multiply these by the other states involved, and by the other similar federal programs, and the costs multiply inexcusably. When this is happening, state and local integrity, authority, initiative, and responsibility is being undermined and weakened, not strengthened, and an ineffectual bureaucratic regional system perpetuated. In our opinion a regional office should perform the sole function of expediting the fund flow as efficiently as possible to states, and provide program assistance and *minimal* monitoring only as needed or requested by state or local units. This is a very important principal, one which we intend to press at every level and on every occasion possible.

Another example of poorly written and inflexible legislation and poor interpretation is the Health Planning and Resources Development Act of 1974 (P.L. 93-641). Considerable staff time at the state and local level has already been expended trying to interpret the law and design a health planning structure that will both meet Utah's needs and comply with the law.

One example, and only one, of unduly rigid program regulations pertaining to Title III of the Older American Act requires a "full-time" director in each Area Agency on Aging. It is our experience that a full-time planner on aging is unnecessary and ridiculous in rural areas of Utah. Again, at best an unwise, if not grossly wasteful use of money.

It is the determination of the Bear River Association of Governments that all federal legislation should have flexibility similar to that contained in Title XX of the Social Security Act. Title XX has allowed state and local governments an opportunity to tailor human service planning and programs to meet local needs. It generates interest and develops expertise at the local level. It helps strengthen local initiative and accountability. It places the decision making at a level where it must be in order to combat the trend toward perpetuating an extremely top-heavy bureaucratic structure which we feel will eventually lead to the destruction of the self-governing principles of this nation.

We expect, or at least hope, you will take into account our concerns, even to the point of investigating why it was necessary for *three* people to attend the Bear River Association of Governments' meeting held at Garden City, Utah on November 19, 1975, who they were, and who paid their way.

We appreciate very much your consideration of our concerns. Thank you.

Sincerely,

DON E. CHASE,
Chairman, Bear River Association of Governments.

ADMINISTRATION OF ERISA FOR THE BENEFIT OF AMERICAN WORKERS—II

Mr. JAVITS. Mr. President, as coauthor of the Employee Retirement Income Security Act of 1974 and as ranking minority member of the Senate Labor and Public Welfare Committee I would like to supplement my report of last Thursday on ERISA administration.

Recently the administration of the Pension Reform Act by the executive agencies has been under attack by a vocal minority of the pension community who fought pension reform from the beginning. Because the basic elements of pension reform remain so important to the vital interests of the many millions of Americans affected by the Act, the controversy regarding the "bureaucratic red tape" should not serve as a smokescreen for those who would reverse the course of pension reform.

It is crucial to remember that after a decade of hard work in Congress ERISA was drafted to impose strict standards on pension plans with respect to: First, vesting, the guaranteed right to a pension after a reasonable period of pension plan participation; second, funding, the imposition of financial standards and safeguards to insure that the pension plan is financially capable of meeting its pension obligations; third, fiduciary standards, a statutory code of ethics which mandates that trustees, administrators, and pension plan advisers owe an uncompromising loyalty to pension plan participants and retirees in the day to day business decisions they make on their behalf; fourth, reporting and disclosure, the absolute right of pension plan participants and retirees to know precisely how their plan operates, the benefits to which they are entitled, and the financial condition of their pension plan; and fifth, termination insurance, a quasi-governmental insurance program

which insures pension benefits in the event of pension plan termination.

While the critics of ERISA initially charged that the administration of the act is leading to excessive costs I note that recent studies have indicated that the administrative and professional cost impact of ERISA administration has been minimal while the reform described above has been monumental. The critics of ERISA maintained that 5,000 pension plans terminated in 1975, as a direct result of ERISA. I note that the PBGC has stated that the number of terminations while initially estimated at 5,000 is in actuality closer to 4,000 either of which is less than 1 percent of the pension plans covered by the act. Moreover the PBGC has indicated that the vast majority of pension plans terminated due to the lagging economy rather than complaints about pension reform. Indeed the Labor Department has just reported that the number of companies that have terminated pension plans in the wake of the Pension Reform Act was much smaller than was initially anticipated.

With the protection of pension reform fully engraved in Federal law we must continue to work for perfection of the act's administration. However, we must work to insure that criticism directed at administration of the act is not used as a vehicle to alter substantive reform.

Mr. President, I ask unanimous consent to have printed in the RECORD the article I coauthored with Senator WILLIAMS that appeared in the New York Times on February 29, 1976 which addresses the arguments made by critics of pension reform along with two supporting letters from readers of the Times and a February 24, 1976, article that appeared in the Milwaukee Journal Business News concerning ERISA administration.

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

IN DEFENSE OF THE PENSION REFORM ACT—SENATORS JAVITS AND WILLIAMS SAY THE PROTECTION IS ALREADY BETTER

NOTE.—The following article was written by Senator JACOB K. JAVITS, Republican of New York, and Senator HARRISON A. WILLIAMS, JR., Democrat of New Jersey, who were co-authors of the Employment Retirement Income Security Act.

The pension reform law of 1974—formally titled the Employee Retirement Income Security Act and commonly known as ERISA ("eerissa")—established a comprehensive framework of safeguards guaranteeing the private pension rights of 35 million American workers. Now, it is under attack from a vocal minority, one which has opposed the legislation since its inception.

There have been allegations recently that pension plan terminations in 1975 were attributable to ERISA and the alleged bureaucratic logjam of executive agencies responsible for its administration. The loudest critics of the act are those consulting firms, actuaries and other members of the pension industry who fought reform in the first place, and now may think they have found a new way to undermine its credibility.

The vital interests of so many millions of Americans in this fundamental reform do not deserve a renewal of past hostilities, but an objective analysis of the performance of the law to date.

In 1973, the year prior to the enactment of the reform law, 4,130 pension plans were terminated, according to Employee Benefit Plan Review, a pension industry publication. While precise figures for 1974 are not available because of the changes in bureaucratic administration, we do know that the number of terminations in 1975 was smaller than the 5,000 that is commonly cited by the critics and was initially reported by the Pension Benefit Guaranty Corporation, the new Federal agency created by ERISA to insure private pension plans.

In fact, administrative errors inflated the number of terminations last year. Those errors included double counting, mistaken filings and other mistakes that accounted for more than 700 false terminations.

While less than 1 percent of the 600,000 pension plans affected by ERISA in 1975 were terminated, more than 33,000 applications for new pension plans were received by the Internal Revenue Service during the same period. It must be noted that the terminations of 1975 occurred during the longest and deepest of the post-war recessions.

During recent hearings held jointly by the Senate Small Business and Finance Committees to investigate the causes of terminations in 1975, Internal Revenue Service and Pension Guaranty Corporation officials testified that their studies indicate the vast number of pension terminations were caused by business mergers, the substitution and establishment of new pension plans, and the recession.

Bureaucratic burdens created by the initial administration of ERISA were not cited as an important cause.

Specifically, a recent Pension Benefit survey found that "37 percent of the terminating plans cited adverse business conditions, 18 percent showed the termination of all or a portion of the employer's operations, and 13 percent listed change of ownership. Adoption of another plan was the reason in 16 percent of all the cases." The number of terminations during 1975 is not surprising in light of preliminary statistics received verifying that the bulk of plans were very small and very new.

The major tests for ERISA in 1975 occurred when two household names—Grant's and REA Express—went out of business after more than 50 years of existence.

Late last year, 650 retirees of the bankrupt REA Express Company began to receive their monthly pension checks in the mail. The checks were not signed by REA Express but by the Pension Benefit Guaranty Corporation. Without ERISA, those retired workers would have no pension today.

While the Grant bankruptcy is being resolved in Federal court, the P.B.G.C. is going forward in processing Grant's pension plan coverage respecting its retirees.

To date, 1,700 participants are receiving a total of approximately $250,000 in monthly benefits from the corporation. In addition, more than $35 million of insurance premiums have been collected as a reserve to protect employees in terminated pension plans.

After nearly a decade of hard work in Congress, ERISA was drafted to create comprehensive standards of protection for workers with respect to vesting, funding, fiduciary standards, reporting, and disclosure and termination insurance. These key elements of pension reform were the product of spirited bipartisan Congressional support and the result of worker dissatisfaction with widespread abuses in private pension plans.

As we review the current outcry from pension reform critics, Congress must be careful not to let any controversy over regulations and administrative requirements serve as a smoke screen for those who would reverse the course of pension reform.

We are concerned that ERISA be administered and enforced efficiently and effectively by the executive branch. And we do not condone the executive department's delay in promulgating regulations and exemption procedures in order to provide pension plans with appropriate guidance and administrative relief.

But we should not conclude that criticism of administrative procedure warrants cutting back on the essential protection provided to the 35 million American workers for whom these reforms were intended.

COMMENTS FROM TWO READERS

The article "Backing Out of Paying Pensions" which appeared in this section on Feb. 8 elicited several responses from readers, the burden of which was that pension reform efforts have been unfairly maligned. Following are two of those letters.

Let's take a look at some of the problems often raised by articles about Employee Retirement Income Security Act.

"We can't afford to fund it now" is one common plaint. More than 5,500 private pension programs have been terminated since the passage of the act. Only 1,250 were originally anticipated. Upon closer examination, however, we find that economic conditions since Sept. 2, 1974, when ERISA became law, have been the real reason for perhaps one-half of the terminations.

Many small plans were already in deep trouble due to poor administration, ignorance of pre-ERISA rules, imprudent investment practices and a fear of additional reporting requirements of the Internal Revenue Service or the Labor Department. As a result many "sick" plans, became "terminal".

"The cost of administration is expected to go up from 50 percent to 100 percent," is another common cry. Such blanket statements are misleading and either create or feed a sense of panic. Some plans require minimal service, both pre-ERISA and post-ERISA. Reporting forms for the I.R.S. and Labor Department are in any case not going to be that much different or more detailed that they would justify doubling service charges.

A related complaint arises from the fact that the new law is administered by the two agencies, whereas before only I.R.S. was involved. Additionally, regulations to guide administrators either have not been issued or are being challenged. This is true, but it is no justification for any healthy pension plan to terminate.

So far, the men in responsible Government positions in both Labor Department and I.R.S. have shown themselves to be flexible and understanding about the administrative problems.

For the plans in trouble, there are often solutions other than termination ranging from the adjustment of details to a complete redesign of the plan. Sure, expense will be involved, but it is strictly a one-time charge. Thereafter it may involve service charges only slightly higher than in the past.

The single most costly aspect of the new law is said to involve the accelerated vesting schedule stipulated in the act. This may be true for very large, collectively bargained plans, but for the average small plan it is not all that costly.

In the last 10 pre-ERISA years, with very few exceptions, I.R.S. district offices have refused to approve newly submitted plans unless a fairly liberal vesting schedule was included in the program. As a result most small plans entered into in the recent past will not be too strained in the area of vesting.

As for reporting and disclosure requirements imposed by ERISA, admittedly new and unfamiliar forms have been and will be developed by Government agencies. As in any new system, these newly designed forms will require patience and time to become familiar with them. However, once around the reporting cycle and they will be old-hat.

Government has responded to needs of the public in a cooperative fashion. Of the close

to 600,000 plans known to exist in the United States, slightly more than 90 percent involve programs with less than 100 participants. Simplified reporting has been developed in some areas for this 90 percent and probably will be developed in others.

For example, pre-ERISA reporting required annual submission to the I.R.S. of forms 4848, 4848 Schedule A (four pages), 4849 990P and 990P. Schedule A. A form 5500C is to combine in simplified form the information formerly reported on all those older forms, which are to be discontinued. To be sure, additional reporting forms may be forthcoming, but a determined effort is being made to keep them as simple as possible.

To sum up, it is time to accentuate the positive. Given a fair chance, ERISA will turn out to be a highly effective program nowhere near as expensive as early estimates predict. With full cooperation from both private and public sector, the goal of economic security in retirement will be realized by far more people.

HENRY A. SPIVACK,
Pension Director, Bleichroeder, Bing & Company, New York City.

As one who has worked long and diligently for pension reform legislation, and who at 75 years of age finds himself the victim of much-reduced benefits due to pre-reform abuses, I feel that several factors in the pension situation are being overlooked. Consider the following:

The moral and financial deprecations flagrant in the private pension area prior to the enactment of ERISA in 1974 were so numerous that it is unrealistic to expect rectification overnight. To think otherwise is the same as believing that the racial inequalities of many generations can be eradicated overnight.

All of the affected agencies are now in the process of setting up procedures and engaging manpower in an effort to enforce the new pension law. They must be given a reasonable period of time to produce.

Furthermore, Congress is already involved in looking into weaknesses in the new law so that if, after a trial period, changes are needed they can be identified and made.

It is undoubtedly true that in some few cases the red tape and expense of enforcement make it necessary for a company to bow out of the pension situation. But, based on years of familiarity with the subject, I respectfully submit that this is just the excuse given by those who find that with the previous loopholes plugged they no longer want to continue their pension plans.

The vast majority of workers affected by the pension plan withdrawals that are occurring have in fact lost nothing tangible. Their pension plans represented false promises based on false premises in the first place.

MORIZ M. DREYFUS.

PENSION CUTOFFS DISCOUNTED

(By Gordon L. Randolph)

The number of companies that have terminated pension plans in the wake of the pension reform act "is much smaller than we anticipated," the Labor Department official in charge of administering the department's functions under the law said in Milwaukee Monday.

While James D. Hutchinson said a report that 5,000 firms had terminated pension plans "is about right," he said "there has been a great deal of misunderstanding about so-called terminations."

His office is still analyzing the terminations, Hutchinson said, but he added that results so far showed that "well below one-third of the terminations" were related to the pension law and often the law was one of several factors involved.

Hutchinson's official title is administrator of the Office of Employe Benefits Security in the Labor-Management Services Administration.

TWO APPEARANCES HERE

He administers the Labor Department's responsibilities for pension and welfare benefit programs under the new law, officially known as the Employe Retirement Income Security Act of 1974 (ERISA).

Hutchinson was interviewed before speaking at the first of a series of courses that will be held at the Marc Plaza Hotel for Labor Department personnel throughout the U.S. who will help administer the pension law.

The program will include 11 weeks of instructions, consisting of one and two week courses. It is sponsored by the International Foundation of Employe Benefit Plans, which is headquartered in Brookfield.

Hutchinson also spoke later to members of the Wisconsin Retirement Plan Professionals and the Association of Private Pension Plans at Stouffer's Top of the Marine.

SWITCHED PLANS

A former law clerk for Chief Justice Warren E. Burger of the U.S. Supreme Court, Hutchinson was associate deputy U.S. attorney general before his Labor Department appointment.

Many of the companies which have filed termination notices, Hutchinson said, in fact failed to change from one type of pension plan to another. And many of the plans that were terminated were small, established by companies when the labor market and the economy was more favorable, he said.

Smaller firms, particularly, have complained that earlier vesting of pension rights and other requirements of the pension law would make the costs of their pension plans prohibitive.

Hutchinson said that the Labor Department had relaxed most reporting requirements, including audited financial reports to the department.

SIMPLIFIED REPORT

Firms with fewer than 100 pension plan participants are now able to use a simplified financial report form he said, without going to the expense of a detailed audit.

About 600,000 small plans, or 90% of the total, have been exempt from full filing, he said. The other 10% cover 90% of the employes under employer pension plans, he added.

Hutchinson said that before changes in the pension law are legislated, administrative regulations and revisions should be given a chance to work, at least through 1976, "the year most plans will have to come into compliance."

He said the law would have an impact on labor negotiations coming up this year.

While he acknowledged that there were some strong business protests initially about the law, Hutchinson said "things are beginning to settle down a bit."

EDUCATIONAL PROCESS

It is a joint educational process, he said. As employers come to understand the law better, he said, and see some changes can be made administratively, employers "realize we are really willing to work with them."

It takes time to sort out such a complicated scheme of regulation, Hutchinson said, especially "in situations not contemplated by Congress."

Hutchinson said that the Labor Department's main areas of responsibility were reporting to the department and disclosure to employes, and investigation and litigation in the fiduciary matters—seeing that persons administering pension plans perform their responsibilities properly.

The Internal Revenue Service has primary responsibility for enforcing minimum standards for employe participation, vesting and funding of pension plans, he said, but the Labor Department also has some responsibilities in these areas.

NOT ALL PLANS INSURED

Hutchinson said that the Pension Benefit Guaranty Corp., created to protect employes if a pension plan fails or a loss of pension in case of company mergers, covers only plans which provide what are called defined (fixed amount) benefits that are determined by various formulas.

The corporation does not protect employes covered by defined contribution plans, such as profit sharing, which do not provide a fixed benefit for employes. Employes often contribute to such plans, as well as employers.

It has been anticipated that defined contribution plans will become more popular among corporations.

Hutchinson said that the insurance corporation initially guaranteed pension payments up to a maximum of $750 a month but with a cost of living adjustment the figure is now about $800.

RECENT EVENTS REVEAL NEED FOR MORATORIUM ON NEW NUCLEAR CONSTRUCTION

Mr. GRAVEL. Mr. President, last Thursday morning I had the pleasure of joining Representative HAMILTON FISH of New York in testifying before the Subcommittee on Energy and Environment of the House Interior Committee.

The subcommittee is continuing its year-long inquiry into the problems of nuclear power, and I believe these hearings will prove more valid than ever as the Nation's nuclear debate intensifies.

I ask unanimous consent that my testimony and that of Representative FISH, with attachments, be printed at this point in the RECORD.

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

[Senator MIKE GRAVEL, Testimony, February 26, 1976]

NUCLEAR POWER: STILL NO ANSWERS TO OLD QUESTIONS

Thank you, Mr. Chairman, for the opportunity to testify. National concern over the desirability of nuclear power has become increasingly intense since this committee began investigating the subject a year ago. These hearings are more than ever timely, as Congress considers the future of nuclear power and the nature of the environmental, social and genetic risks of atomic energy.

I would like to describe very briefly for the committee my own reaction to recently-publicized questions about our nuclear program—and my belief that a five-year moratorium on the construction of reactors is the best action Congress can take in the face of these questions.

Two problems of nuclear power have been especially prominent in the news since the first of this year.

One is the unbreakable relationship between peaceful nuclear power and the proliferation of nuclear weapons materials. This problem is so severe that David Lilienthal, first Chairman of the Atomic Energy Commission, told the Senate Government Operations Committee that nuclear exports should be stopped altogether until effective safeguards are agreed upon.

The other problem is the long-debated subject of reactor safety. Three nuclear engineers resigned from General Electric this month, saying that despite assurances to the contrary, power reactors are not safe

enough. And a fourth engineer left the Nuclear Regulatory Commission, saying one reactor that is sited within 25 miles of New York City is "an accident waiting to happen."

The engineers have also described other concerns:

The long-term genetic effects of radiation;

The storage of high-level radioactive wastes;

The economic viability of nuclear power generation and of nuclear fuel reprocessing;

The size of the nation's uranium reserves;

The possibility of nuclear terrorism, and the effects of extensive plutonium safeguards on our traditional civil liberties.

The salient fact about these problems is that they are *not* new. They have been well-known for ten years and longer within the nuclear industry and the government agencies concerned with atomic energy. But despite this, and despite the years of effort that have been spent addressing these problems, they are still with us.

I myself believe this is evidence that the problems simply cannot be solved, and I ask the committee to consider whether this may not indeed be the case. I am not disparaging the technical ingenuity of our scientists. What I am saying is that, however nearly-perfect a scientist's design may be, his machine must operate not in what Dr. Hannes Alfven has called a "technological paradise," but rather in the real world of human error and malice—and in the case of nuclear power, the consequence of error could be beyond anything in peace-time history. So that even if we could answer "Yes" to the question "Is nuclear power safe enough for man?" I believe we must answer "No" when we ask "Is man safe enough for nuclear power?"

In the matter of weapons proliferation, for example, it is now reported that the safeguards required by nuclear exporters will be strengthened. But as repeated testimony indicated at the Government Operations Committee hearings last month, it is only the lack of weapons grade material, not written assurances or plutonium accounting, which can assure that a nation will not build nuclear weapons. And if we consider the failure of our own nation in trying to extricate itself from the apparent "need" for nuclear weapons, how can we conclude that other nations—possessing weapons materials and perceiving national threats—will refrain year after year from building a nuclear arsenal?

Even if my estimate of the human factor seems too negative, I think the recent developments in the nuclear power controversy point unmistakably to the fact that our nuclear power program has grown lopsided. Reactor construction has gone too far too fast, while the great supporting network of social and environmental safeguards has lagged dangerously. The General Electric engineers have cited some two dozen design deficiencies in current reactors—their analysis is reprinted in yesterday's Congressional Record. These deficiencies have occurred because reactors are being constructed too rapidly. The modifications needed in new reactors cannot be made, because there has not been time to observe the deficiencies in previous reactors. Perhaps the most alarming instance they cite is in cable spreading rooms. The fire at the Brown's Ferry reactor was a near disaster because so much of the reactor's control could be knocked out in a single place, due to poor cable routing. But cable routing in most U.S. reactors, according to the engineers, is similar to Brown's Ferry—or worse.

Another well-known evidence that our nuclear program is out of balance is the failure to close the so-called nuclear fuel cycle. The economics of fuel reprocessing now appear dubious. And despite years of effort, no final waste disposal site has been found or method of disposal decided upon.

Recent events and recently-publicized questions about nuclear safety, therefore, call into question the ability of man to safely use nuclear energy—and they show that our nuclear program is out of balance.

I believe the appropriate response of Congress to these facts is a five-year moratorium on the construction of new reactors. During this period, we may seek to restore the balance that is needed in our nuclear program; we can better calculate the need for fission power and the potential of alternative energy sources; and a better-informed Congress can debate the wisdom of bringing into our imperfect world unimaginable quantities of radioactive poisons and nuclear explosives.

REMARKS BY THE HONORABLE HAMILTON FISH, JR. BEFORE SUBCOMMITTEE ON ENERGY AND ENVIRONMENT, HOUSE INTERIOR COMMITTEE, THURSDAY, FEBRUARY 26, 1976

Mr. Chairman, I am grateful for the opportunity to be able to express today my deep concern over this nation's cilivilan nuclear power program.

Nuclear power involves literally dozens of health, environmental, social, economic, moral and national security problems—any *one* of which is sufficiently serious, in my opinion, to justify a halt in construction and operation of such facilities. The two areas I wish to address specifically today involve the threat nuclear power poses to our national security and well-being due to sabotage and terrorism, and the role of human error in a possible nuclear accident.

The terrorism/sabotage threat—Mr. Chairman, almost daily we are remined that there are groups and individuals in the world that are ready, willing, and able to engage in the most horrendous activities in pursuit of their goals, whether those goals be right, wrong, trivial, cr even non-existent. The recent bombing at LaGuardia Airport, involving totally innocent members of the general public, is but one recent example of such terror.

The production of plutonium through nuclear power introduces a new age of *atomic* terrorism. It is estimated that 100,000 pounds may be in commercial circulation by 1985. Only 20 pounds or perhaps less is needed to produce an atomic bomb. Nuclear advocates admit that the production of plutonium poses the risk that some will be diverted for non-peaceful purposes. They respond by saying "We're taking extra precautions to prevent that. Besides, we don't live in a riskless society."

Unfortunately, those "extra precautions" to prevent theft of just one five thousandth (0.002%) of this plutonium, year in and year out, represent a staggering and clearly unattainable security problem that could seriously compromise the civil liberties we as Americans deserve to enjoy, and *still* fail to prevent atomic terror. Richard Hubbard, one of the three nuclear engineers who quit General Electric in protest of nuclear power recently, said in his letter of resignation: "The power of the atom will be available to any tyrant or dissident group."

I agree with the nuclear advocates when they say that we don't live in a risk-free world. But I consider it the height of foolishness and irresponsibility to deliberately and needlessly increase the level of risk by several orders of magnitude.

On the basis of plutonium production alone, we should call a halt to the nuclear power program.

I will now briefly turn to the problem of direct sabotage of our nuclear facilities. By occupying and threatening to induce a massive release of radioactive poison from one of our nuclear power plants, each of which produce annually the radioactive equivalent of about 1,000 Hiroshima weapons, a group could hold millions of people hostage for virtually any demand they may conjure up. Even if their demands, no matter how outrageous, are granted, such a group might still carry out their threat through accident, panic or sheer malice. A recent report to the Nuclear Regulatory Commission (The Threat to Licensed Nuclear Facilities—Mitre 7022) by a prestigious group of terrorism experts, including six former FBI officials, states: "Even small groups today might acquire the potential to inflict massive destruction through the use of nuclear bombs or through the sabotage of nuclear facilities. Acting alone, or in concert with foreign groups, they could wreak havoc."

I would like to note here that such an individual or group need not be from the "outside." Employees of nuclear utilities have special opportunities to commit nuclear sabotage, for a variety of goals. Worker sabotage created havoc for General Motors when disgruntled workers purposely built defects in Vega automobiles. While such activity in most industries may be expensive and inconvenient, it is downright dangerous in the nuclear industry.

This issue is of particular interest to me since the Indian Point #2 plant in my district was the first in the nation to be subjected to serious sabotage when a disgruntled employee set fire to the plant, causing $7 million in damages and severely compromising the safety of the plant because short cuts were taken in repairing the damaged electrical cables.

There is no doubt that nuclear power plants will become increasingly attractive targets for sabotage. What other industrial plant offers saboteurs such a huge threat to our population? As Gregory Minor, another of the General Electric engineers who resigned said in his letter of resignation: "We cannot prevent . . . acts of sabotage." It doesn't make any sense at all for our country to spend billions upon billions of dollars to prevent a nuclear attack, while we foster an industry which offers saboteurs the capability to kill and injure millions of persons.

The role of human error—Mr. Chairman, all 3 of the engineers who resigned from General Electric have stressed the role that human error plays in the nuclear industry. Despite its relative infancy, the nuclear industry has already suffered the consequences of human error. The most startling example is, of course, the Brown's Ferry fire which the Committee has heard much about. The accident is well-chronicled in an article by William Lanouette in the *National Observer* for the week ending August 23, 1975 entitled "Frightful Log of a Nuclear Near-Miss." A copy is attached to this statement and I respectfully request that the article be printed in the hearing record at this point.

I have also attached "Common Sense about Nuclear Electricity", a brief flyer, which I respectfully request be reprinted at the end of my remarks, by the Committee for Nuclear Responsibility (Box 332, Yachats, Oregon 97498). The flyer, while rather amusing, is a very serious warning about the role human error plays in all our activities, including nuclear power. I hope every Member of this Committee will take a few minutes to read this flyer and carefully consider the issues it raises. I think you will agree with me that we simply must acknowledge that human beings are imperfect, and will certainly make mistakes—no matter how hard we try to train reactor operators and the thousands of other personnel throughout the nuclear fuel cycle. Such errors could result in disastrous nuclear accidents and permanent contamination of our planet with radioactive garbage—indefinitely. And as we increase our exports of nuclear reactors to foreign countries, we increase the chances of this contamination occurring. In fact, Bob Pollard, the project manager at Indian Point, who has recently resigned, stated on the program Sixty Minutes: "In my opinion, it will

be just a matter of luck if Indian Point doesn't sometime during its life have a major accident."

On the basis of human error, we should call a halt to the nuclear power program.

An issue that can be won and finished—Mr. Chairman, I believe that nuclear power expansion poses a tremendous threat to mankind. Fortunately, thanks to the growing citizen uprising against nuclear power and the awareness generated by the sacrifice of promising careers by G. E. engineers, Dale Bridenbaugh, Richard Hubbard, and Gregory Minor and by Robert Pollard of the NRC, I believe we are going to see a re-evaluation of nuclear power in this nation and abroad. I am determined to do my best to help this process, and in turn substitute a responsible policy of energy conservation, reasonable fossil fuel development, and prompt introduction of solar energy, our only truly clean and inexhaustible source of power.

I urge my colleagues on the Committee to examine and cosponsor the Nuclear Energy Reappraisal Act which now has 33 House sponsors. This bill is a very reasonable approach to the problem; allowing plants presently operating or under construction to continue, but prohibiting construction of new ones until the problems are assessed and resolved to the satisfaction of Congress. I believe this legislation is the *only* legislation pending in the Congress that begins to adequately deal with the nuclear problems we face.

Again, I want to thank the Committee for granting Senator Gravel and myself the opportunity to be here today. These hearings represent an admirable effort to gather vital information and views.

[From the National Observer, Aug. 23, 1975]

FRIGHTFUL LOG OF A NUCLEAR NEAR-MISS—CANDLE STARTS A FIRE, SHAKE FAITH IN SAFETY SYSTEMS AT POWERPLANTS

(By William J. Lanouette)

It began with a candle, which accidentally lit some flammable insulation, burned some cables, and nearly caused one of the most serious nuclear-power plant accidents possible—a "meltdown" of the heat-producing, radioactive core.

From the Browns Ferry Nuclear Plant near Athens, Ala., where the seven-hour blaze began, warnings and misinformation fanned through the emergency network of the Tennessee Valley Authority (TVA), the plant's owner, to state and Federal officials in nearby cities. One official recalls reports that the plant's reactors were "wiped out" and that the only way to keep the radioactive fuel from melting was "to bring in river water and circulate it to and from ditches for cooling."

That's history now, although the March 22 fire sparked a controversy about the safety and reliability of nuclear power that is sure to smolder for years. And while some public officials and nuclear-industry executives were angered with the spread of misinformation about the accident, they are equally disturbed about coming so uncomfortably close to serious trouble.

THE OTHER CLOSE CALL

How close? A spokesman for the Nuclear Regulatory Commission (NRC) now considers the March fire at Browns Ferry to be of the two most serious accidents in the U.S. nuclear-power industry's 18-year history. The other close call was a partial core melt-down at the Fermi fast-breeder reactor near Detroit in 1966. But in many ways the shadow cast by the candle at Browns Ferry may be darker. For that fire has raised new questions about the reliability of the safety systems that protect the nation's 53 nuclear-power plants.

In the hours and days after the accident, the Browns Ferry fire was reported as just that—a fire. No members of the public received abnormally high radiation doses, the NRC reported. No plant employes were seriously injured, the TVA said. And it appeared for a while last spring that the most serious public impact of the $50 million accident fell on TVA's customers. The utility must spend an extra $10 million a month to buy the 2 million kilowatts of electricity that the Browns Ferry units can't produce.

Now the NRC has released a 463-page report on the fire, based on a four-month investigation, and its details reveal just how close the Browns Ferry reactors were to bring "wiped out" and how they were saved from core meltdown. What follows is an account of the fire based on the NRC's report and augmented by Observer interviews with NRC inspector and administrators, TVA officials, nuclear engineers, representatives of the General Electric Co. (the plant's designer), and spokesmen for groups that favor and oppose the spread of nuclear power.

MAINTAINING A VACUUM

To prevent escape of radioactive air around a reactor's core, nuclear-power plants use a vacuum to maintain a "negative pressure" in the buildings that surround the core. Then, if a radiation leak develops, air would rush in to those buildings, not out.

Whenever wires, pipes, and cables pass through the concrete walls of the reactor building, the space around them must be sealed to prevent air from constantly rushing in. At many nuclear plants, including Browns Ferry, the wires and cables that monitor and control the reactor go through the reactor building's walls, into the adjacent cable-spreading room, and then to the control room one floor above.

On March 22, several plant workers were in the cable-spreading room testing the polyurethane foam used as seals around cables that pass through the walls of the unit-one reactor.

A common method to find air leaks at the Browns Ferry plant was to hold a lighted candle up to the wall openings, then watch to see if rushing air moved its flame. It was 12:20 p.m. when, as one engineering aide remembers:

HORIZONTAL FLAME

"We found a 2-by-4-inch opening . . . with three or four cables going through it. The candle flame was pulled out horizontal, showing a strong draft. [An electrician] tore off two pieces of foam sheet for packing into the hole, but he could not reach the opening. I inserted them as far as I could into the hole. . . . I rechecked the hole with the candle. The draft sucked the flame into the hole and ignited the foam, which started to smolder and glow.

[The electrician] handed me his flashlight, with which I tried to knock out the fire. This did not work and then I tried to smother the fire with rags. Someone passed me a CO2 [carbon dioxide] extinguisher . . . which blew right through the hole without putting out the fire, which had gotten back into the wall. Then I used a dry-chemical extinguisher, and then another, neither of which put out the fire. . . In the past, on three or four occasions, I have had fires started by the candle . . . which [were] readily extinguished."

Another electrician ran out to a guard post nearby and returned with a fire extinguisher. This alerted the guard to report the fire by telephone. But he dialed the wrong number. The person who answered in turn dialed the control room, warning the unit-one operator about the fire. In the control room, an assistant shift engineer flipped on the fire alarm. It was 12:34 p.m.

REINFORCEMENTS

The assistant shift engineer then grabbed a dry-chemical fire extinguisher and ran into the reactor building. Flames were shooting along the cables through the air leak.

Recalling that fires had been set by the use of candles before, another engineering aide said later, "The flames were always easy for me to extinguish with my gloved hand." At least two other employes interviewed by the NRC also recalled setting fires with candles, but these were always contained by using gloves, extinguishers, or bare hands.

A candle fire two days earlier had been noted in the plant's operating logs, and some supervisors said later they were concerned about continuing this method of testing for leaks. It appears that concern hadn't reached senior administrators, however, for as one assistant superintendent told NRC investigators, "I do not know of any requirement to make written reports of small fires."

At about 12:40 p.m. the spreading-room fire began affecting the plant's operations. Unit two's operator lost power in half the systems used to shut down the reactor. But he managed to control his unit.

"CONDITIONS UNSTABLE"

Unit one was another story. Just after 12:40 p.m. the control-panel instruments indicated that the two pumping systems of the unit's emergency core cooling system had begun to run automatically. "I checked, but the pumps were not running," the operator said. He called for help at the control panel because, he said, "conditions were unstable."

Alarms signaled that two more unit-one pumps were running, yet the operator's panels didn't show it. The unit-one operator remembers that "the lights on the [cooling-system] panel . . . began getting bright and then getting dim. These were more unknown conditions." Smoke began drifting up from behind the cooling-system panel. "Numerous alarms occurred on all control panels and the unit [was] in unstable swing," according to the operator's log.

At 12:51 p.m. the operator said, "Let's scram the unit." A "scram" is the sudden shutdown of a nuclear reactor. "Safety rods" are inserted between the radioactive fuel elements to interrupt the heat-producing process of nuclear fission. A scram is not enough to prevent the radioactive core from melting, however, because the radioactive fuel still generates much "decay heat."

The core must constantly be cooled by circulating water.

If the fuel had melted from its own heat—"a meltdown"—it could have destroyed the building that contained it, released plumes of radioactive clouds and steam, and endangered people for miles around.

CONFIRMING A "SCRAM"

Just as the unit-one operator confirmed that the scram had occurred, he lost his ability to monitor the core's radiation and heat.

Then pressure began building rapidly within the steel chamber that surrounds the core. Water must be continuously pumped into this chamber to replace what is boiled away as steam by the core's heat. Electrical failures had limited the operator's choices to two pumping systems, then to one as 7 of the 11 relief valves used to lower pressures were also lost.

At 12:59 p.m. the water level in the chamber began to drop. Normally the radioactive core is covered by more than 16 feet of water, but in the next half hour this level fell to less than 4 feet above the top of the fuel, which always must be covered by water. "At this time I knew the reactor water level could not be maintained, and I was concerned about uncovering the core," the operator said later.

At 1:35 p.m. an assistant operations supervisor recalls, the control room "was full of smoke and the operators were wearing Scott Air Paks." Adds an assistant shift engineer: "I saw people forcing rags in holes under the electrical operator's desk. CO2 was coming through them."

Meanwhile, the first continued to run along the cable trays, in the cable-spreading room, and further into the reactor building. In the cable-spreading room, the plant's fire fighters couldn't turn on an overhead CO2 spray system because metal construction plates, in which the system had been shipped to the plant, could not be removed without a screwdriver. "A wheeled dry-chemical cart had been brought . . . [in] but its nozzle was broken off . . .," an assistant shift engineer recalls.

"I hit my mask against something and got a leak," he continued. "I got quite a bit of smoke and passed out. . . . I remember reviving on top of a table in the lunchroom. I didn't know how I got there. I rested a bit and, since the first-aid room was locked . . . went back to the control room."

AIR PACKS FAIL

"The whole fire-fighting effort was hindered due to the lack of air," a reactor operator said later. Many of the air packs were designed to provide 30 minutes of breathing, but because of the recharging equipment was broken, the refills diminished as the afternoon wore on. Some men were forced to use 10-minute air supplies.

Just after 1 p.m. the Athens Fire Department was called. The department's chief said later that he recommended putting water on the fire in the cable-spreading room, but the plant's superintendent, who was in control, objected because he didn't want water used on electrical wires. The chief said it was not an electrical fire. "Throughout the afternoon I continued to recommend use of water," the chief said.

When the plant superintendent agreed, there were still problems. Firefighters didn't pull a water hose completely from its rack, restricting water pressure for several minutes. With the nozzle on the plant's hose, water couldn't reach to all the burning trays, but when Athens firemen tried a substitute nozzle they found that the thread didn't match. Nevertheless, once the use of water was authorized, the fire was extinguished in 20 minutes—at about 7:45 p.m.

Throughout the afternoon's firefighting efforts several more problems arose. At 1:57 p.m. the control room lost its phones and public-address system to the rest of the plant, making it difficult for supervisors to dispatch men to manually open and close various valves. At times as many as 75 people were in the 40-by-100-foot control room, an eyewitness remembers.

A computer needed to monitor events during the accident ran out of tape. Electrical fuses blew. Attempts to record all telephone calls in and out of the plant failed because of faulty recording equipment. Some valves that had been opened manually had to be wired to prevent closing.

With widespread electrical failures throughout the plant it also became impossible to monitor automatically for possible releases of radioactivity to the atmosphere. Some air samples were taken at a meteorological tower near the plant beginning at 5:14 p.m., but at 6:05 p.m. the tower was abandoned as smoke headed toward the tower.

Other samples showed that radiation levels were within NRC limits.

At 5:45 p.m. TVA's health-laboratory director reported that environmental air sampling for possible radiation had started in Athens, 10 miles northeast of the plant; in Hillsboro, 10 miles southwest; and in Rogersville, 25 miles northwest. "The sampler at Decatur, Ala., [20 miles southeast] was thought to be inoperable," the NRC staff reported, and ". . . at 7:50 p.m. there was no air sampler available at Decatur," a city of 40,000 directly downwind from the plant.

No radiological samplers were available at Decatur that evening, the NRC notes although an air-pollution sampler was set up there at 9 p.m. At 8:37 p.m. the aircraft-warning lights on the plant's 600-foot stack went out.

DELAYS IN REPORTING

NRC investigators also discovered some serious gaps in the response of public-safety officials. Limestone County's (Athens) sheriff heard about the fire after it was out, and said he would rely on the county's civil-defense coordinator for information about possible public evacuations. The county's civil-defense co-ordinator said he heard about the fire two days later, and thinks the plant's emergency plan needs updating and revision.

And the sheriff of Morgan County (Decatur) said he heard about the fire that afternoon, but "I was asked to keep quiet about the incident to avoid panic. . . ."

How close was unit one to a meltdown? Opinions vary. "It gets awfully fuzzy to play 'what-if' on this," says Norman Moseley, director of the NRC's Atlanta regional office. "There are just too many variables." A TVA spokesman says, with a nervous chuckle, that "all that would have had to occur is to lose all cooling water." But, he insists, unit one always had at least one high-pressure and one low-pressure cooling pump working. Adds a spokesman for General Electric, the plant's designer: "We really weren't very close, but I'd just as soon not be that close again."

COMMON SENSE ABOUT NUCLEAR ELECTRICITY

Its time to listen to your own common sense when you hear the claims that nuclear electric power will be "clean" and "safe", or that the odds on a catastrophic nuclear-power accidents are "one-in-a-billion".

In order to keep the promise of safety when nuclear plants will be producing as much radioactivity as *a million Hiroshima atomic explosions every year*, the nuclear industry will have to contain its radioactive poisons with *better than 99% success*. Total poisoning of the planet is a certainty if just 1% of the long-term radioactivity escapes into the environment. There is no disagreement over that.

No one denies the *requirement* for perfect performance in the nuclear power industry. The argument is over the likelihood of *meeting* the requirement and *keeping* the promises.

1. How many industries come *close* to 99% perfection in performance?

2. What about mistakes and carelessness *already* occurring in the civilian nuclear program?

3. What about the performance record with nuclear *submarines?* (Please see inside page.)

4. Why won't the insurance industry underwrite nuclear plants if they are as safe as they are claimed to be?.

MANY MISTAKES ALREADY . . .

"Review of the operating history associated with 30 operating nuclear reactors indicated that during the period 1/1/72 to 5/30/73 approximately 850 abnormal occurrences were reported to the Atomic Energy Commission (AEC). Many of the occurrences were significant and of a generic nature requiring follow-up investigations at other plants. Forty percent of the occurrences were traceable to some extent to design and/or fabrication-related deficiencies. The remaining incidents were caused by operator error, improper maintenance, inadequate erection control, administrative deficiencies, random failure and combination thereof . . .

"The large number of reactor incidents, coupled with the fact that many of them had real safety significance, were generic in nature, and were not identified during the normal design, fabrication, erection, and pre-operational testing phases, raises a serious question regarding the current review and inspection practices both on the part of the nuclear industry and the AEC." (Source: *AEC Task Force Report: Study of Reactor Licensing Process*, by AEC Asst. Director of Regulation, L. V. Gossick and 7 additional AEC experts, the *October* 1973 version; see also *Study of Quality Verification*, AEC, Jan. 1974, p15–17)

In 1974 1,421 abnormal occurrences were reported, up from 861 in 1973. The Atomic Energy Commission was dissolved in January, 1975, its credibilty destroyed through years of misleading the public. In its place two agencies, mostly staffed by AEC veterans, were created: the Energy Research and Development Administration and the Nuclear Regulatory Commission.

[Washington Post, August 27, 1973]

A SHORT AMAZING STORY

The *Guinness Book of World Records* lists park ranger Roy Sullivan as the "only living man to be struck by lightning four times". On August 7, 1973, he stepped out of his truck and was zapped for the *fifth* time; he suffered second-degree burns.

"The bolt struck me right on the head, set my hair on fire, traveled down my left arm and leg, knocking off my shoe but not untying the lace," he explained to the Associated Press in Waynesboro, Virginia.

Sullivan was first hit in 1942, when a bolt clipped off a toenail. In 1969, lightning burned off his eyebrows and knocked him unconscious. In 1970, lighting struck and burned his shoulders. In 1972, another bolt burned off his hair.

NUCLEAR SUBMARINES

The captains of our nuclear submarines are key-pins in our policy of deterring nuclear war, and surely they are more alert than the average man-in-the-street. You would expect them to know when a freighter is right on top of them. Nevertheless, on Oct. 6, 1972, one of our nuclear submarines—the USS Tullibee—collided with the West German merchant ship Hagen 150 miles off the coast of North Carolina. "First reports indicate the collision involved a glancing blow on the upper part of the submarine bow with no internal damage. At that time, the Tullibee apparently was operating just below the surface. . . ." (Release issued in Norfolk, Virginia, by the Commander in Chief, Atlantic.)

Nuclear submarines, which are supposed to survive the problems of wartime attack, are not supposed to sink under peacetime conditions. However, in 1963, the USS Thresher vanished and was found at the bottom of the sea. The causes: faulty pipe joints and an inadequate deballasting system, according to the Navy. In 1968, the USS Scorpion also went down forever. And imagine the Navy's dismay when a nuclear submarine sank at *dockside* in May 1969. Fortunately, the nuclear power plant had not yet been installed in the USS Guittaro when it suddenly flooded and sank at the Mare Island Shipyard in California. The odds?

As for the submarine *missiles*, in August 1973, Rear Admiral Levering Smith acknowledged that 58% of the Poseidon missiles on nuclear submarines had failed their operational tests, and that "essentially all of the missiles" would have to be recalled.

Nuclear submarines have even sent false alarms about attack. On Jan. 16, 1974, the United Press carried this story: "Emergency transmitters on Polaris submarines mistakenly signaled they had been 'sunk by enemy action' on two occasions in 1971, and raised the threat of accidental nuclear war, Rep. Les Aspin (D-Wis.) said yesterday. The signals set off general military alerts until the subs themselves surfaced and advised by regular radio signals that the buoy-borne emergency transmitters had malfunctioned,

Aspin said. . . . The Navy confirmed that the two incidents took place. . . . Spokesmen declined direct comment, however, on whether alerts resulted."

The accident record in the nuclear submarine program is a real-life warning about what we must expect in the civilian nuclear power program. When 2 out of 125 operating nuclear submarines have completely failed to perform (just stay afloat) during peacetime, what are the odds that *no* civilian nuclear power plant will *ever* experience a disastrous failure to contain its radioactivity?

The answer: As of June 1, 1975, there were 53 nuclear reactor plants licensed to operate (far fewer were actually *in* operation), 68 more under construction, and 128 on order (planned). The industry hopes to have 280 licensed for operation by 1985, and 1,000 by the year 2000 (an average of twenty to a state). *If* we permit a thousand plants to operate, and *if* the probability of a major accident were *really* one-in-a-million per reactor per year, then the probability of a major accident during the 40-year lifespan of the plants would be about one-chance-in-25.

As for the one-chance-in-a-billion claim, it is important to notice *who else* disbelieves it. The greatest experts of all on risk—the insurance industry! With odds as good as a billion-to-one, insurance companies would hustle to sell as much nuclear insurance as they possibly could. Instead, they refuse to sell you insurance against "safe" nuclear power, and they carefully insert a nuclear "exclusion clause" into your home, auto, and other property insurance policies.

SHORT AMAZING STORIES

1. Not very likely: What are the odds that, in an 8-vehicle collision on Los Angeles' Golden State Freeway, *four* of the vehicles will be fuel trucks? It happened, on January 8, 1974 . . . and in the middle of a fuel shortage.

2. Then there were two: "With what one observer called a 'tremendous cracking sound', a 9-month-old, $12 million tanker operated by the Ingram Corp. split down the middle and sank in Port Jefferson Harbor on New York's Long Island. The 620-foot ship, which had cruised unscathed through two hurricanes, had already unloaded its cargo of 6 million gallons of gasoline and fuel oil, and authorities suggested that the tanker might have been under unusual stress amidships from improper ballasting." (*Newsweek*, 1/24/72) The odds? Human error somewhere?

3. Designed to produce a better product: After several months of investigation and 300 controlled tests, the Campbell Soup Co. discovered how lethal bacteria got into some chicken vegetable soup in the summer of 1971. On Nov. 20, 1971, Campbell's president, W. B. Murphy, announced that the botulism occurred by "several unusual conditions happening simultaneously—above average viscosity of the can contents, over-fill of the can, and incomplete hydration of the dry ingredients, coupled with a new process designed to produce a better product."

Said Dr. Willis Irvin, USDA inspector at the Campbell plant, "We have our men spread pretty thin. . . . It's a very large and complex plant, but I doubt if having another inspector would have prevented this. . . . It was a combination of very obscure things that no human being would have picked up." (*Washington Evening Star*, 11/20/71)

4. Could never happen to us: Remember the hapless bank clerk in Idaho who inadvertently shredded 8,000 *un*processed checks worth an estimated $850,000? The bank president appeared on national news saying, "We never dreamed it could happen to us," while a team of clerks were seen in the background trying to fit the right pieces back together with scotch tape. (From the CBS evening news, 7/21/71)

5. This is an emergency action: If there is one system whose credibility must be protected at all cost, it is the Army's system to warn the nation of a military emergency. Nevertheless, in February 1971, the Army's National Warning Center sent out this fully authenticated national emergency alert instead of the routine test message: Message authenticator, hatefulness-hatefulness. This is an emergency action notification directed by the President. Normal broadcasting will cease immediately. Scores of radio and TV stations broadcast the emergency.

It took the Associated Press and United Press International only 10 minutes to find out the alert was a dud, but it took the Army 37 minutes to cancel it. The first cancellation message had no authenticator—the necessary code word. The second cancellation message had the *wrong* authenticator. On the third try, the Army got the right code word: IMPISH-IMPISH, and officially called off the national "emergency", which was nothing more than one human who had the wrong pre-punched teletype tape.

6. Tender loving care: Although thousands of Americans, from people soldering circuits to computer programmers, felt personally responsible for the safety and success of the Apollo astronauts, two out of seventeen Apollo missions failed not from outer-space surprises, but from simple human errors (1967, 1970).

7. Wide open spaces: Although pilots try harder than anything not to run into other airplanes, two airliners traveling in the same direction collided in the mid-morning skies over the Grand Canyon July 1956. The odds? Pilots also try to avoid well-known buildings. On an August morning in 1945, a bomber flying *under* a 900-ft. ceiling, flew smack into the Empire State Building.

8. A perfect record . . . until: Leon Moisseiff, the famous engineer who designed and built the Manhattan, Triborough, and George Washington bridges, also built a giant suspension bridge across the Tacoma Narrows. The bridge collapsed 4 months after completion. "Moisseiff said only that the bridge failed because engineers do not yet know enough about aerodynamics." (*Time* magazine, 11/18/40)

9. The molasses tidal wave: In all of human history, there may have been one killer tidal-wave made of molasses. On Jan. 15, 1919, an "incredible" 15-foot wave of molasses killed 21 people and demolished a two-block area of Boston immediately after the rivets began popping from a tank holding 2.2 million gallons of the sticky goo. Damage was $2 million. (*Boston Evening Globe*, 8/12/71) Even the AEC might have said, when the 21 victims were born, that the odds were EXCEEDINGLY REMOTE that they would die in a molasses tidal-wave. But that is how they died. Many more died in 1912 when, in defiance of all mathematical probabilities, the "unsinkable" Titanic sank on her maiden voyage.

ONE-CHANCE-IN-A-BILLION

Several stories inside this flyer show that statistically "impossible" events happen frequently, and that extremely complex systems like moon rockets (or nuclear power plants) can be destroyed by something as common as faulty wiring or valves, a bad welding job, or a person simply doing the wrong thing. Hardly had the AEC published its one-in-a-billion odds on a bad accident, per plant year, when a nuclear plant suffered a nearly catastrophic "impossible" accident. In March 1975 at the Browns Ferry plant in Alabama, workers who were testing air flows *with a candle* ended up setting fire to the cable room under the control room. Operators in the control room received false signals, or none at all, from two giant nuclear reactors. In addition, simple emergency equipment like valves, pumps, diesels, failed to operate. For hours, the plant was visiting the brink of disaster. One chance in a billion?

SUCH FIGURES HAVE NO MEANING

The first reason is the difficulty of predicting either the frequency or the consequences of human errors or malice; either could instantly reduce the catastrophe-odds from one-in-a-billion to near certainty. The Brown's Ferry fire would be so unlikely as to be considered impossible by the AEC studies.

Estimates about the small chance of a nuclear disaster depend on the reckless and groundless assumption that the operators of nuclear plants will make no serious errors during emergencies. They also must assume that no hostile criminal or terrorist activity will ever be aimed at nuclear installations.

The second reason is the lack of experience with operating nuclear hardware. Most of the plants now being built or planned are in the 1000 MWe range and over; the industry has fewer than 10 reactor-years of experience with plants on this scale—reliability estimates on this hardware can be nothing more than conjecture. Furthermore, for four years in a row, the AEC was forced to scold and to levy wrist-slap fines on nuclear equipment firms, engineering firms, and utilities for unacceptably sloppy quality-control. Today this is the responsibility of the NRC: in May, 1975, it fined Virginia Electric Power Company $60,000 for lying to the AEC regarding a geological fault underlying a nuclear plant complex; Commonwealth Edison of Chicago, which operates seven reactors, committed 311 violations of the AEC and NRC regulations from January 1974 to April 1975.

The third reason is the unjustifiable assumption that nuclear safety systems (some of them never tested) have been properly designed. This assumption denies all the recent nuclear "surprises" which show that nuclear engineers are failing to foresee all the design problems. If the design of a safety system is defective, even perfectly working hardware will fail to contain an emergency.

The fourth reason is the flaw of assuming that all possible paths leading to a catastrophe have been recognized and considered. In October, 1973, L. Manning Muntzing, then the AEC's Director of Regulation, told the Joint Committee on Atomic Energy,: "I'm really concerned with some of the surprises we see". How many unsuspected paths to catastrophe are still waiting to be discovered?

HUMAN ERROR

Reactor Operating Experiences in the journal "Nuclear Safety" show over and over that a human decision is required on a number of occasions.

When there are enough reactors operating, the total number of occasions requiring a human judgment will increase appreciably.

Let's play with some numbers which I think grossly minimize the danger to be faced.

Suppose you have 500 nuclear power reactors in operation. Let's further suppose that a serious human decision is required once in ten years for each reactor; a study of the literature might show that the frequency is far greater. This means 50 serious decisions requiring human judgment per year.

Suppose further that the judgments are 98 percent right and 2 percent wrong, which is a very optimistic estimate.

This finally gives us one reactor per year suffering the consequences of wrong judgment on a serious matter. Clearly if the judgmental error results in a nuclear melt-

down, that's a disastrous event. Even less than melt-down accidents could be very, very serious.

The requirement for a human judgment is a source of immense weakness in nuclear safety. Even if all other safety problems could be solved, the human factor all by itself means that nuclear power makes no sense.

JOHN W. GOFMAN, Ph.D., M.D.

SOME NUCLEAR "SURPRISES"

Discovery in 1972 that nuclear engineering firms have built the Prairie Island and Kewaunee plants with steam lines running underneath the control rooms, where a rupture of a line could destroy the controls and kill the nuclear plant operators; extensive modifications will be required in about six plants.

Unexpected densification of nuclear fuel, one of the most tested elements of the whole nuclear power system; this discovery forced the AEC to cut back permissible power levels by 5 to 25 percent at 10 nuclear power plants on August 24, 1973.

Failure of the vital emergency core cooling system to provide AEC experts with assurance of effective performance; the system, which has never had a large-scale test, failed six out of six miniscale tests in late 1970.

As of Fall 1975, the emergency cooling system has never had a successful large-scale test.

Discovery in 1971 that the allegedly watertight salt mine chosen for radioactive waste storage in Kansas was full of holes; the AEC has been forced to improvise "surface storage" plans.

Confirmation by the National Academy of Sciences in November 1972 that low-level radiation exposure is at least 500 percent more harmful than the experts had previously admitted; this surprise had already forced the AEC to suggest drastically reduced "permissible emissions" from nuclear power plants.

Discovery by the North Anna Environmental Coalition in August 1973 that two nuclear power plants in Virginia have been built on an earthquake fault in undeniable violation of AEC policy.

Apparently nuclear experts did not foresee, either, that on November 11, 1972, three skyjackers would threaten to bomb the nuclear reactor at Oak Ridge, Tenn.; helpless, the AEC shut down its reactor and evacuated. The skyjackers did not carry out their threat.

LABOR'S POLITICAL POWER

Mr. GOLDWATER. Mr. President, from time to time I have raised the subject on the Senate floor of the rise of union power and union influence in the seats of government. In this regard, I have read with great interest the many stories originating from Bal Harbour, Fla., where the union bosses of the AFL-CIO have held their lengthy annual meeting. It is especially interesting to observe that the predominant thrust of these news items has been the steps that the big unions in this Nation plan to take in order to elect candidates of their choice in the 1976 elections.

If one believes half of what these articles say about the AFL-CIO power, influence and strategy, then we must assume that a government run by a labor union bosses will be a reality after January of 1977. Last Wednesday, I placed in the CONGRESSIONAL RECORD one of these news items, entitled "Unions Strategy for Putting Man They Want in White House." Many similar reports have come to my attention and I have done some independent research of my own on the subject which unfortunately confirms the massive scope of labor's attempt to influence elections. Today I would like to discuss some of this additional information.

One aspect of labor's effort to control the election, which has ominous overtones to any one interesetd in fair election practices, is the maneuvering by union bosses to have the Federal Election Campaign Act rewritten so as to prevent corporate political committees from being able to solicit voluntary contributions from company employees to be utilized for political purposes. The Supreme Court in its recent decision regarding key provisions of the act upheld the provision of law permitting corporations, and labor unions, to establish segregated funds for political action purposes as an important means of enhancing a major purpose of the first amendment, which is to secure the widest possible discussion of public issues and of the qualifications of candidates. By allowing employees of corporations to collectively make substantial contributions to candidates through the combined effect of their individual contributions to political action funds, the Supreme Court held that section 610, which permits voluntary contributions to corporate funds as well as to union funds, enables citizens to be free to engage in political expression.

In other words, any clamp on the ability of corporations to seek voluntary contributions of funds which in turn may be contributed to particular candidates is a serious denial of the freedom of political expression enjoyed by the individual persons who may wish to make such contributions. Any proposed law which would treat employees of corporations as second-class citizens, who may not be contacted regarding their right to make contributions, would not only be an improper restriction on the right of expression but constitute an unconstitutional classification of such citizens in violation of their right to due process of law.

The 1974 campaign finance law specifically authorizes the setting up of political action committees by corporations, as unions have done for years. Last November 18, the Federal Election Commission ruled that company PAC's could solicit employees as well as stockholders. Seizing on the necessity for prompt action by Congress in order to restructure the Federal Election Commission, which the Supreme Court held in its January 30 decision on the campaign law to be unconstitutionally constituted, big labor now has proposed that corporations be restricted from soliciting company employees for voluntary political contributions. Moreover, labor wants to use the legislative vehicle of any bill that gives a new lease on life to the Federal Election Commission as a means to sneak into law authority for unions to use a check-off system from their members' wages to collect political contributions for union political action committees, a goal which union boses have long sought.

Mr. President, it is very interesting to me that labor has found a champion for these goals. Congressman WAYNE HAYS, who is chairman of the House Administration Committee which has jurisdiction over the Federal Election Commission and election campaign legislation, has announced that he will introduce legislation to accomplish these union ends. Mr. HAYS announcement followed a visit he made to Florida during the AFL-CIO annual meeting. A thoughtful editorial discussing this development appeared in the Washington Star of February 23 and in view of its importance to understanding the potential of union power, I ask unanimous consent that it be printed in the RECORD.

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

THE CONVERSION OF MR. HAYS

Representative Wayne Hays's switch on the Federal Election Commission issue is being marveled at on Capitol Hill as akin to the conversion of St. Paul on the road to Damascus.

We're not sure how much the light flashed or the heavens rolled, or whether Mr. Hays wound up on the ground temporarily blinded by revelation. We rather suspect that his conversion came simply from some old fashioned political arm-twisting by House heavyweights, combined with a few choice words of advice from George Meany.

Mr. Meany and his cohorts at the AFL-CIO, who dole out millions of campaign dollars and have cadres of volunteer campaign workers at their disposal, can be most persuasive with Democratic committee chairmen. At any rate, after Mr. Hays had traveled the road between Washington and Miami, where the AFL-CIO convention was in progress, he miraculously had been converted from an opponent to a supporter of the Federal Election Commission.

Whatever the reasons for his switch, it is welcome. Now Congress ought to be able to reconstitute the commission in time to prevent a shambles from overtaking the presidential primary financing process. Mr. Hays, who had wanted to kill the commission, is instead having his House Administration Committee put together a bill that will satisfy the shortcomings the Supreme Court found with the commission's operation. Instead of a body appointed jointly by Congress and the President—which the court held cannot constitutionally enforce and administer the election laws—the Hays proposal will transform it into an executive agency whose members will be appointed by the President and confirmed by the Senate. That's what nearly everyone, except Mr. Hays, wanted to do in the first place.

With the Ohioan's cooperation, Congress should be able to come close to getting the legislation enacted by the March 1 deadline set by the Supreme Court for the commission to be reconstituted or lose its powers. If there is likely to be a delay of more than a few days beyond that date, Congress ought to ask the court to extend the deadline.

Even with his conversion on the major question, Mr. Hays still has his stinger out for commission members. He's trying to add a provision to the bill that would bar any outside work by commission members. He says the members get $40,000 a year and that ought to make their jobs full-time. The provision would affect at least two commission members, including the chairman, who practice law part-time.

Mr. Hay's proposal is not a bad idea. But it seems to us that he ought to apply the same principle to members of Congress. If $40,000-a-year commission members should be re-

quired to spend full-time looking after the election laws, it is equally logical to insist that $44,625-a-year House and Senate members spend full-time looking after affairs of the nation, instead of spending a large share of their time—as many of them do—practicing law or running businesses back home.

Another questionable provision in Mr. Hays's legislative package—an item that he apparently picked up at the Miami meeting with his labor friends—would prohibit corporate political action committees from soliciting funds from employes. The Election Commission earlier ruled that corporations could establish political committees that could solicit money for candidates from stockholders, management officials and company employes. Under Hays's bill, the solicitation would be limited to management and stockholders.

That's dandy for George Meany and Co., whose millions of workers still will be able to ante up for labor's political action pot. But in fairness, the Hays restriction on corporate solicitation ought to be removed from the bill.

It would be a good idea, in fact, for Congress to subject the Hays bill to a microscopic examination when it emerges from his committee and remove any zingers it may have. While the gentleman from Ohio got religion on the big item—reconstitution of the Election Commission—his conversion apparently wasn't total.

Mr. GOLDWATER. Next, I wish to discuss some specifics about the vastly important, but generally overlooked matter of in-kind contributions, which big labor contends does not come under any of the restrictions or safeguards of the Federal election campaign law. These contributions which go unreported, include such things as manpower, mailing facilities and other expensive items of campaign work.

For example, we can see how effectively it was used in the New Hampshire special Senate election. Federal Election Commission records show that labor contributions to the Democratic candidate, now the junior Senator from New Hampshire, Mr. DURKIN, totaled $90,000. What was not reported, however, was union in-kind contributions. The significance of this is described in an article in the New York Times of September 22, 1975, which states:

Durkin spent less than the overall $220,000 campaign ceiling than did Wyman, but Durkin was able to target his spending more effectively because thousands of dollars worth of labor support fell outside the ceiling.

Putting together various items that have been disclosed in public sources, such as newspapers, it is possible to reconstruct a reasonably accurate estimate of the amount of in-kind contributions which labor made to the Democratic candidate in the New Hampshire special election. In fact, I have come across an expert opinion that union in-kind contributions through the special election ran to an estimated $151,900. This, plus the reported contributions of $90,000, means that labor spent close to a quarter of a million dollars in seeking to win this single Senate election.

The following is an item by item breakdown by this in-kind effort by labor:

Estimated nonreported organized labor efforts for the Democratic candidate in the 1975 New Hampshire special Senate election

Registration of union members and "get-out-the-vote" drive	$9,700
Telephone bank operation:	
Telephone banks	13,450
Set-ups & disconnect cost (includes salaries of COPE personnel)	4,500
Computer input and printouts, analyzing and tracking critical precincts	12,200
Mailings:	
Two (2) mailings to 53,000 union members (AFL-CIO plus others). This includes whole packet	27,500
National union mailings into New Hampshire	7,200
Ads and newsletters promoting Durkin (pro-rated)	6,850
Indirect support such as National Council of Senior Citizens which is funded largely by labor	3,000
Personnel:	
Estimated cost (salaries and expenses) of personnel outside New Hampshire (not reported)	34,000
Polling not reported (estimated)	20,000
Brochures and material	3,500
Election day activities:	
Poll watchers (includes training), material distribution, phone calls to all who had not voted by 4 p.m., carpools to polls, baby sitters, etc	8,500
Absentee ballot distribution and identification	1,500
Total	151,900

Mr. President, these figures are an example of just one of organized labor's efforts at influencing public elections. In all, it is estimated that labor will probably spend upward of $70,000,000 in direct contributions, man hours and in-kind contributions to carry out its strategy of winning overwhelming control of the Congress and the Presidency in 1976. If we look at the scale of this union activity across the entire Nation and observe the already giant power of labor bosses, there is serious cause for alarm by the American people at the possibility that elements of organized labor will make good on their goal of controlling the executive and congressional branches of government.

We can find proof of union power in the words of union officials themselves. For example, Al Barkin, director of the AFL-CIO-COPE is quoted in the Time magazine of March 1, 1976, as stating that COPE's million dollar computer "is filled with the names of 14 million union members and can turn up almost anything." He is also quoted in the same article as boasting that—

We're [A.F.L-C.I.O.] going to have the best organized, best financed political force in the history of organized labor.

As further proof of the enormous resources which feed union power, an article by Damon Stetson in the New York Times of January 18, 1976, states:

In 1974, the labor federation reported 1,110,000 volunteers contributed millions of hours to C.O.P.E. programs at the community level during register-and-vote campaigns, staffing telephone banks, polling, canvassing, checking registration, distributing materials and getting out the vote.

According to Mr. Stetson, the AFL-CIO told its affiliates and members that unions remain free to engage in the following activities:

To use Treasury funds, derived from members' dues, to communicate with their members and their families on political issues and candidates;

To use union treasury funds in nonpartisan registration and get-out-the-vote campaigns;

To contribute treasury money and union manpower to the national Committee on Political Education or to state or local central body political education committees to be used to communicate with or register union members and their families.

To use Treasury funds to solicit voluntary contributions for a political fund and for the establishment and administration of such a fund;

To use treasury funds to pay union personnel doing political work as long as they work under union direction and control, and are engaged in political activity aimed at union members and their families.

And, to obtain further proof of the reach of union power, all we have to do is look at just a few areas where unions made direct contributions in 1975. The following Senators, as an example, received in excess of $30,000 each in 1975 from union political action groups toward their 1976 reelection races. Mind you, that these sums, large as they are, do not include any contributions as yet during this election year.

Senator Harrison Williams (D-N.J.)	$63,875
Senator Edward Kennedy (D-Mass.)	40,350
Senator Vance Hartke (D-Ind.)	32,600
Senator John Tunney (D-Calif.)	30,420

Mr. President, the amazing statistics run on and on. Organized labor contributed $114,500 to the Democratic congressional dinner committee in early 1975. These moneys were then contributed to the Democratic Senate and congressional campaign committees.

Moreover, the National Education Association-political action committee gave the Democratic National Committee $25,000 on May 30, 1975, which was two-thirds greater than the sum they gave the Republican National Committee on July 15, 1975.

Also in 1975, the Democratic National Committee received $35,000 from the United Auto Workers; $25,000 from the Machinists NPPL; $21,400 from the communications workers; and $10,200 from the American Federation of State, County, and Municipal Employees.

As I recently disclosed in the Senate, organized labor contributed $2,449,170.51 to Members of the House of Representatives who voted for the common situs picketing bill. The Democrats voting for that bill received 30 times what the Republicans voting for the bill received. Senators who voted for the bill received $3,222,155.13 from labor during their last election races. Democrats received $2,871,992.44, while Republicans voting for the bill received $350,162.69 from organized labor. Again, I should caution that these figures only reveal the minimum amounts reported to recording agencies for the 1974 campaign or the

last election and do not include in-kind contributions.

Mr. President, I am compelled to believe that all who are concerned with the integrity of our governmental system should be shocked at the activities of organized labor bosses who are working to control the Congress and the Office of the President. We have only to look at Great Britain to see a poignant example of what happens to a country once labor dominates the government. The economic gloom and dismal failure of the welfare society in Britain can be traced to the fact that no labor-controlled government can successfully resist the pressure of unions, first for a welfare state, and then against the restraints which are needed to pull a country out of the disastrous course that their programs have gotten it into.

Historian Arnold Toynbee wrote that trade unionism is a "quasi-military form of social organization" that has proved so successful that "it has reversed the balance of power." Speaking of the situation of Great Britain in 1974, Toynbee concluded that:

> The trade unions showed that they have the upper hand not only over landowners and captains of industry, but over the government too.

He added:

> The consequence seems likely to be tragic.

If some future historian is not to make a similar finding about the once great giant of America, we Americans must wake up to the serious ramifications of the vast and growing contributions to liberal political candidates by organized labor.

JOURNALISTS EXPOSE SCARE CAMPAIGN

Mr. MOSS. Mr. President, public trust in government institutions and rational debate on issues of public policy depend not only on a free press but also on an alert and critical press. We are all familiar with the anonymous scare campaign being waged against the child and family services bill. I have not supported the legislation, but I believe that it should be considered on its merits. Fortunately, a number of journalists are beginning to tell the public the facts. I wish to commend and bring to the attention of the Senate three recent editorials on this subject.

Gordon White, who has covered Washington for the Salt Lake Deseret News for 18 years, points out in his column of February 23 that the controversy over S. 626 is not an isolated example of the "big lie" technique to stir up public emotions. A 1968 Gemini photograph was widely claimed to show a smoke pall from the Four Corners powerplant. The cloud turned out to be a series of jet contrails.

The Salt Lake Tribune of February 29 describes the circular campaign against the child care bill as a "victimization of public opinion" and urges readers to be wary of charges by unknown or unfamiliar sources.

Finally, in the current issue of U.S. News & World Report, Howard Flieger explains, in simple and direct terms, what many of us have been trying to tell our constituents about S. 626. The bill, he says, is "innocent and impotent: innocent because it would do none of the things attributed to it; impotent because it is not going anywhere."

I ask unanimous consent that these articles be printed in the RECORD.

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

[From the Salt Lake City (Utah) Deseret News, Feb. 23, 1976]

"BIG LIE" IN SMOKE, FAMILY BILL

(By Gordon Eliot White)

WASHINGTON.—The "big lie" technique has long been a prime tool of propagandists, although it was Joseph Goebbels who defined it 40 years ago.

More recently, environmentalists attacked power plant development in the western U.S. with the canard that smoke from the Four Corners power plant was "the only sign of human life" that the Gemini 12 astronauts saw from space.

This month opponents of a child day care bill have alleged that measure is an attempt to have the state enter American homes and take children from their parents.

For those readers who have not seen the explanation of the 1968 Gemini photo that was widely described as showing a smoke pall from the Four Corners power plant, I will repeat findings by meteorologist Loren W. Crow that were made in 1971. They have never gotten wide publicity, and as recently as last month the Washington Star again "reported" that the Gemini astronauts photographed smoke from the Four Corners power plant.

The picture, taken by James A. Lovell Jr., and Edwin E. Aldrin, was part of a sequence involving the tether line to the Agena docking module. The photo lay unremarked to National Aeronautics and Space Administration files until 1970, when an anti-powerplant witness stumbled across it and showed it at a Senate Interior Committee hearing in Durango, Colo.

The photo, NASA #S-66-62796, does indeed show a thin 320-mile-long plume of haze, stretching across the landscape from Tuba City, Ariz., to Alamosa, Colo. Time Magazine picked up the item and gave it wide publicity as evidence that the power plant at Four Corners was a "tremendous polluter."

The New Mexico Public Service Co., stung by the pollution charge, couldn't believe that the photo showed smoke from their plant and the company turned to meteorologist Crow to find out whether the cloud was smoke or some natural phenomenon.

Crow, using detailed charts and the NASA photo, determined that the plume did extend from Tuba City, 190 miles southwest of the power plant near Farmington, to Alamosa, 170 miles northeast of the plant. Wind records for Nov. 13, 1966, showed a stable air mass moving from the west-southwest at about 35 miles an hour. Clearly, smoke from Four Corners could not be blowing west to Tuba City and east to Alamosa from Farmington that day.

But what did make the cloud? It seemed too long and regular to be natural. A little more research turned up the fact that the "smoke" lay along jet air routes J-64 and J-110. On that day, air traffic controllers were sending air liners along the corridor at a rate of one every four minutes. At jet altitude the temperature was more than 39 degrees below zero, cold enough for the ice crystals to make jet contrails to form behind the aircraft. Later, ground weather observations that noted presence of jet contrails were found to corroborate Crow's calculations.

Crow later told the Denver Post that he could place the cloud at an altitude well above 9,000 feet, too high for any power plant smoke poll.

The attack on the family services bill is equally erroneous. In reality, the measure, co-sponsored by Sen. Walter F. Mondale, D-Minn., and Edward Kennedy, D-Mass., is an updated version of a day care measure vetoed in 1971 by President Nixon. When in full operation, it would cost $1 billion a year, perhaps more. It would provide centers where working mothers could leave their children during the day while they work.

Although the bill is clearly controversial both because of its steep cost and because of its possible effect of encouraging more women to put their offspring in federally-supported centers and go to work, it is in no way a "commune" measure which would take children from their families involuntarily.

But opponents, still anonymous, have charged that the bill would appoint federal specialists who could enter homes and, if they decided the children were not "properly" cared for, could direct their care and education—even force parents to place their children in federal centers.

Charges have also been made that the bill would give children "rights" to refuse parental directions such as to take out the garbage. According to the smear letters that have gone out, the bill would give children the right to refuse religious training and encourage children to report a parent's religious or political opinions to federal authorities.

The truth is that the passages that have been quoted from the Congressional Record by the bill's opponents have nothing to do with the Mondale-Kennedy bill at all. They were lifted from a speech by Sen. Carl T. Curtis, R-Neb., in which he commented on a British "Charter of Children's Rights," which has not even been seriously proposed in socialist Great Britain.

Whatever the merits or demerits of the bill, the "big lie" has been an effective weapon against it. Utah members of Congress have received hundreds, possibly thousands, of letters in opposition. Ironically, those letters have had less impact because they are almost all based upon smear sheets and false premises. If they had been based upon a clear understanding of the actual bill, they would be far stronger opposition.

The Polish "attack" on Germany, communists in the U.S. Army, the missile gap, smoke plumes, and now Sovietization of our children: all propaganda victories for the big lie technique.

[From the Salt Lake (Utah) Tribune, Feb. 29, 1976]

SCARE TACTICS

It's persistently reported that many Americans have lost confidence in their institutions of government. A recent incident, on the other hand, could prompt U.S. Senators and Representatives to wonder about perceptiveness among the constituency.

Members of Congress have been receiving a flood of letters from people demanding defeat for a bill which would take away control parents have over their children. This has caused consternation and considerable perplexity, since no such bill exists.

The situation was created by anonymous notices filled with distortions and falsehoods, mailed to people throughout the nation. It was an obvious attempt at stirring up emotions, and it worked.

Target of the circular campaign is a measure which, if passed, would expand federally-assisted day care centers, places where low income, working mothers can leave children

while earning a wage which could help keep the family together. The service would be fully voluntary, affecting no one not using it.

With an appalling disregard for fact, the unsigned circulars warn that Congress is considering laws granting youngsters some kind of new rights. Also, that these entitlements would permit children to ignore normal family obligations, such as "taking out the garbage," and sue parents that violate "these rights." It's so obviously ludicrous the wonder is so many people were taken in.

Nonetheless, Senators and Representatives report receiving alarmed letters by the "tens of thousands." Apparently, all anyone wanting, for their own purpose, to victimize public opinion need do is concoct a fearful sounding tale, couch it in official terms, then pin it on vaguely described government intent. They don't even have to identify themselves or give accurate references for their assertions before otherwise reasonable people are overcome by blind panic.

Once upon a time, anyone making outlandish statements was required to back them up with substantial proof. But the country seems to have entered a period when, the more crazy-sounding a notion, the more it is apt to gain instant following.

There's ample cause to be skeptical of government-proposed programs. But it's just as good an idea to be wary of charges against government that don't square with common sense. Especially if the origin for such accusations is an unknown, unfamiliar or obscure source.

[From U.S. News & World Report, Mar. 1, 1976]

FALSE ALARM

(By Howard Flieger)

Every now and then a reader writes us in words of terror to warn that a Marxist plot is afoot in Congress to "nationalize" our children—take them away from the protection or control of their parents and destroy the American family, utterly and forever.

The volume of mail received here is not a patch on the sacks of it that have been hitting some congressional offices.

The writers are alarmed over what they've been informed is an insidious scheme to give youngsters the legal right to disobey their parents, and thus become pawns of Government—an all-powerful Big Brother to mold their training, conduct and beliefs.

Strange.

It is strange because there isn't a word of truth in it. No such legislation is before this Congress, or ever has been.

The specific bill that has so many people disturbed is "The Child and Family Services Act of 1975." Its authors are Sen. Walter Mondale (Dem.), of Minnesota, and Rep. John Brademas (Dem.), of Indiana. It is "S.626" in the Senate, "HR.2966" in the House. Read it before you panic.

In its present form, the legislation is both innocent and impotent: innocent because it would do none of the things attributed to it; impotent because it isn't going anywhere.

Briefly stated, the proposal is to make federal funds available to help States and communities provide certain public services for children and their families.

These would include such things as prenatal care, food where needed, part or full-time day care for children of working mothers, tutoring at home where deemed useful, medical examination and treatment for certain handicapped children, and training for parents and about-to-be-parents.

There is nothing compulsory about the legislation now before the Congress. Even if the bill were enacted, anyone who felt like it could ignore each and all of its provisions.

Nothing in it says—or implies—that youngsters have a legal right to disobey their parents or guardians.

Nowhere does it forbid parental guidance, advice or preference in religious training. The subject isn't mentioned.

In fact, it says in specific words:

"Nothing in this act shall be construed or applied in such manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents."

So why all the excitement? It is puzzling to Senator Mondale, one of the chief sponsors, who says the measure "is being subjected to one of the most distorted and dishonest attacks I have witnessed in my 15 years of public service."

There is another practical thing to keep in mind about The Child and Family Service Act: It would cost a lot of money. Estimates are that an initial annual expense of 150 million dollars would grow to almost 2 billion by the third year of operation.

This present Congress is in no mood to add such a burden on taxpayers who already are making angry noises about waste and the high cost of Government. Since this is election year, the measure probably has less chance now than a year ago, when it was introduced—and that means practically none.

Also, remember the President is demanding that Congress do more to hold the line on spending. It is a keystone of his campaign to be against this bill, and any like it.

So everybody can stand at ease.

The bill doesn't provide all those wild things the letter-writers fear. It has no realistic chance of adoption. And even should it overcome its rating as one of the longest shots in history and somehow be enacted by Congress, it would be vetoed almost the minute it reached the White House.

The furore is a false alarm. Forget it.

MARIHUANA DECRIMINALIZATION

Mr. JAVITS. Mr. President, the case for the early enactment of S. 1450, my bill to decriminalize personal possession and use of 1 ounce or less of marihuana has been further strengthened by the announcement of new Federal research on the effects of marihuana use.

As a former member of President Nixon's National Commission on Marihuana and Drug Abuse and as one who is thoroughly familiar with many of the studies undertaken regarding the effects of long-term use of marihuana, the latest findings are only the most recent in an ever growing body of scientific opinion on this subject. In this connection, I would like to bring to the Senate's attention a recent article by Edward Edelson of the New York Daily News.

Mr. Edelson's article points out that at a recent conference on chronic cannabis use, sponsored by the New York Academy of Sciences, studies showed that even long-term users of marihuana were found to have no brain damage, loss of drive, or other serious effects. I urge my colleagues to keep in mind these facts and the results of numerous favorable studies on this subject while considering this legislation.

Mr. President, I ask unanimous consent that Mr. Edelson's article be printed in the RECORD.

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

POT WITHOUT PRISON—AN IDEA WHOSE TIME IS COMING

(By Edward Edelson)

One of the great divisive issues of the 1960s, the question of legalizing marijuana, apparently is being settled by a compromise that gives the pro-marijuana forces almost everything they were asking for.

The marijuana victory is neither complete nor certain. A majority of Americans still oppose total legalization of marijuana and people will still be going to jail in some states for possession of the drug. But the time is rapidly approaching when the use of a small amount of marijuana will have the same legal status as jaywalking, at least in many states. And New York probably will be one of those states.

It was a sign of the times when Gov. Carey, delivering his State of the State message, won applause by saying he wanted to decriminalize marijuana "to free up our criminal justice system so that it may concentrate on crimes more harmful to society."

Such a statement—and such a favorable reaction—would have been impossible for any major politician a few years ago, when the American people were by and large convinced that marijuana was a "killer drug," capable of causing brain damage, inciting smokers to violence, destroying will power and leading innocent users on to harder drugs.

SUBTLE CHANGE

Several things have happened to change things. For one, the issue of legalization has been changed subtly to the issue of "decriminalization," which substitutes petty fines for jail sentences in cases where users possess small amounts of marijuana, leaving the way open for more severe measures against large-scale dealers in the drug.

More important, trustworthy research carried out by scientists and physicians from a number of institutions has provided solid information indicating that marijuana is by no means as damaging as was once believed.

The latest summary of that information came last week, at a Conference on Chronic Cannabis (marijuana) Use held by the New York Academy of Sciences. The word that came out of the meeting was, if anything, too soothing.

"The best evidence is that chronic use of cannabis does not seem to be accompanied by serious consequences," said Dr. Alfred M. Freedman, chairman of the New York Medical College's department of psychiatry and a cocnairman of the conference.

That "best evidence" comes from several studies in which long-time, heavy users of marijuana—people who smoked two or three marijuana cigarettes a day for 10 to 25 years—were compared with people of comparable age and social status who did not use marijuana.

Those studies have been done overseas, in countries such as Costa Rica, Greece and Jamaica, for several reasons: marijuana is accepted as a normal part of life for some social groups in these countries, and it is not easy to find marijuana-using Americans who limit themselves to pot alone; use of other drugs confuses the issues.

Going overseas creates some problems: The people being studied are peasants or manual laborers who cannot easily be compared to middleclass American users. But the basic points about physical and mental damage seem clear: None has been detected. No brain damage, no loss of drive, no severe physical damage that can be attributed to marijuana alone.

NOT TROUBLE-FREE

Researchers at last week's conference warn that marijuana cannot be regarded as trouble-free. Every drug causes trouble, and

this one should be no exception. But the degree of trouble seems to be much smaller than had been anticipated.

On the legal side, Oregon, in 1974, became the first state to decriminalize. The results are reassuring to those who believe that marijuana would be endemic if the laws were eased. A survey done by the Drug Abuse Council found no significant difference in marijuana use patterns before and after decriminalization.

Oregon has since been joined by Alaska, California, Colorado, Maine and Ohio.

In New York, Gov. Carey's proposal has not gone much beyond the bare statement made in his address. An aide said that a decriminalization bill is being prepared for submission to the Legislature. There is no reading yet on sentiment there. If public sentiment as gauged by the Harris poll is any indication of legislative leanings, the bill might squeeze through. A poll this month found a narrow 43%–45% split against decriminalization nationwide, but Easterners were in favor, by 50% to 37%.

And if decriminalization does not come now, wait a while. The opposition is concentrated in older age groups; the under-29 group is 59% in favor. If you're for marijuana, time is on your side.

PROPOSED CHANGES IN REVENUE SHARING

Mr. BAKER. Mr. President, in March of 1967, I dedicated my maiden speech in this Chamber to the establishment of what was then called the Tax Sharing Act of 1967, a measure designed to permit an immediate beginning of sharing Federal revenues with the States. It was not, however, to be "immediate," as over the succeeding several years, I introduced, sponsored, and cosponsored a number of bills with a similar intent. Finally, over 5 years after that initial introduction, general revenue sharing became a reality with the enactment of the State and Local Fiscal Assistance Act of 1972. This was the culmination of not only my own, but of the bipartisan efforts of many of my colleagues in both of the Houses of the Congress. I am, nevertheless, pleased that I was able to play a part in the passing of that legislation.

I am also pleased, Mr. President, that the intervening years since its passage have proven the wisdom of revenue sharing both in principle and in practical effect. The principle is that, although the Federal Government has the greater capacity to generate revenues, it is the State and local governments that are more perceptive and responsive to the immediate needs of the citizen-taxpayer and that, therefore, at least a small percentage of tax-generated revenues should be made available to meet those needs. It is an effort, albeit small, to prevent the deterioration of federalism in the concentration of all the governing power in one central government. It is one of these measures that, although not mandated in the Constitution, is at least consistent with the inherent logic of the system embraced by the Constitution.

In practice, general revenue sharing has made at least a beginning toward the equalization of States and localities of varying degrees of wealth and resources to provide the necessary services required by their citizens. In addition, and I believe this to be important, the revenue sharing program has bolstered the abilities of the poorer governments without, at the same time, detracting from the abilities of the more affluent governments. The program, therefore, has provided more aid where it is most needed, and less where it is least needed. Finally, I am encouraged that the program enjoys with virtual unanimity the support of those involved across the board spectrum of State, local, and municipal governments.

The question now is where to go from here. It appears to be fairly certain that sooner or later the Congress will extend the life of the revenue sharing program. My concerns in this regard are twofold: First, whether the form of that extension will be consistent with the underlying principles of revenue sharing; and, secondly, whether the Congress will be able to act with sufficient quickness to avoid imposing undue uncertainty in the budgetary planning of our State and local governments.

In the past year, there have been numerous proposals to extend, change dramaticaly, or modestly modify the general revenue-sharing program. It is my belief that revenue sharing, as presently constituted, has been a successful program and, consistent with its original purposes, represents a program of substantial benefit to the citizens without the usual overwhelming amount of bureaucratic redtape and interference. I believe that we should make every effort to keep those laudable characteristics a part of the revenue-sharing program.

Early in 1975, Senator BROCK and I, and a number of our colleagues, introduced an amendment to the State and Local Fiscal Assistance Act of 1972, that would, with minor modifications, make revenue sharing a permanently enacted program. In May of 1975, the administration's proposal to extend revenue sharing, again with modest modifications, was introduced. I believe that there are meritorious elements in both proposals; and, therefore, I am preparing an amendment that will embody the best elements of each.

Briefly, my proposal will embody the major elements of the proposal of the administration with one notable exception. That exception pertains to the manner in which the level of funding for the revenue sharing trust fund is determined. I propose, as we did in S. 11, to require the Secretary of the Treasury to transfer to the trust fund seven-tenths of 1 percent of the total adjusted gross income of the United States as determined by that year's income tax returns. This proposal was first recommended by the Advisory Commision on Intergovernmental Relations, and I believe strongly that any extension of revenue sharing should contain therein this proposal.

First, it acknowledges once and for all that revenue sharing is an indelible element in the Federal scheme; and, until the Congress commits itself to the permanence of the program, the State and local governments cannot, with confidence, include revenue sharing as a factor in their long-term planning and budgetary processes. For the most effective and efficient use of these revenues, I believe that the confidence is important.

Moreover, a revenue-sharing program indexed to the total existing adjusted gross income of the American taxpayers would more accurately reflect the rate of growth in the national economy and more realistically represent the appropriate level of Government support for this program. It is important to note that, although seven-tenths of 1 percent of the 1974 AGI approximates the actual trust fund distribution based on that year, it will grow at a rate that more accurately compensates for the effects of inflation than does the arbitrary $150 million annual increase included in the administration's proposal.

The second change I would make, and this was in neither the administration's proposal, nor in the proposals of S. 11, is in the area of distribution, that is, the formula by which revenue sharing funds are allocated between the State governments and the local municipal governments. The problem here is to relate the program's distribution formula to the varying degrees of need present in State and local government throughout the country. The present formula, although arbitrary to the extent that, in many instances, it does not accurately reflect local fiscal realities and is mechanistic in nature, has worked fairly well and has provided for a measure of cooperation between State and local governments.

The administration has proposed to raise gradually the maximum distribution to local and municipal governments from 145 percent of the average allocation to 175 percent after a 5-year period. Although I endorse this proposal, I would go one step further and allow the States to generate individually a formula that more accurately reflects their particular need distribution. Unless the States deter that there is a need to revise the formula, the funds would continue to be distributed in accordance with the present formula.

In my mind, the advantage of giving the States this option is that it emphasizes the Government's commitment to the primary underlying principle of revenue sharing, and that is that the State and local governments are in the best position to determine where Federal aid may be most effectively utilized.

The remainder of the administration's proposal I would leave intact. There are two features of that program that I think are particularly important. First, although it eliminates the present ineffective restrictions on the manner in which local governments may utilize revenue sharing funds, it strengthens the Government's commitment to insure that no revenue sharing funds are used to perpetuate discrimination on the basis of race, color, national origin, or sex. Basically, the proposal, and I endorse this principle, emphasizes the commitment of the Federal Government to vest in the State and local governments a measure of trust that funds so freely given will be well and wisely spent, and not in ways that run counter to the pub-

lic mores to which this Nation is dedicated.

If they are spent in ways that discriminate against anyone, the Secretary of the Treasury is empowered not only to request the Attorney General to initiate appropriate civil actions under title VI of the Civil Rights Act, but also to impound revenue sharing funds allocated to those governments who are in violation of the prohibition against discrimination and to demand repayment of those funds already distributed and which have been used in a discriminatory manner.

Second, the administration proposal brings greater emphasis to bear on the importance of public participation in the local budgetary process. I think this is important because again it emphasizes revenue sharing, and I do not believe that we can emphasize this too much—that is, decisions on how best and how most usefully the taxpayers' money can be spent can best be made to the taxpayer. The more the public can be encouraged to participate in the local budgetary process, the more closely we approach the fulfillment of that basic tenet.

Earlier, I mentioned that I had two primary concerns regarding revenue sharing: the first being that the program be extended in a manner most consistent with its underlying principles, the second being to insure that the program is extended expeditiously so as not to disrupt the budgetary processes of the recipient governments. As many of you know, approximately 50 percent of State and local governments operate on a fiscal year basis, the other 50 percent on a calendar year basis. To those governments whose financial year begins on the first of July, the insouciant slowness of Congress to come to grips with the revenue sharing problem must appear to be the height of indifference to and disregard for the problems of formulating a budget with a question mark where an approximate revenue-sharing figure should appear. Prior to the Christmas recess, I was visited by local government officials from the Cumberland Plateau area of Tennessee; and, when I asked them at what point the delay in extending revenue sharing would pose a problem for them, they replied in their rather direct way, that the problem was already critical. I do not believe that it is appropriate for us to wait any longer.

It is my understanding that the Senate Finance Committee has decided to await House action on revenue sharing before it will begin to consider the Senate proposals. Thus, the earliest that we could expect committee consideration of this program is mid-to-late March, and probably even later than that. I very seriously question the wisdom of further delays. I have considered, and for that matter, I still am considering, a motion to discharge the revenue sharing extension from the committee. I have also considered expediting the process by offering the revenue-sharing extension as an amendment to a bill that appears to be progressing through the congressional maze more expeditiously. I would not want to do either, but I am beginning to think that some fairly drastic action is necessary even if only to call to the attention of my colleagues the seriousness of this problem.

For the time being, I will keep such measures in abeyance. But I would urge my colleagues to consider seriously the predicament in which we are placing a large number of our State and local governments. I would urge that we would redress this problem in the very near future and that we do so in a manner consistent with the principles that motivated us to enact this legislation in the first place.

U.S. INTERESTS IN THE PANAMA CANAL

Mr. HARRY F. BYRD, JR. Mr. President, the Panama Canal has belonged to the United States for 72 years. It is U.S. territory.

Yet our State Department is currently involved in negotiations, with the Government of Panama, designed to end U.S. control over that territory.

I think that would be a very serious mistake.

The Panama Canal is a valuable economic and defense asset and I am persuaded that any new treaty compromising our rights in the Canal Zone would not be in the interest of the United States.

A recent editorial in the Richmond News Leader argues concisely why "this is not the time to give the canal away. Not now. Not ever." And a recent article by Lt. Gen. V. H. Krulak, in Strategic Review, presents an excellently argued, and comprehensive presentation of why the United States should not sign away its sovereign rights over the Panama Canal.

I ask unanimous consent to have these articles printed in the RECORD.

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

[From the Richmond (Va.) News Leader, Feb. 3, 1976]

KEEP THE CANAL

The negotiation of a new Panama Canal treaty—one that would give Panama eventual control over the waterway—is proceeding with all deliberate speed. State Department negotiators say that nothing much will happen before the end of the year. Why? Because 1976 is an election year, and moving the talks along quickly (a) would generate publicity, (b) publicity would stir a fuss in Congress, and (c) that sort of a political squabble proponents of a new treaty do not need.

Likewise, Panamanian strongman Omar Torrijos and his adviser, Fidel Castro, seek no fight. Last month, Torrijos journeyed to Havana. He came, he saw, and he concurred with Castro that, in Panama, time is running out for the United States and its sovereignty over the canal. Advised Fidel: Don't press the issue. So, from Torrijos, there were no denunciations of the dread *Yanquis* and all their works, no diatribes against the wicked imperialists. Said Torrijos: "Panama will have the last word. We are—remember this—in a process of liberation and one of the means by which that can be reached is through negotiations." Plainly, Torrijos would rather talk than fight.

Castro's support for Torrijos' policy of patience will do much to defuse the violence-potential of restive Panamanian "students," who seek immediate takeover of the canal. These students remain the only domestic danger that Torrijos faces, but they follow orders. Castro's support helps Torrijos wait out the American elections, and win a treaty to his liking. (Still on the agenda are (1) the amount of territory—if any—to be left under U.S. jurisdiction; (2) U.S. defense rights and obligations during the duration of the treaty; (3) what that duration will be; and (4) how much the U.S. will give Panama in rent, in addition to the $2.3 million it pays now.

The Torrijos scenario has one serious flaw: It is contingent on President Ford or a like-minded Democrat occupying the White House until 1980. Unfortunately, for Torrijos, Ronald Reagan already has made the canal a campaign issue by charging that the talks indicate an American sellout. For Torrijos, Reagan's attentions are unwelcome: Fourteen Panamanians—businessmen, lawyers, and radio broadcasters—already have been expelled from their country. Their crime: vague links with Reagan.

Supporters of "Panamanianization" of the canal argue that the American presence in the zone rubs Latin sensibilities raw, and that the canal is obsolete—an "aging utility," according to Ambassador-at-large Ellsworth Bunker, who heads the American negotiating team. Yet thousands of ships use the canal each year, and 70 per cent of the waterway's traffic either originates or terminates at U.S. ports. Moreover, a tough stand in Panama would draw the line against other Third World demands on the West—demands that, too often, are thinly-masked thrusts of Soviet imperialism.

The United States spent billions to build and maintain the canal, and to defend it. For Torrijos, waiting out an election may be a clever ploy, but for the American people, the realization must come that this is not the time to give the canal away. Not now. Not ever.

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PANAMA: STRATEGIC PITFALL

(By Lt. Gen. V. H. Krulak, USMC, ret.)

(The author: General Krulak is a Director of the United States Strategic Institute. From 1964 to 1968 General Krulak served as Commanding General, Fleet Marine Force, Pacific. He is now Director of Editorial News Policy of the Copley Newspapers and President of the Copley News Service, San Diego, California. General Krulak's article, "Mainland China: The View from Taiwan," was published in the Summer 1975 issue of Strategic Review.)

IN BRIEF

The case for giving up the Panama Canal rests on three points: that the Canal Zone is really Panamanian property; that the United States pressured Panama into giving us the Canal Zone in 1903; and that the United States is exploiting the Panamanians, robbing them of Canal operating profits that are rightfully theirs. In fact, the 1903 treaty granted the United States perpetual sovereignty over the Canal Zone. It is more accurate to say that Panama pressured the United States because Panamanians were fearful that a canal would be built across Nicaragua instead of Panama. The United States paid Panama for the right to build the Canal and for clear title to the Canal Zone, and currently voluntarily pays Panama $2 million a year, although the Canal has been a losing venture during the past few years. Due largely to Canal-related employment, Panamanians have a living standard equalled by few other Latin American states. The Canal is still strategically important to the United States and economically impor-

tant to the United States and to the world. Only because of the Canal is the United States able to risk what amounts to having a bare bones, one-ocean navy. There is no indication from their current behavior that the Panamanian dictator and his Marxist military government would not capriciously bring about major changes in the economy and security of our nation if they were ever in a position to exercise authority over the operation of the Canal. Most Latin Americans understand these factors as do the American people at large.

We live in a time when revisionists serve up historical fiction to meet every ideological need. No current issue of importance has undergone more distortion of historical fact or present reality than is represented by the massive campaign afoot to popularize U.S. relinquishment of soverignty in the Panama Canal Zone.

This should surprise no one. A principle of the greatest importance is involved here. It is the latest pressure-point for erosion of U.S. prestige as well as the ability to control its future. With the Soviets gaining port facilities of the greatest strategic importance all around the globe to serve their growing naval power, Panama, apart from the Canal as a strategic asset, must be viewed as a key location in the Western Hemisphere.

Basically, the drumfire of propaganda in both the U.S. print and electronic media rests its case on three points:

First, the contention that the Canal Zone is really Panamanian property and that the Republic of Panama never relinquished its sovereign rights to the area;

Second, that the United States pressured Panama into giving us a position on the Isthmus of Panama in 1903, using deception, force and threats to accomplish something that contravened the desires of most Panamanians themselves;

And finally, that the United States is even now exploiting the Panamanians, robbing them of Canal operating profits that are rightfully theirs.

All three of these contentions are contrary to fact. None has any basis in truth.

SOVEREIGNTY

As to the matter of sovereignty, there is no question whatever. The Canal Zone is not in any sense Panamanian territory. The 1903 Hay-Bunau-Varilla Treaty with Panama was unequivocal in this regard, granting the United States "perpetual sovereignty over the Canal Zone to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

The treaty is in no way less positive or final than the treaty of 1803 through which President Jefferson bought Louisiana from Napoleon, or the treaty of 1867 which formalized the purchase of Alaska from Czarist Russia.

The reality is that the 558 square mile Canal Zone is United States territory, a fact that the United States Supreme Court subsequently confirmed in a formal opinion—(*Wilson v. Shaw*, 204 U.S. 24, January 7, 1907).

Among other things, the lengthy Court opinion says,

"The title to what may be called the Isthmian or Canal Zone, which at the date of the act was in the Republic of Columbia, passed by an act of secession to the newly formed Republic of Panama. The latter was recognized as a nation by the President. A treaty with it, ceding the Canal Zone, was duly ratified, 33 Stat. 2234. Congress has passed several acts based upon the title of the United States, among them one to provide a temporary government, 33 Stat. 429; another, fixing the status of merchandise coming into the United States from the Canal Zone, 33 Stat. 843; another, prescribing the type of canal, 34 Stat. 611. These show a full ratification by Congress of what has been done by the Executive. Their concurrent action is conclusive upon the courts."

The Supreme Court opinion in this area is summarized in the words, "It is hypercritical to contend that the title of the United States is imperfect, and that the territory described does not belong to this Nation. . . ."

Second, the United States did not pressure the Panamanians. It would be more accurate to say that they pressured us.

Following liberation from Spain at the beginning of the nineteenth century, Panama joined Venezuela and Ecuador in uniting with Colombia. The union did not work. Venezuela and Ecuador split off first and Panama subsequently became disenchanted with the behavior of Colombia because of its exploitation of the people of the Panamanian region. Beyond this, the Panamanians were fearful that a canal would be built across Nicaragua instead of Panama, because of Colombian incompetence and lethargy. Consequently, the Panamanians were more than glad to negotiate a profitable agreement with the United States.

As an element of their agreement with the United States, Panama was paid fairly for both the right to build the Canal ($35 million) and for clear title to the Canal Zone ($160 million). The country has flourished in the ensuing seventy-two years and now, largely due to Canal-related employment, the one and one-half million Panamanians have an annual per capita income of $1,000 and a living standard equal by few other Latin American states.

Finally, the allegation that the U.S. is robbing Panama of Canal revenues is totally without foundation. We give Panama a voluntary $2 million a year payment (up from an original $430,000). And there are no profits. Although toll collections exceed $114 million annually, the Canal has been a losing venture for us during the last few years.

SIGNIFICANCE OF THE CANAL

Quite apart from the sophistry and characterizes the campaign of those who want to see us out of Panama, Americans need to take a hard look at just what it would mean to us were the authority over this vital lifeline actually conveyed to the present government of Panama.

It is a Communist government. The Communist Party is the only party recognized in the country. Others are outlawed. The principal government officials are all Marxists—including the chief of state, Omar Torrijos, a National Guard lieutenant colonel who seized power by force from the elected president, Dr. Arnulfo Arias, in 1968.

Freedom of speech and of the press have been totally stifled, the Church harassed, the national Congress closed, and national elections have been suspended indefinitely.

Hatred and defamation of the United States are as much a national policy as are close ties with the Communist world, most particularly the Soviet Union and Cuba.

The attitude of the military government is one of inflexible determination to achieve total authority over the Canal, or to punish everyone involved if this effort is unsuccessful. In late 1974 the acting ambassador to the United States from Panama, speaking in a television interview, was unequivocal. He said that if the Panamanian government is unsuccessful in its treaty negotiations with the U.S. "there will be no Canal for anybody, not for us, not for the United States, not for the world."

Torrijos mirrored this view last August, when he said, "We're going to make ourselves independent. What we have to decide is at what price. The day the people begin acts of sabotage nobody can control them. Because the Canal is as indefensible as a newborn child."

All of this is a thinly disguised threat of violence that neither the United States nor the rest of the world can tolerate, for the 14,000 ships that transit the Canal annually are an important element of the world's lifeline.

The fact is, Torrijos and his followers cannot be regarded as responsible men, and if they were ever in a position to exercise authority over the operation of the Canal, they could capriciously bring about major changes in both the economy and the security of the United States. Nor is there any indication from their current behavior that they would not be willing to do so.

By jacking up the Canal tolls to American shipping they could add substantially to transportation costs, and thus to the cost of end items in our marketplace.

Alternatively, by closing down the Canal at their own whim, they could double the cost of maritime fuel for a voyage from the west to the east coast of the United States, and more than double the average transit time from coast to coast. When it is realized that fully 8,000 ships a year carry cargo through the Canal, destined for U.S. ports, the resultant increase in retail costs of the commodities is evident.

A common argument is that the Canal has largely lost its strategic value to the United States because our principal combatant ships are too large to get through the locks. Actually, a total of only thirteen ships in the U.S. Navy have beams too great to permit passage through the waterway. The remainder of the fleet, some 470 ships—not to speak of an equal number in reserve—can use the Canal, and do so, beneficially.

In the past two and one-half years some 750 U.S. Navy ships transited the waterway bound east or west on affairs related to our national security. Had all these ships—for any reason—been obliged to take the Cape Horn route, the increased fuel requirement would have been on the order of 26,000 barrels, which is to say about $20 million worth of precious petroleum. And were a combatant crisis also involved, the additional thirty to thirty-five days of steaming could well be of decisive tactical importance.

In truth, the Panama Canal is an essential link between the naval forces of the United States deployed in the Atlantic and in the Pacific. It is only because of the waterway that we are able to risk having what amounts to a bare bones, one-ocean navy.

However, without absolute control of the Canal and the essential contiguous land, the United States could not accept the hazard of a one-ocean navy. It would be essential at once to initiate construction of fleets independently able to meet a crisis in either the Atlantic or the Pacific—a massive expenditure which we are now spared only because of our control of the Canal.

These factors are appreciated throughout Latin America, where all but the far left governments see it as something quite different from the issue of anticolonialism that has swept around the world. The Canal Zone does not share the history of Portuguese, French or British mercantile colonialism in Africa. It is not a Nigeria or a Chad. The Panama Canal is a sensitive trust—one which the United States has never sought to exploit for its own exclusive advantage.

Most Latin Americans understand this. In their own interest they realize that the critical strip, measuring only 5 per cent of the total area of the Republic of Panama, must never be permitted to fall into irresponsible hands.

STRATEGIC REALITIES

At a recent meeting of the Inter-American Press Association in São Paulo, Brazil, the attitude of Latin American publishers and editors was cold and clear. It was best expressed by a Chilean who said, "You would be doing yourself and us a major disservice if you were to back off one centimeter from your present position in Panama."

And a Venezuelan, in speaking of the con-

cessions the U.S. has already offered, made pointed reference to the futility of appeasing communism, quoting Aleksandr Solzhenitsyn on the subject of what he calls "short-sighted concession; a process of giving up and giving up and giving up, and hoping that perhaps at some time the wolf will have eaten enough."

Even more to the point, these strategic and economic realities are generally understood by the American people at large and, through this understanding, there is a very substantial popular sentiment against any action which would diminish our sovereignty over the Canal Zone.

What is less well known is the fact that since 1968 the United States has been involved in negotiations with Panama over our position in the Canal Zone. Between 1970 and 1975 the U.S. has proposed a number of concessions—relinquishment of the "in perpetuity" clause of the 1903 treaty, increase in dollar payments and cession of certain port facilities. Then, in 1974, the U.S. agreed to sit down with representatives of Panama and work out a comprehensive agreement that would initially give the Panamanians jurisdiction over the Canal Zone and, ultimately, would actually transfer both ownership and operating responsibility of the Canal to Panama.

We are doing exactly that right now. Ambassador Ellsworth Bunker, operating under those guidelines, is at work on a Caribbean island, developing the details with representatives of Panama.

Ultimately, of course, it will all have to come before the U.S. Congress for ratification, and no American legislative body in history has had a more sobering task than the one the legislators will face when they contemplate a treaty that diminishes or relinquishes our precious sovereignty in Panama. If the Congress concludes that the U.S. can risk sharing those fifty vital miles of lifeline with a hostile Communist government; even worse, if it agrees to give the Canal away, it will have done this country more harm than a dozen succeeding Congresses could repair.

DÉTENTE AND CONTAINMENT—THE DANGERS OF SEMANTICS

Mr. GARN. Mr. President, hardly a day goes by without some positive or negative comments in the daily press on the political consequences of America's current policy of détente. Our colleague, the distinguished junior Senator from Tennessee (Mr. BROCK) brings clarity to the debate in an article published in the January issue of the Journal of Social and Political Affairs dealing with the problems of excessive rhetoric and publicity generated in support of détente.

In a brief review of 40 years of American-Soviet relations, the Senator shows how the political pendulum swung back and forth, causing at each turn contradictory efforts of the decision makers to influence America's public opinion. The recognition of the Soviet Government in 1933 was accompanied by exaggerated praise of Soviet domestic accomplishments. Subsequently, the revelations of Stalin's purge trials acted as a counter-irritant.

Again, after Pearl Harbor, it appeared expedient to disregard the distasteful aspects of communism and to convince the American people of the essential "goodness" of the Russian ally. A few years later when Soviet expansionism caused a new American posture, the containment policy was overadvertised as a panacea. Now "détente" is upon us with the result that many consider a "no-risk" policy the only desirable course of action.

Senator BROCK effectively refutes this idea, as he suggests that relations with Russia should be considered a continuum consisting of efficient and friendly negotiations interrupted when necessary by confrontations.

Because of the significance of his comments, I ask unanimous consent that his article, "Détente and Containment—The Dangers of Semantics" be printed in the RECORD.

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

DÉTENTE AND CONTAINMENT—THE DANGERS OF SEMANTICS

(By WILLIAM E. BROCK III, U.S. Senator)

The public debate about the positive and negative elements of detente is currently gaining force. Whereas under the influence of an inflated rhetoric, detente was initially welcomed by a vast body of American public opinion as a progressive development, since it seemed to end an era of cold war confrontations, it now appears that second thoughts are gaining the upper hand. Questions are being raised as to whether the implementation of the new concept is not actually playing into Soviet hands. Some wonder whether American negotiators are not always given the short end of the bargain, while others warn that the Russians, under the umbrella of detente, might be able to achieve the goals which cold war policies have prevented them from attaining.

In America, detent is often seen as an end in itself. By contrast, it has been pointed out that in the USSR it is considered an effective tactical strategy for achieving long-term strategic objectives such as the breakup of the Western alliances, the termination of United States military presence in Europe and worldwide Soviet political, military and economic hegemony. According to this view, the policy of detente actually has facilitated the Soviet military build-up. Russia's naval expansion, SALT I and more recently the Helsinki agreements are usually cited as examples to demonstrate the pitfalls of the new concept.

Scholarly critics, moreover, have been referring to detente as a policy of "strategic drift" promoted by America's "national uncertainty, indecisiveness and self-doubt." They have been stressing fundamental contradictions between the current conduct of American foreign policy and the Secretary of State's earlier doctrines enunciated while he was teaching at Harvard University. As a Professor, Dr. Kissinger once described an American "no-risk" policy vis-a-vis the Kremlin as self-defeating. It has been charged that under the label of detente he is now actually pursuing such a no-risk policy.

In the early days of containment the State Department stressed the revolutionary character of Soviet communism, asserting that Russian rulers sought security only in a patient but deadly struggle for total destruction of the rival power, yet never through compact or compromises. Today, Americans find the inhabitants of the Kremlin portrayed as conciliatory and reasonable members of the family of nations. It is hardly surprising then that the validity of the alleged transformation is being questioned. In this connection, Secretary Kissinger's often quoted rejoinder, "What is your alternative to detent?" has not been very helpful. If anything, it tended to obfuscate the fundamental issues. The public debate has so far remained inconclusive; accordingly, a brief review of four decades of American-Soviet relations might provide some helpful guideposts.

The United States was one of the last industrial powers of the West to recognize the Communist government of Russia. Franklin D. Roosevelt, who regarded the absence of diplomatic relations between the two countries as counter-productive, hastened to correct this state of affairs after taking office. He was encouraged by William C. Bullitt who, as Woodrow Wilson's emissary, had visited Russia in 1919 in an attempt to reach a modus vivendi with Lenin's government. Although unsuccessful in this regard, Bullitt was greatly impressed by the dynamic personalities of Russia's revolutionary leaders and from then on constantly pressured for recognition of the new regime. The resulting Roosevelt-Litvinov agreement of 1933 entailed a Soviet acknowledgement of the Czarist debts, provisions against communist propaganda and pledges to assure the freedom of religious worship for Americans living in the Soviet Union.

It became William Bullitt's task as America's first ambassador to the Soviet Union to follow the implementation of the agreement. To his dismay, he soon learned, however, that only the last mentioned provision was duly observed. Contrary to the spirit of the agreement, the Comintern never ceased to work toward one of its ultimate goals, the overthrow of the United States Government. And when Bullitt protested, Litvinov brazenly declared that the Cominterm was a private organization in no way connected with the Soviet Government. In a similar fashion the carelessly drafted debt agreement was flouted.

Russian non-fulfillment of the principal provisions of the Roosevelt-Litvinov agreement could have taught the United States a few important lessons. Unfortunately, though, Soviet talents for utilizing the fine print and for interpreting ambiguities in the text of their own satisfaction were soon forgotten. It took numerous additional demonstrations of Soviet craftiness before American representatives fully grasped the nature of and problems in negotiating with the Kremlin.

William Bullitt soon left Moscow, a thoroughly disillusioned man, and many Americans who had regarded the Roosevelt-Litvinov agreement as a progressive development shared his feelings. Reports of Stalin's purge trials which reached the West shortly thereafter added to America's apprehensions about the Soviet system. When a few years later Hitler's legions invaded Russia, Senator Harry Truman's public comments probably reflected the views of many Americans. Truman not only expressed satisfaction at the spectacle of the two dictators hacking away at each other, but he also suggested that aid should be given to the exhausted side in order to attain complete annihilation of both systems. His comments were of questionable appropriateness for a U.S. Senator, but they were in line with America's attitude toward the two belligerents at the time. Stalin's purge, Hitler's racial persecutions, the involvement of both in the Spanish Civil War and finally the Molotov-Ribbentrop Pact had been effective in eliminating most of the sympathies held for either of the two systems among the American people. As one would expect, Soviet propagandists promptly seized on the occasion and recited Truman' remarks whenever the wickedness of the United States had to be shown.

Pearl Harbor ended this situation overnight. Willy-nilly, the United States found itself suddenly in the same camp with the Soviet Union. Moreover, the spirit of self-preservation obliged the United States to make the best of the resulting configuration of forces. To any objective observer in 1942 it was clear that the Axis powers could only

be defeated by the combined and uninterrupted efforts of the newly formed East-West Alliance. A defection of Soviet Russia, i.e. a separate Soviet-German peace settlement, would have required an extraordinary war effort on our part and probably been tantamount to an indefinite stalemate. There is evidence that Franklin Roosevelt recognized this danger.

Today we find many historians who are critical of FDR's accommodating policies toward the Kremlin. In particular, the President's lend-lease policies and his "generosity" toward the Soviet Union have frequently come under fire. As I see it, most of this criticism is based on the wisdom of hindsight. Bismarck's Reinsurance Treaties with Imperial Russia, the Rapallo Treaty, the subsequent training of the German Reichswehr on Russian soil and the Molotov-Ribbentrop Pact demonstrated that the two nations often were able to overcome elements of division and to join forces when this seemed expedient from the standpoint of their respective national interests. Besides, moral inhibitions were not part of the dictators' vocabulary.

Roosevelt's "naive" comments on future American-Soviet cooperation have found many critics, but I often have wondered whether such remarks were not, at least in part, offered for public consumption. Our self-interest at that time made it necessary to convince the American people of the essential "goodness" of the Russian ally; by the same token, it was not possible for America's leaders to express publicly any inner fears about the reliability of the Kremlin. Accordingly, there had to be an unrestricted and even lavish flow of lend-lease supplies and an uncompromising demand for unconditional surrender. If Russia still defected, at least the man in the White House would have done his best to prevent such a disastrous course of events. Considering the role of public opinion in the conduct of American Foreign affairs, it therefore seems only natural that an all-out effort was made to secure a nationwide acceptance of wartime cooperation with the Soviet Union. Accordingly, memories of Russia's collectivization, of Stalin's purge-Trials and unfulfilled agreements were "forgotten" and the democratic elements of the Soviet system—whatever could be found—were moved to the foreground. The resulting "war romanticism," as John Foster Dulles later put it, over-idealized the Soviet Government's actions as well as its objectives.

The benevolent image of Russia's rulers promptly began to wane when victory over Hitler came in sight. In case any Western leaders had been carried away by their own wartime propaganda, Yalta should have given them a fore-taste of Soviet postwar posture. Undoubtedly, the configuration of military power played a decisive role in February 1945. In the West, political and military leaders had barely recovered from the shock of a threatening German breakthrough to Liege and Antwerp which would have split apart the American-British forces. In the East, most of Poland was in Russian hands and the Soviet armies were advancing rapidly. Accordingly, Soviet leaders yielded little, especially on the key question of Poland's political future. Moreover, the wording of the Yalta agreement was general enough to permit contradictory interpretations.

Subsequently, when public opinion demanded that "our boys be brought home," and, as a result, the American army in Europe literally disintegrated, the Kremlin was not slow in recognizing the green light: most of the agreements on Eastern Europe were promptly flouted. As Stalin, in an unguarded moment, explained to Harry Hopkins: "The Soviet Union always lived up to its commitments—except in very rare extreme emergencies." History is, of course, full of examples of big or small powers violating international law, but I do not recall any instance when this was done more brazenly.

It took some time to convince the American people of the fact that wartime cooperation had come to an end and that a new phase of American-Soviet relations was in the offing. Soviet demonstrations of intractability hastened the process and by the end of 1947 the American public by and large had accepted the new policy of containment. In essence, the concept ought to be seen as an understandable reaction to the widespread public desire for a return to "normalcy," to a general unawareness of Soviet Russia's diplomatic and political methods, and to the United States' lack of political preparedness. The containment concept accordingly entailed a strong emphasis on the need for power and the demonstrated willingness to use it when dealing with the Kremlin. Russian retrograde reactions to the United States' firm posture on Iran and Turkey showed the merits of the new approach.

A less desirable facet of containment on the other hand was the emerging reluctance in Washington to search for settlements to explore the possibilities of a detente and to pursue actively Soviet feelers for compromises. As it seems in retrospect, we may have missed some opportunities to maintain the wartime alliance beyond 1947. Whereas American public opinion by and large accepted the dark image of the men in the Kremlin, a negative aspect of containment, namely, the reluctance to negotiate with Communist rulers, was promptly challenged by Walter Lippman—"For a diplomat to think that rival and unfriendly powers cannot be brought to a settlement is to forget what diplomacy is all about. There would be little for diplomats to do if the world consisted of partners enjoying political intimacy and responding to common appeals."

In sum then, the protagonists of wartime cooperation with Russia as well as the apostles of containment went overboard in their respective efforts to convince a hesitant populace. During the years 1942–1943, considerable efforts and "war romanticism" were seen as necessary to create the essential climate for wartime cooperation. Naturally, Soviet performance on the battlefield aided the progress. In a similar vein, as of 1945 all the negative aspects of Soviet Communism have to be stressed to prepare public opinion for the unavoidable confrontations. Again, Soviet expansionist policies and violations of the Yalta and Potsdam agreements expedited American public reaction, fostering an appropriate climate for the beginning of the Cold War.

Today, there is a tendency to identify containment as a policy of risky confrontations. This definition does not follow Webster, nor does it correspond to reality. As to the former, containment is "the policy of attempting to prevent the influence of an opposing nation or political system from spreading." As to the historical past, there were actually more incidents under containment where confrontations were evaded than faced. When General Clay in the early stages of the Berlin Blockade recommended the dispatch of an armored convoy, he was promptly over-ruled and the airlift organized instead. Had there still been a sufficient number of American combat-ready divisions in Europe, I believe neither a convoy nor an airlift would have been necessary to secure our access to Berlin—not because they would have been used, but because of Soviet perceptions of U.S. strength. As it turned out the airlift provided a temporary solution to a long-term problem but it also signaled to the Kremlin our reluctance to engage in risky confrontations—a message subsequently confirmed in the course of the uprisings in East Berlin, Poland and Hungary—and on the occasion of the erection of the Berlin Wall. Soviet analysts accordingly were surprised at our energetic reaction to the invasion of South Korea, especially since Secretary Acheson a few months early had failed to list Korea as within the defense perimeter of the United States. Their strange, yet not quite illogical, conclusion was that Acheson's speech had been a "ruse" and that the USSR had been "tricked" into the Korean venture.

From today's vantage point, the Cuban missile crisis will be seen as the watershed of the Cold War. While Soviet leaders had some reasons to be surprised at America's strong reaction to the invasion of South Korea, it took the mentality of a political gambler to assume that the Russians might get away with extending their aggressive policies to the borders of this country. The resulting confrontation had not only the short-run result of demonstrating to the world the limits of American patience, but the tense days which the two adversaries spent at the nuclear brink drove home the fact that all possible efforts should be made to avoid future dangerous encounters.

A number of unrelated but equally significant developments followed. The previously rumored rift between the Soviet Union and China came into the open and made it clear that the theory of monolithic communism was only a myth. In the United States a President with a strong anti-communist record and a commitment to extricate the United States from Vietnam took office. And in Russia the Brezhnev-Kosygin team, which for more than five years had been trying to achieve a more balanced and improved pattern of economic growth, was encountering a serious impasse. Its initial efforts to rebuild the Soviet economy in accordance with the much publicized program of the Soviet economist Lieberman apparently had failed because of the emasculating influence of the Soviet bureaucracy.

When surveying the domestic economic scene the politburo had to recognize that although Russia's gross national product was second only to that of the United States and its military program in successful competition with ours, a substantial part of the Soviet economy was still underdeveloped. The unbalanced growth of the economy had resulted in near parity with American production in some sectors of heavy industry, but the technical backwardness in consumer goods industries, as well as in agriculture, was very much in evidence. Moreover, and most important, large reserves of minerals, fuels and timber remained unexploited.

Soviet ruling circles therefore faced the difficulty of choosing between continued relative regression, or accepting new methods of economic development, or seeking help from abroad. There are a number of reasons why the second choice was a difficult one for the Soviet leadership to make. Almost since the creation of the Soviet State, the Kremlin had used its labor and capital resources quite extravagantly in order to obtain the fastest possible growth rate. This approach, while highly successful at the beginning, was, of course, facilitated by the huge reserves of manpower which existed in Russia's rural areas. By the middle of the sixties, however, this source of labor supply had been exhausted with the result that the growth rate of the Soviet Union began to fall off. The combination of these circumstances left the Kremlin with the choice of reorganizing the Soviet economy from the bottom up by doing away with firmly entrenched institutional arrangements such as strict party control, central planning, arbitrary pricing, etc. through the introduction of a competitive market or accepting the third option, namely large-scale assistance in the form of capital and technology from the West. The USSR's current emphasis on detente indicates what the decision of the Politburo was.

In other words, there were a number of evolutionary developments in the USSR as

well as in the USA which prepared the ground for the establishment of a new American-Soviet relationship. Against the background of the preceding phases of history, the term "detente" was indeed appropriate for the new state of affairs because—literally translated—it simply meant a lessening of tension without any connotation as to the depth or permanency of the process.

As is well known, the Soviet leaders do not have the public relations problems of American administrations. They can switch at a moment's notice from confrontation to detente and back whenever this seems expedient, and have only to remind the Russian people to keep up their guard. Accordingly the influential Soviet journal "Problems of Peace and Socialism" defined peaceful coexistence as "a specific international form of class confrontation linked to the people's struggle not only for peace but also for revolutionary transformation of society to a strengthening of the Socialist community and to mass action against imperialism." F. D. Kulakov, a member of the Politburo declared in 1972 that "peaceful coexistence is the best base for practical solidarity with the revolutionaries of the whole world." And IZVESTIA stressed in 1973 that detente "does not put an end to class struggle on the international arena, as it does not abolish the political and ideological struggle, nor the economic competition between the two systems."

In America, by contrast, in order to maintain the necessary positive climate for political and economic negotiations with the Soviet Union, President Nixon felt obliged to state in June 1974 "we have moved in the last two years from confrontation to coexistence to cooperation." It is not surprising, then, that we find the terms peaceful coexistence, detente, approachment and friendship used quite indiscriminately. Detente, however, is not peace; as a French writer recently pointed out, "otherwise it would be called peace." Similar to the days of "war romanticism" the undesirable features of the Soviet system are currently pushed into the background and the appearance of a Solzhenitsyn in the United States is needed to remind the American people that the fundamental features of Soviet communism have not changed.

There can be little doubt that the American-Sino rapprochement further generated Soviet interest in better relations with this country. Accordingly, President Nixon's visit to Peking four years ago actually heralded the beginning of a new era. It is yet too early for a thorough analysis of the new policy, especially since one cannot quantitatively document the confrontations that were avoided nor the crises which failed to occur. A few concrete benchmarks of détente nevertheless stand out: SALT I, the Wheat Deal, and the Helsinki declarations. Regarding the complex details of SALT I, the opinion of experts is about evenly divided as to whose benefits are greater. There seems to be a consensus, however, that both countries benefitted by agreeing to forego territorial defense against offensive missiles. Naturally the treaty did not remove all the dangers in the American-Soviet military relationship, but it demonstrated to both sides that their people remain highly vulnerable to missile attack. As I read it, this in itself should provide a great impetus to continued peaceful negotiations.

The unfortunate wheat deal, on the other hand, has caused an understandable public uproar in this country accompanied by statements that the Soviets are a tricky lot and that we again have been had. I must subscribe to the second part of the comment but prefer to reserve judgment on the first. The General Accounting Office, following a Congressional request, conducted a thorough investigation of the circumstances surrounding the wheat deal. It revealed bureaucratic neglect and inefficiency as well as questionable business ethics on our side, but offered scant criticism as far as the Soviet Government was concerned.

An examination of the record shows that in this transaction the Soviets held all the trump cards. They knew that their grain harvest would be very poor, they were thoroughly familiar with the market conditions and commercial methods in this country, they knew when and how much American wheat they would have to buy and, most importantly, they had the benefit of a unified command structure. While official negotiations between the two governments in Moscow and in Washington were still underway, Soviet buyers proceeded to sew up the market and when our Department of Agriculture began to realize what was going on, it was too late. Bureaucratic inefficiency moreover permitted the payment of export subsidies at a time when they were not any longer required. Under these circumstances it is difficult for me to find fault with the Russians. I rather think it is about time that we wake up and learn to take care of ourselves.

It clearly would be foolish on our part to allow trade with Russia to follow the vagaries of the market place while on the Soviet side it is firmly controlled by the government. In other words, we cannot deal with a country which has a government monopoly of foreign trade in the same way we are dealing with one which has not. I might also add that it is not clear to me why large and long term government credits are necessary to facilitate exports to the Soviet Union. Are such credits really justified, if one considers the financial expenditures incurred by Russia's extensive arms shipments to the Third World?

Finally, as to the Helsinki resolutions, the Soviet Union has tried for almost 25 years to get this conference underway, and I feel certain that by now the men in the Kremlin must wonder whether the final result justifies their long struggle. Similar to the United Nations' Human Rights resolution, the Helsinki agreement is a moral commitment at best, without any legally binding force. The United States has pledged not to attempt to change the European boundaries by force, a statement which actually only acknowledges the essence of our European policies during the last forty years. The Soviet Union, on the other hand, has committed itself to permitting a free flow of information into the Soviet Union, to more liberal emigration policies and to non-interference in the domestic affairs of other countries.

The Helsinki agreements are only a few months old but, typically, there have been already a number of incidents causing public complaints about Russian non-compliance. I would not be at all surprised if additional embarrassing incidents for the USSR would follow.

Finally, it is often overlooked that the Soviets had originally insisted that the conference ought to be an exclusively European affair and that the United States as a Non-European power should not participate. The fact that the United States is a signatory and that the Soviets thereby accepted a permanent U.S. presence at the Soviet borders in Europe reveals the fallacy of the view that Helsinki was a totally Russian triumph. Perhaps it is more realistic to wonder if there are any "winners," or whether in fact there were losers on both sides—most of all the people of Eastern Europe.

It seems to me that a few fundamental conclusions can be drawn from this review of American-Soviet relations: First, Soviet expansionary aims have not changed, and the downfall of economic freedom is still the Kremlin's ultimate goal. Second, the Soviet government respects only an opponent with adequate power and the unquestioned national will to use it. Third, when negotiating with the Russians it is never possible to bank on good will. Our traditional approach to negotiations accordingly must be modified, because as seen from Moscow, there are no good or bad guys on the other side, but only strong or weak opponents. Fourth, every deal with Russia has to stand on its own and no concession should be made for good will's sake.

In sum, then, there are four basic requirements for dealing successfully with the Soviet Union: precision, power, patience and perseverance.

Nothing will be found in these conclusions that was not applicable throughout the last forty years; they remain equally valid today. Whereas the essential features of long term Russian political designs remain unchanged, it would be nevertheless a mistake to overlook those factors which expedited the arrival of a new era and which impose constraints on the unfettered variability of Soviet actions. They include the recognized consequences of atomic warfare, the emergence of China as an anti-Soviet power, and the growing awareness in the Kremlin that not all communist successes are necessarily beneficial to Mother Russia. It seems that the Soviets have begun to realize that the spread of communism does not always serve their national interests, and that the conversion of some larger countries to communism may be a mixed blessing.

While these three elements without doubt precipitated Soviet willingness for a better relationship with the United States, I believe that our current public efforts to draw a sharp line between containment and detente are misguided. As a ranking State Department official recently remarked, "Detente ought to be seen as a dynamic process of enormous complexity rather than as a simple state of relaxation. It has to be hardheaded and multifaceted effort to temper antagonism with restraint, confrontation with negotiation, and the impulses of power with the incentives of responsibility. At the same time we must always remember that interests will be respected only if it is clear that they can and will be defended. "The Soviet Government in this regard continues to give its people the true facts of life and to stress that the long term aspects of the conflict between the two systems remain unaltered. Consequently, it seems unwise to me not to communicate in a similar mature fashion with our people. I was, therefore, pleased to read President Ford's warning in Helsinki about "empty words and unfulfilled pledges" as well as his recent caveat that "detente is not a license to fish in troubled waters."

In the past, desirous of convincing the American people of the need for containment, we probably missed some worthwhile opportunities for ameliorative actions. Today in the endeavor to persuade Americans that friendship with the Soviet Union is around the corner, we may be promoting an equally undesirable no-risk policy.

In my judgement, Americans would be better served if relations with Russia were shown as a continuum consisting of negotiations interrupted on occasion by confrontations.

Good sense militates against the theory, "the only way to bargain with the Russians is to push them to the wall every time." That is not only extremely dangerous, it simply won't work. On the other hand, forty years of American-Soviet relations should have taught us that it is not possible to carry over some credit from one negotiation to the other. Moreover, it would be calamitous to ignore the incredible strength we possess and to yield simply "for detente's sake."

The United States has the most awesome power ever placed in the hands of one peo-

ple. It is composed in part by a military capacity for destruction. It is more essentially composed by an economic capacity for production. And it is welded together by our heritage, our values, our spiritual commitment to freedom. If we will accept the fact of this strength, and use it with the maturity and integrity of judgment inherent in those values, these United States will continue to remain the one nation standing between the freedom of mankind and a return to The Dark Ages.

NO-FAULT INSURANCE

Mr. MOSS. Mr. President, I would like to call to the attention of my colleagues an excellent article on automobile no-fault insurance that appeared last week in the Schipps-Howard newspapers. This article, written by Ann McFeatters, makes clear that no-fault automobile accident insurance is working. It is compensating seriously injured automobile accident victims in cases where there would be no recovery under the traditional tort system, it is doing so faster, and it is returning a higher percentage of the premium dollar to accident victims rather than to lawyers and insurance companies.

This article shows that recent increases in insurance premiums are not a result of no-fault but are attributable primarily to soaring car repair costs. Recovery of such costs remains under traditional fault-based insurance in most States as well as in the Federal standards for the no-fault bill currently before the Senate. Ms. McFeatters shows that despite inflation and higher medical costs, the portion of the insurance premiums attributable to bodily injury has not increased at all or has not increased as fast in no-fault States.

The article cites facts that one by one refute the arguments that are being made against the Federal standards for no-fault bill. The author reports that no-fault is not driving insurance companies out of business, that State officials are pleased with their no-fault experience, and that national standards are needed to correct deficiencies in State plans and to remove the burden on interstate travel caused by conflicting State laws.

Finally, the article notes that the major opponent of national standards for no-fault is the Association of Trial Lawyers of America whose members receive $1.8 billion per year from auto injury lawsuits, and who have set up a $400,000 campaign war chest to elect Members of Congress who oppose Federal no-fault. Lined up against the trial lawyers are consumer groups, labor unions, and many insurance companies.

I urge my colleagues to pay serious attention to this article, and I am hopeful that they will conclude as I do—that the time has come to enact Federal no-fault standards to reduce the tragic human loss on our highways and to insure that automobile accident victims are compensated fully, quickly, and equitably.

I ask unanimous consent that Ms. McFeatters' article be printed in the RECORD.

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

ARTICLE

(By Ann McFeatters)

WASHINGTON, February 3.—Contrary to recent published reports, data obtained by Scripps-Howard News Service shows no-fault auto accident insurance is working.

It is compensating seriously injured victims more equitably than insurance which depends on determination of fault; reducing delays in payments to victims and holding premiums down. There are these examples:

Pamela, 17, was permanently paralyzed from the waist down, when the pickup truck she was riding in smashed into a tree. Before Michigan required insurance companies to provide no-fault, she would have received nothing because of a state law which says the driver is not liable for a guest's injury unless he is guilty of gross negligence. Under no-fault, her father's insurance will pay $65,000 for all her medical bills, rehabilitation, a special car and remodeling of her home for a paraplegic.

Harry, 41, stepped from between two parked cars and was struck by a car, paralyzing his lower body. Because he apparently was at fault and had no accident insurance, in most states he would have been hospitalized at public expense, recovered no lost wages—putting his family on welfare—and received little rehabilitation. Because he lives in Michigan, his expenses of more than $250,000 are being picked up by the driver's no-fault insurance.

It was George's fault that while on vacation in Illinois he struck the car in front of him. This caused the other car's gasoline tank to explode, severely burning George's baby.

Under an ordinary auto liability insurance policy, the baby's medical costs of $33,000 so far would have come out of George's pocket. Because he was a Michigan no-fault policy, those costs, plus $25,000 more for additional surgery and the costs of special schooling if the accident has caused the child brain damage will be paid by George's insurance.

True no-fault insurance provides that all medical and rehabilitation costs are paid by the insured's own insurance company, regardless of who was at fault in an accident. Certain additional benefits for loss of income, funeral services and survivors' benefits also are included in a model no-fault plan. Legislation is required to set statewide standards and require private companies to write no-fault insurance.

Damages to vehicles and other property, however, remain under fault insurance. And it is soaring car repair costs, up 20 per cent in one year, that have been causing overall insurance premiums to rise, not just liability for bodily injury. Bodily injury insurance accounts for 40 per cent of the premium dollar.

Michigan has had—since Jan. 1, 1973—the country's strongest law providing for no-fault, and 23 other states and Puerto Rico have adopted varying, weaker laws requiring no-fault compensation for injuries from auto accidents.

Statistics published recently have purported to show the plans are failing. But insurance company data and reports of state insurance commissioners show just the opposite—the strongest no-fault plans work well and the weakest ones, most like the current fault system, cause the most problems.

For example, opponents of no-fault insurance say it has raised premium costs to consumers instead of lowering them as expected. But an analysis of premiums shows that despite inflation and higher medical costs, under no-fault bodily injury insurance they have not increased or have not increased as fast as in fault-insurance states.

According to Aetna Life & Casualty Co., its bodily injury premium rates in eight of 10 no-fault states have declined since no-fault went into effect.

Before no-fault was enacted in 1973 in Connecticut, the average annual base rate for a family policy for bodily injury insurance was $71.95. It now is $64.98. In Georgia the rate has declined from $47.44 before the law to $38.92. In Minnesota the rate went from $92.25 to $72.27. In Michigan the rate went from $69.59 to $58.23. State Farm Insurance Co., the largest auto insurer; supports no-fault. It estimates that nationwide the rates of all its auto insurance premiums, including collision, property damage and bodily injury coverage, went up 10.9 per cent in 1975 for all states. The increase in fault states, however, was 12.2 per cent while the increase for no-fault states was only 9.8 per cent.

The company also refutes the argument that no-fault is driving insurance companies out of business. During five years of experience with state no-fault plans, State Farm says it has paid out $300 million in dividends to policy holders.

Herman Brandau, associate counsel for State Farm, said in Bloomington, Ill.: "Bodily injury rates are starting to go up, although not so much as they would be without no-fault. But nobody promised that no-fault would repeal inflation."

States with no-fault experience are almost uniformly pleased.

In Massachusetts, which has the longest experience with no-fault since its plan went into effect in 1971, Gov. Michael S. Dukakis said : "Our no-fault bodily injury laws have been an unqualified success."

According to his statistics, the number of injury claims filed in Massachusetts has been reduced from 116,426 to 57,933, indicating the law has weeded out fraudulent claims. Bodily injury rates in Boston fell from $117 to $45 in 1975 for a male driver over 25. (A rate increase of two per cent has been approved for 1976.)

Philipp K. Stern, actuary for New Jersey, told Congress that under no-fault there more people are being compensated for economic loss and getting paid faster.

New York's insurance department said that, despite a current 20 per cent increase in personal injury insurance rates, these rates still are lower or about the same as they were before no-fault went into effect in 1974.

Thomas C. Jones, Michigan's insurance commissioner, said: "The time lag between injuries and payments has virtually disappeared. Gross inequities in settlements have been virtually eliminated. Coordination with health insurance coverage allows policyholders the possibility of 20 per cent savings."

Proponents of no-fault concede flaws in the state-by-state approach, however. A driver in one no-fault state may get all his medical expenses paid while a driver in another state might get only $1,000.

A driver in Florida can sue for additional damages if his medical expenses go above $1,000. A driver in New Jersey may sue if his expenses exceed $200.

"It's amazing no-fault has worked as well as it has," said Peter Kinzler, counsel for the House consumer protection subcommittee which is considering a bill to authorize no-fault nationally.

His and others' major dissatisfaction with state laws is the generally low threshold on when accident victims can sue. For example, most states allow a victim to sue if medical damages exceed $500—only a couple of days in a hospital in New York.

Kinzler argues this puts back into the insurance system all the costs of legal action that no-fault is designed to eliminate and that original reductions in premiums here based on.

He and others also argue the low threshold for suit promotes fraud. In Florida's Dade

County (Miami) a grand jury reported a small group of lawyers, physicans, osteopaths, chiropractors and hospitals have been working together to "inflate or outright falsify personal injury claims."

Gary R. Frinks, lawyer and lobbyist for the National Committee for effective No-Fault, which coordinates the pro-no-fault position, says the way to combat this type of fraud is to enact a federal law limiting the right to sue to those disabled for 90 days or more, or for death or serious or permanent injury.

For the last five years there have been unsuccessful attempts in Congress to pass a federal law to require all drivers to have insurance which would pay all their own medical costs, rehabilitation costs and lost wages up to $15,000 in event of an accident.

A renewed drive in Congress to pass a national plan will probably see a vote in the Senate within weeks. A House committee is likely to act later.

Backers of a national approach include labor unions, consumer groups, some insurance companies such as State Farm, and the American Insurance Association whose members write one-third of all auto insurance.

They cite the following statistics as the basis for a national law!

Fifty-two percent of all those injured in auto accidents under the fault system never get a dime for their medical costs, rehabilitation, lost wages or future inability, according to the Department of Transportation.

An auto accident victim who is seriously injured and does collect gets only 30 percent of expenses. Under the fault system the victim most likely to recover damages is the questionable whiplash victim, or those with minor injuries. On these the insurance company is willing to settle out of court rather than accept the expense of a trial.

Accident victims get less return on their bodily injury insurance premium dollar than do victims collecting on any other insurance, according to the government—about 25 cents.

The major opponent of a National no-fault approach is the Association of Trial Lawyers of America, whose members derive $1.8 billion a year from auto injury lawsuits. The trial lawyers last fall set up a $400,000 campaign was chest to elect members of Congress who support them.

Also opposed is President Ford. He is supported by Attorney General Edward H. Levi but opposed by Transportation Secretary William T. Coleman, Jr.

The American Bar Association, the American Mutual Insurance Alliance (whose members write 10 percent of auto insurance), the National Association of Independent Insurors (whose members write 40 percent) and a majority of state insurance commissioners also oppose a national no-fault law.

The lawyers' position, explained by their top staff aide and testimony to Congress, is that the federal approach raises a host of constitutional issues and unfairly deprives the slightly injured victim of the right to sue for pain and suffering.

The lawyers also contend auto insurance problems in Manhattan differ from those in Montana and each state should solve its own. And they say it is not fair to pay the person who causes an accident for his medical costs the same as the innocent victim.

They argue further that while no-fault states have seen sharp drops in the number of lawsuits, the size of money awards on settlements is larger.

Backers of no-fault counter that under the current system, the innocent victim is often not compensated and if the guilty driver is not paid by his insurance the public must pick up his bills. They also argue the settlements should be larger because of inflation and higher medical costs, and because the small claims no longer exist under no-fault.

Frink, whose father was killed in an auto accident and who says his mother had to wait two years for less than $7,500 after attorney's fees, says he believes that if no federal law is passed this year the federal government will take over auto insurance.

"What we can no longer ignore in all this debate is the human tragedy that occurs every day," he said.

THE LOGAN ACT

Mr. GOLDWATER. Mr. President, since I have made the statement that the Logan Act applies to Mr. Nixon, I thought it would be appropriate to briefly discuss the law and its origin. It is possible that some of my colleagues are not aware of the interesting historical background of this law and I would like to clear it up for them.

Mr. President, the Logan Act has its origin in the early years of our Republic. In 1798, at a time of crisis in our relations with France, Dr. George Logan, a Philadelphia Quaker whom Thomas Jefferson regarded as the best farmer in Pennsylvania, went to France with the blessing of the Jeffersonians to discuss matters of state with foreign minister Talleyrand. Logan traveled to Paris in a private capacity, but with letters of introduction from Jefferson. As viewers of the television series, "The Adams' Chronicles," will know this incident occurred during a period in history when John Adams was President and a man who was not of his administration or political party, Thomas Jefferson, was Vice President. Therefore, Logan was not authorized to make his visit, even though the Vice President had an interest in it.

The President, John Adams, had been engaged in a long effort at negotiations with France regarding protection of American shipping, if at all possible without becoming involved in an allout war. The official U.S. commissioners to France had been rebuffed in the infamous XYZ affair, the code letters for the agents of France who had demanded that our commissioners give Talleyrand a large bribe and promise the French Government in advance a huge loan from the United States before the French Directory might agree to formally receive our mission.

Our officials, John Marshall, C. C. Pinckney, and Elbridge Gerry, refused to bow to the demands of France. They refused to buy peace with a bribe or to surrender their Nation's independence of action to a foreign power. Their courage was toasted in America with the now famous words:

> Millions for defense, but not a cent for tribute.

It was in this setting that Logan set out on his unauthorized, private mission to Paris. Obviously, the French were pleased to deal not with the persistent men who had refused to buy peace, but with a pro-French citizen, who claimed he was the true representative of the American people. Logan returned to the United States with the message that France would respond to a spirit of accommodation and that America should not continue military and naval preparations for its own defense.

It was in order to prevent future unofficial consultations and discussions of this type by private individuals with foreign governments that the Congress passed the law in 1799 that is known as the "Logan Law" and that is still on the books. The primary purposes of the law, in the actual words of its supporters during congressional debate, were "to punish a crime which goes to the destruction of the Executive power of the Government" and "to guard by law against the interference of individuals in the negotiations of our Executive with the governments of foreign countries."

Whether these purposes have application to ex-President and now private citizen Nixon's trip to China is a judgment I will let my colleagues and the American public decide for themselves on the historical record. I have stated my personal opinion that the law does cover Mr. Nixon's trip. The law is founded upon a recognition of the fact that the unauthorized actions of private individuals have a potential of interfering with and disturbing the ability of the Executive to make and carry out foreign policy, and if it has application to any situation it must be this one.

Mr. President, I ask unanimous consent that the text of the Logan Act be printed in the RECORD.

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

THE LOGAN ACT—TITLE 18, UNITED STATES CODE, SECTION 953

PRIVATE CORRESPONDENCE WITH FOREIGN GOVERNMENTS

Any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States, shall be fined not more than $5,000 or imprisoned not more than threee years, or both.

This section shall not abridge the right of a citizen to apply, himself or his agent, to any foreign government or the agents thereof for redress of any injury which he may have sustained from such government or any of its agents or subjects.

BAILING OUT THE RAILROAD INDUSTRY

Mr. STONE. Mr. President, on Thursday, February 26, 1976, the Senate approved House Joint Resolution 801 which provides $2.293 billion in supplemental appropriations for a new federally subsidized railroad system. I voted against this supplemental appropriation for the same reason that I voted against the bill which established the new rail system. While I certainly favor the rehabilitation of our Nation's railroads, I am opposed to legislation which in effect bails out an industry that has been crippled mainly because of poor management.

Legislation which seeks to bail out our faltering rail transport system rests upon the belief that if the Government gives any industry enough money it will overcome its problems and regain financial stability. This, of course, is not necessarily the case. Management has little

incentive to take the hard measures needed for efficient operation when they know Federal money will be pumped in at the first sign of trouble.

A recent editorial in the Tallahassee Democrat expressed some of the same misgivings that I share about the recent railroad legislation:

There is no assurance at this point the taxpayers will get anything in return for their money. They are offered only promises which may or may not be fulfilled. It seems to be another scheme to throw vast sums of public money at a serious national problem in hopes it will eliminate the problem.

The federal expenditures will help the struggling railroads which will be combined into a new railroad called Con Rail, but the money won't do anything to eliminate the basic causes of the present situation.

HON. SIR PETER RAMSBOTHAM, KCMG, BRITAIN'S AMBASSADOR TO THE UNITED STATES, ADDRESSES THE COLLEGE OF WILLIAM AND MARY

Mr. HARRY F. BYRD, JR. Mr. President, last month Britain's Ambassador to the United States, the Honorable Sir Peter Ramsbotham, KCMG, spoke to the College of William and Mary, upon receiving an honorary doctorate of law from the college.

The speech was entitled "Taking Strength From History." In his speech Ambassador Ramsbotham spoke of the significance of this, our Bicentennial Year, and its implications for the special Anglo-American relationship that has existed through our history.

Ambassador Ramsbotham said his country could join with the United States in celebrating our country's Bicentennial without embarrassment. The United States, said Ambassador Ramsbotham—

. . . sought independence because it seemed to them to be the only way in which they could maintain their rights as Britons, and fulfill the very ideals which had inspired—and would continue to inspire—the people of Britain, in the search for a more representative and democratic type of parliamentary government and for the full expression of the freedom of the individual under law.

In looking at the significance of our country's Bicentenary, Ambassador Ramsbotham made the following observation:

Throughout your Bicentenary, the people of Britain will, with you, be focusing on the events of the last two hundred years, on the endurance and the determination of the young nation; on the frontier spirit, the self-reliance and the drive which opened up the whole vast continent in such an amazingly short space of time; on the consolidation of one nation after a bitter struggle; the emergence of the sleeping giant to play the decisive role in two world wars; on the unprecedented technological achievements made possible by the accumulation of great wealth; and on the compassionate idealism which has informed this country's assumption of her responsibility as a global power.

But, as Ambassador Ramsbotham also recognized, the importance of history is tied to its meaning for the present and the future. Commenting on this point the Ambassador offered the following thought:

But we must also be looking into the future, into this new era of the last quarter of the twentieth century, which will surely bring startling changes. We must re-examine the role of government in a free society, to ensure that democracy flourishes in an age where government is becoming increasingly complex, and pervasive.

I found Ambassador Ramsbotham's speech most thoughtful and his concluding comments particularly pertinent:

Our two countries, rich in past experience, represent a structure of stability on which the free world can base its hopes for the future. Our long association, our shared wisdom, our deep respect for law and liberty, provide a fund of strength. As the younger and the more resourceful partner, you in America now carry the main responsibility on your shoulders.

So retain your confidence in this great nation. Do not neglect the fact that America is the leader of the Western world; and that we shall be looking to some of you in this hall to lead us, in the years to come, to the assurance of a more contented life.

Mr. President, Ambassador Ramsbotham has served his country faithfully, and with great accomplishment, and I am most pleased that one of our country's most distinguished institutions of academic learning, the College of William and Mary, awarded the Ambassador an honorary doctorate of law.

Later this year Her Majesty, Queen Elizabeth, and her husband, Prince Philip, will be visiting the Commonwealth of Virginia, and I would like to take this opportunity to also express my pleasure at this visit. In this, our Bicentennial Year ,no visit from a foreign dignitary would be more significant.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Foreign Military Sales Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million. Upon such notification, the Congress has 20 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

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:

Washington, D.C., February 27, 1976.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, 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 forwarding herewith Transmittal No. 76-41, concerning the Department of the Air Force's proposed Letter of Offer to NATO for E-3A Airborne Early Warning Aircraft estimated to cost $2.2 billion. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

TRANSMITTAL NO. 76-41, NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE FOREIGN MILITARY SALES ACT, AS AMENDED

a. Prospective Purchaser: NATO.

b. Total Estimated Value: $2.2 billion.

c. Description of Articles or Services Offered: Thirty-two (32) E-3A Airborne Early Warning Aircraft, training, spare parts and support equipment.

d. Military Department: Air Force.

e. Date Report Delivered to Congress: February 27, 1976.

REGULATORY REFORM: PRIORITY ATTENTION TO BANKING AND FINANCE

Mr. PERCY. Mr. President, there is an urgent need for swift and comprehensive reform of the entire Federal regulatory structure.

Excessive regulation is prodigiously wasteful, fuels inflation, and stifles competition. S. 2812, the Regulatory Reform Act of 1976, introduced jointly by my distinguished colleague Mr. ROBERT BYRD and myself, addresses itself to precisely this problem. The action-forcing procedures of that bill are designed to induce Congress and the President to agree on a thoroughgoing reform of Federal regulation in the major areas of our economy over the next 5 years.

The first area to be dealt with under S. 2812 is banking and finance. There are several reasons for this:

Banking and finance impact on all levels of our economy. The pervasive influence of this sector makes it a natural starting point for efforts to reform and rationalize Federal economic regulation.

There is an unusually high degree of agreement among eminent economists, leaders of the banking industry, and the regulators themselves, about the issues involved, the viable policy options, and the underlying need for prompt and thorough reform.

The existence of a large body of expert technical knowledge and empirical data bearing on this sector insures that proposals for significant positive reforms can be expeditiously formulated.

The high probability of successful reform in this area is instrumental to the development of a momentum for regulatory reform. Such momentum will be a crucial factor in the success of further efforts to reform federal regulation in the other important areas of the economy.

The banking and finance industry is one in which problems with Federal regulation have, in recent weeks, been everywhere apparent. Recent disclosures by the media have revealed regulatory agency "problem lists" of banks and savings institutions. This came on the heels of the three largest bank failures in our history—those of U.S. National, Security National, and Franklin National Banks. All of this points to a need for timely reform.

In this regard, I would like to call attention to an article from the February 8, 1976, Washington Post, entitled "Bank Regulators Head Congress' 'Problem' List." In that article, Jack Egan presents a pointed criticism of the Nation's "multiheaded bank regulatory structure,"

namely, that it is a "crazy quilt of overlapping jurisdictions, allowing banks to choose their own supervisor and to play the regulators off against each other in what is often referred to as a 'competition in laxity.' "

It is imperative that we rationalize the regulation of banking and finance in this country. Quite bluntly, the current system of regulation is not being conducted in the Nation's best interests. There is growing evidence to support this conclusion, and more and more people are joining in the call for prompt reform. S. 2812 recognizes this as a first priority, if the underpinning of our economy is to be set straight. It provides a logical process for thinking through and developing an orderly procedure for regulatory reform.

I am pleased to note that several timely efforts have been undertaken in the Congress to highlight and help rectify the problems with Federal regulation of banking and finance. Special thanks are due to our colleagues on the Senate and House Banking Committees for the important hearings which they have held on this subject.

Mr. President, I ask unanimous consent that the February 8, 1976, Washington Post article be printed in the RECORD.

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

BANK REGULATORS HEAD CONGRESS' "PROBLEM" LIST

(By Jack Egan)

NEW YORK.—Congress has put the federal banking regulators on its own "problem" list in the wake of recent reports about the difficulties some of the nation's biggest banks are having with their loan portfolios.

The spate of disclosures, coming on top of the three biggest bank failures in U.S. history (U.S. National, Franklin National and Security National) and concern about the adequacy of bank capital in an aggressively expansionary period of banks, has raised the question of why the regulators let the situation get out of hand in the first place.

And it has given weight to longstanding criticisms of the nation's multiheaded bank regulatory structure: That it is a crazy-quilt of overlapping jurisdictions, allowing banks to choose their own supervisor and to play the regulators off against each other in what is often referred to as "a competition in laxity."

As a result, legislative proposals introduced in both the Senate and House to rationalize and consolidate bank supervision have received a strong boost. And passage of some kind of legislation this year is now considered likely.

Under the country's "dual" banking system, which grew up in the 19th century when a premium was placed on expansion rather than stability of the system, banks can seek to be chartered either at the state or federal level.

There are at present no less than three sets of federal bank regulatory agencies (plus the Securities and Exchange Commission which oversees disclosure to investors) and 50 state bank supervisors.

The office of the Comptroller of the Currency has authority over nearly 5,000 nationally chartered banks, and conducts yearly examinations of each. (The three large banks that failed all were national banks under the Comptroller's jurisdiction.)

All national banks must also belong to the Federal Reserve System, the nation's central bank which sets monetary policy and reserve requirements for member banks. The Federal Reserve Board also has examination responsibility for the approximately 1,000 state-chartered banks that are members of the system.

In addition, the Fed has sole authority over all bank holding companies (corporations with a bank as its main subsidiary which also engage in nonbanking activities), even if the banks are not regulated by the Fed.

The Federal Deposit Insurance Corporation (FDIC), set up in 1934 after the wave of Depression bank failures cut the nation's banks in half, insures deposits at nearly all of the nation's 14,700 banks. It also has more direct supervisory authority over more than 8,000 state-chartered banks that are not members of the Federal Reserve System.

The 50 state banking regulators meanwhile oversee and examine banks chartered in their states.

All of this leads to what Fed Chairman Arthur F. Burns calls " a jursidictional tangle that boggles the mind" and Senate Banking Committee Chairman William Proxmire (D-Wis.) says is "regulation at the lowest common denominator."

"Even viewed in the most favorable light, the present system is conducive to subtle competition among regulatory authorities, sometimes to relax constraints, sometimes to delay corrective measures," Burns told the American Bankers Association in an October, 1974, speech.

Proxmire, who has been holding hearings on legislation to combine the regulatory and supervisory functions of the Fed, the Comptroller and the FDIC in a single new Federal Bank Commission, claims "the structure of supervision and regulation at the Federal level has been the major reason why unsafe or unsound conditions in our banking system have been allowed to proliferate."

Weaknesses in the banking system have spread "because the bankers have been able to play the fragmented structure, shifting back and forth among supervisory authorities who they have thought would best accommodate their views," Proxmire said in a Senate speech when he introduced his bill.

He gave the example of a banking institution in one state which switched "to the jurisdiction of a particular supervisor for the purpose of having a particular merger transaction approved. After the merger was approved and consummated, the banking institution switched back again to its original supervisor where it believed the merged operation could be conducted on a more economic basis for the bank."

There is also some concern about too much regulatory power being concentrated in a single agency, and the House Banking Committee has decided to pursue a somewhat less sweeping reorganization tack.

The House proposal, outlined Thursday to the Democratic caucus by committee chairman Henry Reuss (D-Wisc.), would create a five-member Federal Banking Commission to take over the Fed's regulatory functions and absorb the Office of the Comptroller which would be abolished.

The FDIC would remain as a separate agency, retaining its deposit insurance function and some supervisory powers over state-chartered banks.

The original proposal advanced last fall would have consolidated all federal regulation of financial institutions—including savings and loans, mutual savings banks and credit unions—into one agency, so the revised plan represents some backing off in this respect.

The House proposal is part of a sweeping revamping of the entire financial system which would eliminate most distinctions between commercial banks and thrift institutions and put them on a more equal competitive footing. Such reorganization legislation has already passed the full Senate (except for the consolidation of the regulatory agencies) and seems headed for congressional passage this year.

Although several of the federal regulators concur in the view that the present supervisory system is too confusing and leads to jurisdictional rivalries, they differ with the Congress and with each other on what reforms should be made to clear the regulatory thicket and where the power should be consolidated.

Fed chairman Burns, who triggered much of the present reform momentum in his stinging 1974 speech, would not like to see the Fed stripped of its (bank) regulatory powers but has instead proposed that the Comptroller's office be folded into the Fed.

Critics view Burns' position as a move to further expand the already substantial power vested in the Fed and believe that regulation and supervision of the banking system is best kept separate from the power to create and regulate the country's money supply.

FDIC chairman Frank Wille, who leaves his post next month, has proposed that the duties of the FDIC be divided and handled by a federal supervisor of state-chartered banks and by a five-member federal board. The board, similar to what the House has proposed, would also draw regulatory powers from the other federal banking agencies.

But Wille, in a speech last fall, said the present dual system of state and federal chartering "has resulted in significant benefits to the American public" by developing new financial services and "when it functions properly . . . is both pro-consumer and pro-competitive."

A split system also provides "significant protection against unreasonable, inflexible or arbitrary regulatory conduct," Wille said.

LITHUANIA INDEPENDENCE DAY

Mr. STEVENSON. Mr. President, I am happy to again recognize the proud Lithuanian people who observe the 58th anniversary of their declaration of independence and the establishment of a republican government.

But the grim truth is this year also marks the 36th year of the Soviet Union's forcible annexation of the Lithuanian Republic. Despite the long years of oppression, the Lithuanian people remain confident that they and the people of the neighboring Baltic states will again know freedom.

The determination and dignity of the Lithuanian people in the face of oppression deserve the admiration and support of free people everywhere. Sustained by their great spirit, Lithuanians have resisted continuous pressure and remain faithful to their language, tradition, and religion.

The much heralded détente between the United States and the Soviet Union has not changed the reality of the oppression which Lithuania endures. If détente is to become a serious and successful relationship, it must include a relaxation of curbs on religious and personal freedom in the Soviet Union.

Firmness with the Soviet Union can promote peace and enhance human rights. Senate Resolution 319 expresses the sense of the Senate that there has been no change in the U.S. policy of nonrecognition of the lawless occupation of the Baltic States. I am a cosponsor of this resolution and urge its early adoption.

Mr. President, I am proud to join with

the Lithuanian community in the United States in expressing renewed support for the aspirations of all who yearn for freedom and basic human rights.

COMMITTEE ON PUBLIC WORKS ACTIVITIES IN 1975

Mr. RANDOLPH. Mr. President, the legislative activities of the Committee on Public Works were extensive during the first session of the 94th Congress. Bills were prepared and oversight carried out in all of our areas of jurisdiction. In some instances, major legislative initiatives—notably in air pollution and highway transportation—were started last year and will be brought to completion during 1976.

In the first 12 months of the 94th Congress, the Committee on Public Works considered 151 bills and reported 28 of these. Nine measures reported by the committee had become public laws by the end of the first session. Eighty-six days of hearings were held, including nine outside Washington. In addition, there were 17 full committee and 42 subcommittee meetings to consider legislation. All meetings of the committee and its subcommittees were open to the public.

Eight Executive nominations were received and considered by the committee. These included the nomination of James F. Hooper, III, of Columbus, Miss., to be a member of the Board of Directors of the Tennessee Valley Authority. To resolve questions raised in connection with this nomination, the committee conducted a 3-month investigation of the nominee's business background. Personnel from the General Accounting Office were assigned to the committee on a temporary basis to assist in this investigation.

The committee for the first time became involved in the spending plans of agencies with programs under its jurisdiction. Under the requirements of the Congressional Budget Act, the committee must advise the Senate Budget Committee of its evaluation of the adequacy of agency budget requests. To help us fulfill this responsibility, the Public Works Committee held a series of hearings in the spring to examine agency spending proposals and their relationship to program needs.

The committee also held 6 days of general oversight hearings on the programs and policies of the Tennessee Valley Authority in April and May. Witnesses representing the Authority, labor and industry associations, environmental and citizen organizations discussed issues including the energy, economic and environmental consequences of the TVA power program, coal purchasing policies, employment practices and rate structure.

The two-volume record of these hearings will be of great assistance to the Committee in reviewing the responsiveness of the TVA to national and local needs in these areas of concern.

Mr. President, I will now review in detail the work of the subcommittees during 1975:

SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION

During 1975, the activities of the Subcommittee on Environmental Pollution, chaired by Senator EDMUND S. MUSKIE, were focused in large part on an evaluation of the Clean Air Act, based on the 5 years of its implementation.

Fourteen days of public hearings were held during which testimony was received from 60 witnesses on the health basis for the air quality standards, nondegradation, transportation controls, stationary source compliance, enforcement, Federal preemption, and auto emissions questions.

Witnesses included the Administrators of the Environmental Protection Agency and the Federal Energy Administration, Secretary of Interior Morton, State and local elected officials, health scientists, representatives of the power, copper, steel, oil, auto and real estate industries, State environmental agencies, manufacturers of stationary and mobile source emission control equipment and environmentalists.

In addition, the subcommittee staff conducted a 4-day field investigation in Detroit.

The latter half of 1975 was devoted to 24 subcommittee markup sessions of clean air amendments. A subcommittee bill was reported on November 3, after which 12 full committee markup sessions were conducted before the end of the year on the amendments.

The subcommittee held 3 days of hearings on water pollution issues. One hearing reviewed the status of the wastewater treatment facility construction grant program; one hearing was held to consider Senate Resolution 70, a resolution to disapprove the deferral of wastewater treatment construction grant funds; one hearing was held in Gardiner, Maine, to consider the impacts of the water pollution control program on small communities.

On November 18, 1975, the committee ordered reported an original bill, S. 2710, to extend nonresearch authorizations of the Federal Water Pollution Control Act amendments which had expired at the end of fiscal year 1975. S. 2710 was reported to the Senate on November 20, and passed by voice vote on December 1.

H.R. 7108, which contained extensions of research, development, and demonstrations authorizations for the Federal Water Pollution Control Act, the Noise Control Act, the Clean Air Act, and Solid Waste Disposal Act, was reported to the Senate on November 20, and then rereferred on December 1 to the Commerce Committee for consideration of issues within that committee's jurisdiction.

At the same time, the committee also ordered reported H.R. 5272, extending the nonresearch authorization of the Noise Control Act through September 30, 1976. H.R. 5272 was approved by the Senate on December 1, and awaits resolution of the differences between the House and Senate bills.

On December 15, the Panel on Environmental Science and Technology conducted a hearing entitled "Choosing Our Environment: Can We Anticipate the Future?"

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT

The Subcommittee on Economic Development, chaired by Senator JOSEPH M. MONTOYA, is responsible for two statutes relating to economic development: The Public Works and Economic Development Act of 1965, as amended, and the Appalachian Regional Development Act of 1965, as amended.

It is responsible for oversight of the programs authorized by these acts and the agencies established to administer these programs. The agencies are: The Economic Development Administration, the Appalachian Regional Commission, and seven Federal/State regional action planning commissions.

The principal purpose of these programs administered by these agencies is economic development in areas of the Nation characterized by high unemployment, outmigration and low family income.

During 1975, 9 days of hearings were held; 3 days were required to mark up the Emergency Public Works Authorization and Appalachian title V legislation; and 6 days were devoted to conference committee meetings on the Public Works Employment Act of 1975.

A principal activity of the subcommittee was the extension of the Appalachian Regional Development Act. While the Committee proposed, and the Senate initially passed, a 2-year extension of the legislation (S. 1513), the Congress ultimately accepted the 4-year extension passed initially by the House upon recommendation of the administration. Important amendments to the act initiated by the subcommittee relate to the quality and frequency of participation of member Governors and the planning process from local-to-State-to-Federal levels. The legislation became Public Law 94-188.

The subcommittee acted also to extend to the title V regional action planning commissions authorized under the Public Works and Economic Development Act comparable authorities relating to transportation, vocational and technical schools, and health and nutrition projects presently authorized under the Appalachian legislation. New authority for energy demonstration projects was also provided to both ARC and the title V Commissions.

During 1975, the recession, with 8 and 9 percent unemployment levels, brought special interest in public works programs as a means to create jobs for the unemployed. The subcommittee recommended passage of S. 1587, a $2.1 billion antirecession bill.

The bill passed the Senate in late July. A Senate-House conference to resolve differences with an earlier—May—passed House bill (H.R. 5247) met during November and December before agreement was reached. The Senate passed the compromise bill during the closing days of the first session in December.

The subcommittee devoted considerable effort to design antirecession programs that met the major criticisms of using Federal public works programs to counter recessions. To meet the allega-

tion that such programs are not practicable because of "long lead times," a community facilities grant program was designed to shorten lead times by making eligible only those projects the engineering and planning phases of which had been completed. Such projects are to receive 100 percent Federal funding, the processing time may not exceed 2 months, and onsite labor must be in place 90 days after approval.

A major floor amendment was added to the public works antirecession bill on the Senate floor, sponsored by Senator MUSKIE, a member of the Economic Development Subcommittee.

Called the local government assistance amendment, it would inaugurate a program of direct Federal cash payments to fiscally hard-pressed State and local governments. The conference report provided approximately $1.5 billion for five calendar quarters, beginning April 1, 1976.

An amendment affecting the distribution of water pollution control funds was also added to the bill on the Senate floor. The amendment substantially altered current allocations to States. The conference report overcame the objection that some States would gain at the expense of others by providing new a $1.4 billion authority to be distributed to those States that would have gained a similar amount in the original Senate amendment.

The bill also contained an extension of the job opportunities program, sometimes referred to as "title X." This special antirecession program to create jobs as an alternative or complementary program to the public service jobs programs first became law the last day of 1974. A half-billion dollars was authorized for calender year 1975. The entire amount was appropriated during the year, and the last of those funds was obligated on December 31, 1975.

H.R. 5247 contained a new half-billion dollar authorization for this program for the period to September 30, 1976.

The subcommittee devoted a good deal of time to oversight of the title X program during 1975. Congress rejected administration efforts to have the first $125 million appropriation transferred to the Labor Department and then it rejected a recession proposal.

The remaining $375 million was contained in a large antirecession appropriation bill (H.R. 4481) which the President vetoed and the Congress sustained. It was finally appropriated in an end-of-the-fiscal-year appropriation measure. However, funds were not apportioned to the Economic Development Administration by the Office of Management and Budget until the last possible moment, with the result that the generating, processing, and scoring of more than 10,000 applications was hurried.

When the allocations of the job opportunities program were made to the various agencies, criticism began to grow, based on the short leadtime to prepare applications, the haphazard procedures used in notifying eligible applicants, and the scoring system used that emphasized labor intensive projects to the near exclusion of more traditional construction type projects.

The subcommittee held a hearing on the title X program on November 5. The hearing made clear, based on examination of administration witnesses, that OMB had played a major and determining role in altering the direction of the program to more public service type projects than those aimed at improving community facilities. Provisions in the new authorization (H.R. 5247) are designed to change that emphasis.

In February the committee held a hearing on and subsequently recommended the nomination of Wilmer "Vinegar Bend" Mizell to be Assistant Secretary of Commerce for Economic Development. The Senate promptly confirmed Mr. Mizell.

The subcommittee staff throughout 1975 continued, on an informal basis, oversight activities relating to new programs authorized for EDA in the 1974 amendments to the Public Works and Economic Development Act. The new economic development planning grant programs to States and cities received principal attention. The title IX economic adjustment program was also periodically reviewed. Agency officials made numerous presentations to the subcommittee staff on these programs.

During 1975, the appropriation for EDA and the title V commissions for fiscal year 1976 was significantly increased over the President's request. More than $70 million was added by Congress to the measure for EDA. More than $20 million was added to the title V regional action planning commission appropriation. Justification for these increases was based on the severity of the recession.

The subcommittee will hold 3 days of hearings on S. 2228, a bill introduced by Senators RANDOLPH, MONTOYA, and BAKER to extend the Public Works and Economic Development Act for a period of 3 years. The administration recommended a 3-year extension during 1975.

During the year, the subcommittee staff will continue oversight of new EDA programs such as sections 302—State and urban planning—and 304—State supplemental grant authority—the economic adjustment program under title IX, the business development program under title II, and the economic development district program. Also, new authorities given the title V commissions and Appalachia will be closely monitored, with emphasis on the planning process.

SUBCOMMITTEE ON WATER RESOURCES

The Subcommittee on Water Resources, chaired by Senator MIKE GRAVEL, has primary responsibility for the civil works program of the U.S. Army Corps of Engineers. This program includes the study, construction, operation, and maintenance of projects for improvement of the Nation's waters in the interests of navigation, flood control, municipal and industrial water supply, beach and streambank erosion control, hydroelectric power, and recreation.

Certain Soil Conservation Service projects as defined by the Watershed Protection and Flood Prevention Act are also under subcommittee jurisdiction. This program provides for the installation of small upstream dams and other flood and soil erosion prevention works in relatively small watershed areas. It also provides for the installation of measures for irrigation, drainage, municipal and industrial water supply, recreation, and fish and wildlife development.

During 1975 the Subcommittee on Water Resources held 8 days of hearings on legislative and other matters, and one markup session.

The major piece of legislation considered by the subcommittee in 1975 was S. 2270, a bill authorizing additional funds for prosecution of projects in certain comprehensive river basin plans for flood control, navigation, and other purposes. This measure authorized $186 million for the continuation of work in four river basins for which existing funds were expected to run out in the near future.

Subcommittee hearings were held on July 25, 1975. S. 2270 was reported by the Committee on Public Works on July 31, and passed the Senate on September 4. The measure passed the House on September 19 and became Public Law 94-101 on October 2, 1975.

Action was also taken on S. 2533, a bill to designate the reservoir formed by the Jones Bluff Lock and Dam in Alabama in honor of R. E. "Bob" Woodruff. This measure was reported on November 20 and passed the Senate on December 1, 1975. It was subsequently referred to the House Committee on Public Works and Transportation. No action had been taken by the House prior to the end of the 1st session of the 94th Congress.

Oversight activities received substantial subcommittee attention in 1975. Hearings begun in 1974 on the civil works program of the U.S. Army Corps of Engineers were continued with an indepth examination of the corps navigation program. The subcommittee held 5 days of hearings on this topic. Washington hearings were held on May 9, June 19 and 20, and October 8. Topics covered included the history, accomplishments, problems, and projected future of the navigation program.

As a part of this oversight endeavor, the subcommittee made a 4-day investigation tour of selected portions of the inland waterway system. A hearing in Vicksburg, Miss., on May 16, was held, as well as onsite inspections of existing locks and dams, those under construction, and those scheduled for replacement. The subcommittee also toured the Waterways Experiment Station of the Corps of Engineers in Vicksburg, Miss.

A field hearing was held in Council Bluffs, Iowa, on September 27 to consider S. 1799, a bill authorizing dredging and related activities on the Missouri River Oxbow Lakes, with particular attention to Lake Manawa.

Testimony at the hearing demonstrated that there was no authoritative evidence establishing the effect of Missouri River Corps projects on these lakes, and thus no justification for Federal participation in the renovation of lakes such as Lake Manawa. Subsequent to the hearing, therefore, the Committee on Public Works approved a resolution au-

thorizing the Corps of Engineers to review an existing study of the area in order to determine the effect of Federal Missouri River projects on the Oxbow Lakes, particularly Lake Manawa.

In addition to the Oxbow Lake resolution, the committee adopted 14 other resolutions requesting the Corps of Engineers to study selected areas with specific problems. Such resolutions are the nucleus of future water resources projects, and provide the basis upon which project justification rests.

On December 9, 1975, the committee adopted its first "section 65" resolution. Section 65 of the Water Resources Development Act of 1974 provided that, in authorized projects containing water quality storage as a project purpose, if the Environmental Protection Agency determines that such storage is not needed, or is needed in a different amount, a modification can be made by committee resolution if the benefits attributable to water quality do not exceed 25 percent.

Such a determination was made with regard to the Kehoe Lake project in Kentucky. Accordingly, on December 9, 1975, the Senate Public Works Committee adopted a resolution approving the deletion of water quality storage from the Kehoe Lake project. The House Committee on Public Works and Transportation adopted an identical resolution on December 11.

A hearing was held on July 25 on Harris Fork Creek, a proposed 201 project on the border of Tennessee and Kentucky. Local sponsors testified that they could not meet the costs of certain bridge relocations associated with the project. In view of the fact that local interests were unable to comply with cost-sharing requirements, the committee determined that the project could not be authorized as a 201 project and action was not taken. Subsequent to that time legislation was introduced which addresses this aspect of the Harris Fork Creek project. Subcommittee consideration will be given to this measure during preparation of the next omnibus water resources bill.

A hearing was held on October 3 on S. 1224, a bill to amend the Watershed Protection and Flood Prevention Act to remove the existing monetary limitation on emergency projects in individual watersheds in any 1 year. Testimony was also received on nine pending watershed work plans transmitted to the committee under Public Law 566. Action was not taken on either the legislation or the work plans prior to the end of the year.

During the second session of the 94th Congress, the Water Resources Subcommittee expects to complete consideration of the pending Soil Conservation Service work plans mentioned above, as well as examination of an additional 20 to 30 work plans which will be received from the administration.

Other major activities will include examination of nearly 400 Corps of Engineers projects which will be recommended for deauthorization pursuant to section 12 of the Water Resources Development Act of 1974.

The subcommittee expects to spend several months of 1976 in development of the next Omnibus Water Resources Act. Extensive hearings will be held on pending legislation and on project reports which will be received during the first part of the year from the administration.

SUBCOMMITTEE ON TRANSPORTATION

During the first session of the 94th Congress, the Subcommittee on Transportation, under the chairmanship of Senator LLOYD M. BENTSEN, held 15 days of hearings on various transportation issues, and developed several highway-related bills, including the Federal Aid Highway Act of 1975 (S. 2711).

Accumulated highway funds totaling $9.1 billion that had been withheld from obligation by the executive branch were released by the passage on April 24 of Senate Resolution 69. This action was taken under the provisions of the Congressional Budget and Impoundment Control Act of 1974.

On April 30, 1975, the subcommittee held a hearing on S. 952, a bill to increase the Federal matching share of a limited time on Federal-aid highways and mass transportation projects approved under title 23, United States Code. This measure was in response to the unemployment conditions in the construction industry coupled with the States' desires to use previously impounded moneys for accelerated highway construction. The increased Federal share of up to 100 percent, in force for 7 months, included a State payback requirement not to extend beyond January 1, 1977. The bill was signed into law (P.L. 94-30) on June 4, 1975.

On May 5, 1975, a joint hearing was held by the Transportation Subcommittee and the Interior Committee. The subject of discussion was whether to allow the States of Vermont, Connecticut, and New York to proceed with projects on the basis of environmental impact statements prepared, evaluated, and approved in the same manner as required in other States. The issue—addressed in H.R. 3130—was raised by a Second Circuit Court of Appeals ruling on preparation of environmental impact statements. The committee reported the measure on April 22, 1975. An amended version was signed into law (P.L. 94-83) on August 9, 1975.

On May 19, 1975, 1 day of hearings was conducted on legislation relating to timber sales contracts involving road construction (S. 364).

This hearing addressed the question of allowing a purchaser of national forest timber to transfer unused purchaser credit for permanent road construction from one of his sales to another of his sales in the same forest, to be used in payment of timber harvested. This type of activity was seen to be beneficial in long-range timber-harvest planning and effective utilization of wood resources. After the Senate agreed to a House amendment, the measure was sent to the President and was signed—Public Law 94-154—on December 16, 1975.

On August 1, the Public Works Committee considered and reported S. 1245, a bill which resolved a question raised by the Canadian Government over the control of right-of-way for reconstruction of the Alaskan and Haines cutoff highways. The measure gave Canada control of the right-of-way provided for the highways in question within its boundaries. The provision became law—Public Law 94-147—on December 12, 1975.

Continuing its commitment to developing new energy policies with regard to transportation, on October 1, 1975, the subcommittee held testimony on a bill (S. 2049) permitting vehicles to turn right on red signals, unless specifically prohibited by signs. It was felt that permitting this type of maneuver might result in significant energy savings by reducing engine idle time at traffic signals.

Beginning in mid-May, the Transportation Subcommittee initiated a series of three field hearings intended to identify regional transportation problems in different areas of the Nation.

On May 24, 1975, a hearing was conducted in Minot, N. Dak., to determine the ability of our rural road system to carry agricultural products, and move people safely and efficiently. The subcommittee on June 16, 1975 met in Albany, N.Y., receiving testimony on the ability of the current rural road network to handle the increased weight in bulk agricultural and industrial products. In Las Vegas, Nev., on November 24, 1975, the subcommittee turned its attention to alleviating congestion and improving traffic flow in urbanized areas, and heard testimony on the use of high-capacity connectors as a means to solve that type of problem.

Using the first two field hearings as a springboard, on July 14, 1975, the subcommittee started a comprehensive series of hearings on the future of the highway program, to be used as a base for drafting major transportation legislation.

The first 2 days of hearings were set aside for focus on Federal domain roads—primarily forest highways—and on July 17, for the Secretary of Transportation to present the administration's highway proposal. The hearings, however, were not structured solely to concentrate on highways. They covered the key issues surrounding total transportation policy needed to make sound decisions on the national highway program. Subject areas explored were: First, factors affecting urban and rural transportation; second, the role of the Federal Government in implementing a highway program; third, safety; fourth, procedural delays; and fifth, the direction and development of a national transportation policy. Approximately 123 witnesses testified during the 12 days of hearings on the future of the highway program and written statements and supporting material came from an additional 86 sources.

At the conclusion of the Senate hearings in late July, it became apparent to the subcommittee that final passage of highway legislation during the first session of the 94th Congress was unlikely. It has also been emphasized in the highway hearings that many States had exhausted their 1976 interstate apportionments, or nearly so. Since the Federal-Aid Highway Act of 1973 had authorized

money for the interstate system through 1979, the Secretary could apportion funds for these fiscal years upon receiving congressional direction to do so.

On September 4, 1975, the Public Works Committee reported Senate Concurrent Resolution 62, giving the Secretary of Transportation authority to apportion fiscal year 1977 interstate funds to the States. The concurrent resolution passed the Senate on September 8, and the House on December 16, 1975.

The Federal-Aid Highway Act of 1975 (S. 2711) was reported by the Public Works Committee on November 20, 1975, and passed the Senate on December 12. The bill authorizes approximately $9.6 billion for the transition quarter and next 2 fiscal years. To permit congressional consideration of proposals relating to future financing and structure of the total highway program, the committee limited authorizations to 2 years. Two principal modifications were made by the bill in the highway program: The first is a new formula for allocating Interstate funds to the States. Second, the bill realines the existing highway systems, and consolidates highway categories. Other major features include: First, revision of State-city relationships for urban projects; second, permits funds transferred from interstate projects to be used for other highways as well as public transportation; third, continues the rural public transportation demonstration program and the special bridge replacement program; fourth, allows States to adopt safety standards different from those in Federal regulation; and, fifth, mandates the Department of Transportation study alternative methods for financing the remaining Interstate system.

The House of Representatives passed its version of the highway bill on December 18, 1975.

The top priority of the Subcommittee on Transportation during the first part of the second session of the 94th Congress will be to secure conference agreement on the Federal-Aid Highway Act of 1975.

The subcommittee may, during the second session of the 94th Congress, consider hearings on: First, State-urban highway planning relationships; and, second, programs contained in chapter 2 of title 23, United States Code. The subcommittee will also continue to monitor the progress being made by the General Accounting Office on the report being prepared by that Agency on transportation planning and coordination in rural areas.

SUBCOMMITTEE ON DISASTER RELIEF

The past 12 months marked the first full year of experience with the new programs and procedures authorized by Public Law 93-288, the Disaster Relief Act Amendments of 1974. The Subcommittee on Disaster Relief, chaired by Senator QUENTIN BURDICK, initiated this major revision of natural disaster relief laws and has since maintained an active informal oversite program encompassing all facets of its administration.

In 1975, 38 major disasters and 6 emergencies were declared by President Ford under the auspices of the new law. Over 92,000 families were given assistance and counseling to help alleviate the trauma caused by a natural calamity. An estimated $443.3 million in Federal help was made available to these disaster victims, their States and their local governments by the Federal Disaster Assistance Administration, and some 20 other Federal agencies.

The scope of the Government's disaster-related activity in 1975 underscores the importance of efficiency in the administration of relief programs. The subcommittee is acutely aware of its continuing responsibility to assure the orderly functioning of disaster relief programs and the fair distribution of our Nation's resources to those suffering from the effects of a natural disaster. The subcommittee plans to continue its leadership of efforts to improve disaster preparation plans, warning systems, delivery of emergency relief and distribution of longer range recovery benefits.

SUBCOMMITTEE ON BUILDINGS AND GROUNDS

The Subcommittee on Buildings and Grounds, chaired by Senator ROBERT MORGAN, is responsible for activities concerning Government agency space needs and related legislation. This involves supervision and oversight of the Public Buildings Service, General Services Administration, whose function is to provide required space through construction, purchase, or leasing as appropriate. Such transactions are governed by numerous public laws, executive orders, and Federal regulations which have become increasingly complex since the subcommittee's inception, due to new construction and management techniques, materials shortages, environmental and energy conservation requirements, inflation, budgetary restrictions, and various other unforeseen developments.

During 1975, the subcommittee implemented significant new procedures for evaluating prospectuses. As a result, formats have been revised to provide more explicit data and facilities review by members. Also, more attention has been focused upon major policy considerations than heretofore, ranging from elimination of architectural barriers that affect the physically handicapped, through greater emphasis on fire protection, increased involvement in environmental and economic impact of projects on communities, and also application of energy conservation practices in the design, construction, renovation, and maintenance of public buildings. More intensive efforts to achieve cost reductions in the public buildings program have been pursued, and to ascertain the relative merits of acquiring Federal space through leasing as opposed to new construction or alteration of existing buildings. It is the subcommittee's intent to continue its active interest in these subjects of concern throughout 1976, or until improvements have been made.

Among important legislative activities of the subcommittee during 1975 was the expediting of a bill (H.R. 6151) which authorized an additional appropriation to Interior Department for services necessary to nonperforming arts functions of the John F. Kennedy Center in Washington, D.C. This became Public Law 92-119 on October 10, 1975.

H.R. 4241, designating a Federal building in Chicago the "John C. Kluczinski Federal Building," became Public Law 94-84 on August 9, 1975. A similar bill, S. 999, designating the Federal office building in Dover, Del., the "J. Allen Frear Building," was passed but no further action had been taken at the time Congress recessed on December 19, 1975.

Another bill, H.R. 12, after passage in both the House and Senate, was vetoed by the President on November 29, 1975. This would have amended title 3, United States Code, to provide for protection of foreign diplomatic missions, increase the size of Executive Protective Service, and for other purposes. An amended version became Public Law 94-196 on December 31, 1975.

S. 865 was passed in the Senate on August 1, 1975, which would promote more efficient use of the Nation's construction resources, foster preservation of historic or architecturally significant buildings, and enhance social and economic environment within and surrounding Federal office buildings. Action has not been completed by the House.

Pending at recess were S. 1392, S. 2045, and S. 2095, insuring that buildings financed with Federal funds utilize the best practicable measures for conservation of energy, implementing innovative technology in design, construction, repairs, maintenance, and operation, including retrofitting with solar devices, and initiating demonstration programs. Preliminary hearings were conducted on November 4 and 5, 1975, which will be resumed in 1976.

A committee resolution on July 2, 1975 directed the General Services Administration to conduct a survey and determine the need for a new Federal office building in Albuquerque, N. Mex.

The subcommittee met 10 times during 1975 to discuss proposed legislation and other matters. In addition, formal conferences were conducted with officials of General Services Administration, General Accounting Office, Social Security Administration, Treasury Department, Civil Service Commission, Securities Exchange Commission, Federal Trade Commission, Department of Transportation, Interior Department, Government Printing Office, Architect of the Capitol, Capitol Police, and others.

Public hearings were held on February 25 and March 17 in connection with proposed construction of two new Social Security Administration buildings at Baltimore, Md. A hearing on GSA's proposed Public Buildings Service fiscal year 1976 budget was conducted February 26. Other hearings were held May 19 and June 9 on S. 865, H.R. 12, and H.R. 6151, respectively. Another was conducted on June 11 regarding a proposed new Government Printing Office, which will be continued in early 1976. Further hearings were held November 4 and 5, for the purpose of discussing S. 1392, S. 2045, and S. 2095, which also will be continued. Additional hearings were held in connection with building prospectuses on March

18, June 9 and 11, November 12, and December 12 and 15, 1975.

Four field trips were made by subcommittee staff at the chairman's direction, in conjunction with proposed projects at Baltimore, Philadelphia, and Charlottesville, Va., respectively.

During 1975, the subcommittee reviewed and approved 20 building prospectuses, at a total estimated cost of $311,207,600 which includes $53,629,000 requested to correct cost overruns for previously authorized projects. Of the remainder, four were now building prospectuses totaling $213,345,200; nine were for alterations totaling $37,715,400; and five for new leases and extensions totaling $6,518,000 annually.

ECONOMY, NOT ERISA, SPURS PLAN TERMINATIONS

Mr. WILLIAMS. Mr. President, there has been a great deal of uproar generated by the number of pension plan terminations in 1975. Many critics of pension reform blame this situation on employer dissatisfaction with the requirements of the Employee Retirement Income Security Act of 1974.

As a chief sponsor of ERISA, I believe this criticism overlooks the real cause of plan terminations. Let us not forget that terminations in the private pension system are by no means a recent phenomenon. In fact, while the number of plan terminations has increased, the rate of plan terminations has consistently remained around 1 percent of the active plans each year.

Studies by the Senate Subcommittee on Labor prior to ERISA found thousands of employees lost their pension credit when companies were sold, merged, or dissolved. The classic case in point occurred when the Studebaker plant closed in 1964 leaving 4,500 workers with a few cents on their pension dollars.

Passage of ERISA in 1974 coincided with America's deepest recessionary period since the 1930's. The Federal Reserve characterized this period as the "longest and deepest of the postwar recessions." The current pressure of pension costs is undoubtedly more attributable to this economic instability than to the new law.

Before ERISA, the employee plan participant was just out of luck when his plan terminated without adequate assets to cover the pension obligations. But now, we have the new Federal insurance program—the Pension Benefit Guaranty Corporation—created by ERISA to insure private plans. While the recessionary effects of 1975 cost millions of workers their jobs, ERISA protected their pensions.

To date, 1,700 participants are receiving a total of approximately $250,000 in monthly benefits from the PBGC. In addition, more than $35 million in insurance premiums have been collected as a reserve to protect employees in terminated plans.

Several recent articles have explored these issues in some depth. I recently joined with my distinguished colleague, the gentleman from New York (Mr. JAVITS), in a statement to the New York Times on this matter.

Mr. President, I ask unanimous consent that our statement to the New York Times of February 29 and articles from the Institutional Investor and the Washington Star be printed in the RECORD.

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

[From the New York Times, Feb. 29, 1976]

SENATORS JAVITS AND WILLIAMS SAY THE PROTECTION IS ALREADY BETTER

The following article was written by Senator Jacob K. Javits, Republican of New York, and Senator Harrison A. Williams, Jr., Democrat of New Jersey, who were co-authors of the Employment Retirement Income Security Act.

The pension reform law of 1974—formally titled the Employee Retirement Income Security Act and commonly known as ERISA ("eerissa")—established a comprehensive framework of safeguards guaranteeing the private pension rights of 35 million American workers. Now, it is under attack from a vocal minority, one which has opposed the legislation since its inception.

There have been allegations recently that pension plan terminations in 1975 were attributable to ERISA and the alleged bureaucratic logjam of executive agencies responsible for its administration. The loudest critics of the act are those consulting firms, actuaries and other members of the pension industry who fought reform in the first place, and now may think they have found a new way to undermine its credibility.

The vital interests of so many millions of Americans in this fundamental reform do not deserve a renewal of past hostilities, but an objective analysis of the performance of the law to date.

In 1973, the year prior to the enactment of the reform law, 4,130 pension plans were terminated, according to Employee Benefit Plan Review, a pension industry publication. While precise figures for 1974 are not available because of the changes in bureaucratic administration, we do know that the number of terminations in 1975 was smaller than the 5,000 that is commonly cited by the critics and was initially reported by the Pension Benefit Guaranty Corporation, the new Federal agency created by ERISA to insure private pension plans.

In fact, administrative errors inflated the number of terminations last year. Those errors included double counting, mistaken filings and other mistakes that accounted for more than 700 false terminations.

While less than 1 percent of the 600,000 pension plans affected by ERISA in 1975 were terminated, more than 33,000 applications for new pension plans were received by the Internal Revenue Service during the same period. It must be noted that the terminations of 1975 occurred during the longest and deepest of the post-war recessions.

During recent hearings held jointly by the Senate Small Business and Finance Committees to investigate the causes of terminations in 1975, Internal Revenue Service and Pension Guaranty Corporation officials testified that their studies indicate the vast number of pension terminations were caused by business mergers, the substitution and establishment of new pensions plans, and the recession.

Bureaucratic burdens created by the initial administration of ERISA were not cited as an important cause.

Specifically, a recent Pension Benefit survey found that "37 percent of the terminating plans cited adverse business conditions, 18 percent showed termination of all or a portion of the employer's operations, and 13 percent listed change of ownership. Adoption of another plan was the reason in 16 percent of all cases." The number of terminations during 1975 is not surprising in light of preliminary statistics received verifying that the bulk of plans were very small and very new.

The major tests for ERISA in 1975 occurred when two household names—Grant's and REA Express—went out of business after more than 50 years of existence.

Late last year, 650 retirees of the bankrupt REA Express Company began to receive their monthly pension checks in the mail. The checks were not signed by REA Express but by the Pension Benefit Guaranty Corporation. Without ERISA, those retired workers would have no pension today.

While the Grant bankruptcy is being resolved in Federal court, the P.B.G.C. is going forward in processing Grant's pension plan coverage respecting its retirees.

To date, 1,700 participants are receiving a total of approximately $250,000 in monthly benefits from the corporation. In addition, more than $35 million of insurance premiums have been collected as a reserve to protect employees in terminated pension plans.

After nearly a decade of hard work in Congress, ERISA was drafted to create comprehensive standards of protection for workers with respect to vesting, funding, fiduciary standards, reporting, and disclosure and termination insurance. These key elements of pension reform were the product of spirited bipartisan Congressional support and the result of worker dissatisfaction with widespread abuses in private pension plans.

As we review the current outcry from pension reform critics, Congress must be careful not to let any controversy over regulations and administrative requirements serve as a smoke screen for those who would reverse the course of pension reform.

We are concerned that ERISA be administered and enforced efficiently and effectively by the executive branch. And we do not condone the executive department's delay in promulgating regulations and exemption procedures in order to provide pension plans with appropriate guidance and administrative relief.

But we should not conclude that criticism of administrative procedure warrants cutting back on the essential protection provided to the 35 million American workers for whom these reforms were intended.

COMMENTS FROM TWO READERS

The article "Backing Out of Paying Pensions" which appeared in this section on Feb. 8 elicited several responses from readers, the burden of which was that pension reform efforts have been unfairly maligned. Following are two of those letters.

Let's take a look at some of the problems often raised by articles about the Employee Retirement Income Security Act.

"We can't afford to fund it now" is one complaint. More than 5,500 private, pension programs have been terminated since the passage of the act. Only 1,250 were originally anticipated. Upon closer examination, however, we find that economic conditions since Sept. 2, 1974, when ERISA became law, have been the real reason for perhaps one-half of the terminations.

Many small plans were already in deep trouble due to poor administration, ignorance of pre-ERISA rules, imprudent investment practices, poorly designed programs and a fear of additional reporting requirements of the Internal Revenue Service or the Labor Department. As a result many "sick" plans became "terminal".

"The cost of administration is expected to go up from 50 percent to 100 percent," is another common cry. Such blanket statements are misleading and either create or

feed a sense of panic. Some plans require minimal service both pre-ERISA and post-ERISA. Reporting forms for the I.R.S. and Labor Department are in any case not going to be that much different or more detailed that they would justify doubling service charges.

A related complaint arises from the fact that the new law is administered by the two agencies, whereas before only I.R.S. was involved. Additionally, regulations to guide administrators either have not been issued or are being challenged. This is true, but it is no justification for any healthy pension plan to terminate.

So far, the men in responsible Government positions in both Labor Department and I.R.S. have shown themselves to be flexible and understanding about the administrative problems.

For the plans in trouble, there are often solutions other than termination ranging from the adjustment of details to a complete redesign of the plan. Sure, expense will be involved, but it is strictly a one-time charge. Thereafter it may involve service charges only slightly higher than in the past.

The single most costly aspect of the new law is said to involve the accelerated vesting schedule stipulated in the act. This may be true for very large, collectively bargained plans, but for the average small plan it is not all that costly.

In the last 10 pre-ERISA years, with very few exceptions, I.R.S. district offices have refused to approve newly submitted plans unless a fairly liberal vesting schedule was included in the program. As a result most small plans entered into in the recent past will not be too strained in the area of vesting.

As for the reporting and disclosure requirements imposed by ERISA, admittedly new and unfamiliar forms have been and will be developed by Government agencies. As in any new system, these newly designed forms will require patience and time to become familiar with them. However, once around the reporting cycle and they will be old-hat.

Government has responded to needs of the public in a cooperative fashion. Of the close to 600,000 plans known to exist in the United States, slightly more than 90 percent involve programs with less than 100 participants. Simplified reporting has been developed in some areas for this 90 percent and probably will be developed in others.

For example, pre-ERISA reporting required annual submission to the I.R.S. of forms 4848, 4848 Schedule A (four pages), 4849, 990P and 990P Schedule A. A form 5500C is to combine in simplified form the information formerly reported on all those older forms, which are to be discontinued. To be sure, additional reporting forms may be forthcoming, but a determined effort is being made to keep them as simple as possible.

To sum up, it is time to accentuate the positive. Given a fair chance, ERISA will turn out to be a highly effective program nowhere near as expensive as early estimates predict. With full cooperation from both private and public sector, the goal of economic security in retirement will be realized by far more people.

HENRY A. SPIVACK,
Pension Director, Bleichroeder, Bing & Co., New York City.

As one who has worked long and diligently for pension reform legislation, and who at 75 years of age finds himself the victim of much-reduced benefits due to pre-reform abuses, I feel that several factors in the pension situation are being overlooked. Consider the following:

The moral and financial deprecations flagrant in the private pension area prior to the enactment of ERISA in 1974 were so numerous that it is unrealistc to expect rectification overnight. To think otherwise is the same as believing that the racial inequalities of many generations can be eradicated overnight.

All of the affected agencies are now in the process of setting up procedures and engaging manpower in an effort to enforce the new pension law. They must be given a reasonable period of time to produce.

Furthermore, Congress is already involved in looking into weaknesses in the new law so that if, after a trial period, changes are needed they can be identified and made.

It is undoubtedly true that in some few cases the red tape and expense of enforcement make it necessary for a company to bow out of the pension situation. But, based on years of familiarity with the subject, I respectfully submit that this is just the excuse given by those who find that with the previous loopholes plugged they no longer want to continue their pension plans.

The vast majority of workers affected by the pension plan withdrawals that are occurring have in fact lost nothing tangible. Their pension plans represented false promises based on false premises in the first place.

MORIZ M. DREYFUS,
Philadelphia.

[From the Institutional Investor, February 1976]

THE COSTS OF ERISA

It has become almost a truism to say that the Employment Retirement Income Security Act has not proved a major burden for most corporations. And while that statement is justified, the law has nevertheless meant changes and readjustments that for some have been little more than a nuisance and for others have added up to a considerable expenditure of time and money—as this month's survey of pension officers participating in *Pensionforum* makes clear.

About three-quarters of the funds reporting have felt no need to hire additional staff. Interestingly enough it is the large funds—those over $100 million in size—that have tended to add personnel; almost a third have done so. It is probably both a matter of "larger assets, larger problems" and the general axiom that a smaller asset pool doesn't justify additional expenditures.

The most widespread need in adjusting to the law, as was predicted, has been for increased reporting to the government and participants. Not far behind is the onus of compliance in the benefit administration area—such matters as keeping track of part-time help. Three-quarters of the corporations that have added staff because of ERISA have done so for those two reasons; additional personnel on the investment side has been a minor factor.

About 80 per cent of the funds say that they felt no need to turn to outside consultants for help in meeting ERISA's requirements. Of the remainder, some that did not use an outside performance measurement service are now subscribing to one. But most probably decided it was advisable to meet with a consulting firm to discuss specific aspects of their benefits, planning and investment policy.

The law's main impact on investments has been in a re-evaluation of approach and philosophy. Very few have made any changes in their outside managers, though some have added managers, particularly bond managers and those with a different style, like market timing, to comply with the law's diversification requirement. Similarly, those who decided more portfolio diversification was needed increased bond holdings or broadened the list of names of equities held.

Since most established plans have been making contributions to their funds on a schedule that already satisfies the law's stipulations, their additional costs have been largely for administration and reporting. And for almost 40 per cent of the corporations, the result has been cost increases of less than 2 per cent; and for almost 80 per cent, of less than 5 per cent. Only 7 per cent have found that costs have risen 10 per cent or more, and in such cases, increased contributions to meet funding and vesting requirements are probably involved. There could be additional future expenditures, however, such as increased trustee fees, as banks find their end of the reporting process onerous. And, of course, there are other questions—like fiduciary responsibility and decisions about future benefit levels—that are costing corporations time and possible anxiety though not necessarily additional dollars.

Personnel, consultants and portfolios

The immediate effect of ERISA naturally varies from corporation to corporation, but the added cost for the large majority of corporations responding to this month's *Pensionforum* can be fairly classified as nominal. And most of the money seems to be going toward administrative and reporting expenses. Long-term, the major impact of the law may not be additional costs but rather changes in sponsor approach to pension asset management generally.

The following are some specific comments of pension officers gathered by Assistant Editor Janice Holling:

William Tierney, Director, corporate compensation and retirement plans, Avco Corp.: $152 million (divided between five managers).

We have several different retirement plans and we have not had to increase our contributions for funding because of ERISA. However, we are currently discussing the feasibility of modifying some plan provisions to avoid additional costs in the future. Overall, our main current cost will be in the administrative area. We don't have any reliable figures yet, but I wouldn't be surprised if our record-keeping and reporting costs were to go up considerably. We aren't planning to change or increase the number of portfolio managers we use, but we are currently reviewing our portfolio mix. ERISA is a factor in our decision to undertake a re-evaluation, but the performance of the equity market over the past few years is an equally important reason.

Glenn Kent, Manager, investments and investor relations, Honeywell, Inc.: $200 million (divided among six managers).

After a thorough review of our situation, we found that we were already set up quite well to comply with ERISA. As of the end of last year, we hadn't really seen any appreciable cost increase that we could directly relate to the law. The primary matter affecting us has been an increase in the vesting contribution for one of our three plans—but it is a very modest increase. We are anticipating some additional costs on the administrative side, however, when we have to complete all the reports the Department of Labor requires. ERISA was the reason we have taken on some fiduciary liability insurance, which is in addition to the officer and director liability coverage we already had. Internally, we have had some changes that relate to ERISA, but are not a direct outgrowth of it. Specifically, we established a pension retirement committee, which will have the full responsibility for our plans ranging from the plan benefit design on through fund payments. Previously this was a board of directors' function, but we anticipate this new committee will be able to spend much more time on pension matters.

Raymond Colotti, Director of pension asset management, Sperry Rand Corp: $600+million (divided among ten managers, plus internal administration).

The additional costs that our fund has incurred as an outgrowth of ERISA have been minimal. The little we've had have been hid-

den administrative costs, such as the preparation of reports for the government. One effect of ERISA in general, however, has been to make us, like corporations everywhere, become a little more involved in watching how our fund is managed. We constantly review how our money managers are doing. At the moment, at least, we are fully satisfied with their quality and the number we have, so we aren't planning to make any changes in our current managers. In addition to our outside bond managers, we had established an in-house bond fund sometime before ERISA's passage—it's now about $50 million—not only for the purpose of diversification but to gain some first-hand experience about what money managers face. It has worked out quite well for us. So, we think we have sufficient investment diversity and we aren't going to make any changes here as a result of ERISA either.

Peter Sherwood, Assistant Treasurer, Uniroyal, Inc.: $175 million (8/30/75) (divided among three managers).

Over the past year, we have had various additional costs which we can directly attribute to the passage of ERISA. Only a modest amount has been incurred on the actual payout side, involving any increase in contributions. It is on the administrative side that we have had substantial cost increases. First, there has been all the paperwork required for reports to the government and to participants of our plan. Another significant cost, which will occur on a one-time basis only, arose when we redrafted our plans so they fully complied with ERISA. We have been working exclusively on this problem for some months in an attempt to complete the amendments and changes by early this year. Our third cost that is a direct result of ERISA will occur this year when we expect to hire a consultant. His function will be to advise us concerning our investment mix and the appropriate number of money managers as well as in setting investment guidelines.

Douglas Weyrauch, Director, investment funds, Owens-Illinois, Inc.: $300 million (divided among six managers).

Our total cost increases as a result of ERISA have been insignificant, whether you consider contributions or service and administration. The law has motivated us like others to give more attention to our fiduciary responsibility, but we've always considered it an important factor, and there have been no concrete changes. On the investing side, however, we recently had a meeting with our portfolio managers to present some new actuarial data and projections of our costs over the next ten years, which we expect to go up because of projected benefit improvements. Our investment committee and board have also recently approved some revised investment policy guidelines for our managers. The main difference is in our rate-of-return goal, which is now set at around 8 percent. This is more modest than our previous one, which we decided involved us in too high a rate of risk. Another new guideline will ask our managers to seek a minimum 4 percent cash return on average book value. This rule was incorporated as a result of the market's volatility over the past few years. So while measuring our performance on total return, we are in essence now building up the fund on a book value basis. Otherwise, our managers have full discretion to invest our portfolio in whatever equity and fixed-income investments the economic outlook dictates.

	Fund size		
	Less than $100,000,000 (42.1 percent)	More than $100,000,000 (57.9 percent)	Total
Has your corporation made any additions to staff as a result of ERISA?			
Yes	20.8	31.8	27.2
No	79.2	68.2	72.8
If yes, for which of the following functions was staff added?			
Investment supervision	6.7	18.8	14.9
Benefit administration	33.4	37.5	36.2
Government and participant reporting	53.3	37.5	42.6
Other	6.7	6.2	6.3
Has your corporation added any outside consultants as a result of ERISA?			
No	80.0	79.1	79.5
Yes; we have subscribed to a performance measurement service	6.0	4.5	5.1
Yes; we have hired a consultant to help us select money managers		3.0	1.7
Yes; other	12.0	13.4	12.8

	Fund size		
	Less than $100,000,000 (42.1 percent)	More than $100,000,000 (57.9 percent)	Total
Has your corporation made any changes in money managers as a result of ERISA?			
Yes	2.1	6.1	4.4
No	97.9	93.9	95.5
Have you made any changes in portfolio mix as a result of ERISA?			
No	73.6	75.4	74.6
Yes; more bonds	15.1	17.8	17.2
Yes; more real estate			
Yes; more diversification within common stock portfolio	9.4	5.8	7.4
What is the impact of ERISA on your corporation's pension costs including administrative and reporting costs, termination insurance premiums, etc?.			
Costs have increased:			
Less than 2 percent	33.3	43.9	39.5
2 to 5 percent	43.8	33.3	37.7
More than 5 percent but less than 10 percent	12.5	9.1	10.5
10 percent or more	6.2	7.6	7.0
No answer	4.2	6.1	5.3

[From the Washington Star, Jan. 22, 1976]

FEDERAL AGENCY PROTECTS PENSION

(By Sylvia Porter)

This past Christmas, 650 retired employes of the bankrupt REA Express Co. received their monthly pension checks in the mail. Instead of being signed by REA, though, these checks carried the signature of the Pension Benefit Guaranty Corp.—the new federal agency created to insure private pension plans.

Before this agency was established, roughly 16 months ago, under the historic pension reform act, it would have been just too bad for these REA workers if they had lost the benefits they had been counting on for their retirement years.

The PBGC is similar to the Federal Deposit Insurance Corp., which protects bank depositors in the event of a bank's failure. If your private plan fails, the PBGC is authorized to pay each individual covered by the plan up to $750 a month—just as the FDIC reimburses up to $40,000 in deposits to each individual deposit account in a covered bank that goes under.

The REA Express Co.'s plan is one of 15 private pension plans the PBGC has taken over since it opened its doors in the fall of 1974. Since then, more than 4,000 private pension plans have been terminated—1,148 in December 1975 alone.

Most of these terminated plans have been young (five to 10 years old), have involved fewer than 10 workers, and have been healthy, with the plan containing enough assets to meet its liabilities.

In general, such plans terminate because the firm is going out of business, is merging, or simply finds the costs of administration so prohibitive that it opts to end the benefit.

Where the terminating plan's assets are sufficient, the problems are relatively few. The PBGC is informed in advance of the proposed termination date. It then appoints a case officer to determine why the plan is ending and whether it has enough funds to meet its obligations.

If everything is in order, the plan administrator himself generally winds up the plan. He may make nominal lump-sum payments to new workers whose benefits are so small that the costs of managing them outweigh the benefits. For other plan beneficiaries, he may purchase retirement annuities from a private insurance company.

But when a pension plan is not adequately funded and can't meet its liabilities, the problems multiply—as in the case of REA.

As my associate, Brooke Shearer, traced the story, the company notified the PBGC it was in serious financial trouble last March—so bad it had failed to mail out two months of benefit checks.

The PBGC immediately got involved in REA Express' problems. First, it persuaded the firm to resume its benefit payments and to mail out checks for the two months it had skipped. By November, when the firm had been declared bankrupt, the corporation had had itself appointed trustee of the REA pension plan.

As trustee, PBGC took over the plan's remaining assets, first to make sure that payments to retired workers were not interrupted again. Within a week of REA's bankruptcy ruling, the PBGC had retirees' benefit checks in the mail, along with a letter explaining to the plan's 1,650 participants the corporation's responsibilities and the benefits it would guarantee.

Most plans are not as large as REA's, however, and instead resemble that of the small, New England auto-part manufacturing firm that went under last February.

In this case, the PBGC left the assets of the firm's plan under the management of the same bank that had handled them previously. It merely took over the mailing of the monthly benefit checks to about 100 retired workers.

But the PBGC has not yet drawn on its own insurance fund. That insurance fund serves as a backup in the event a failed plan can't pay its covered retired workers. It is financed by some 120,000 private plans which paid premiums in 1975 of about $34 million.

The premium rates now are $1 a year per person in a single-employer plan and 50 cents per person if the plan is funded by two or more employers.

These rates are to rise when the corporation begins to provide big multiemployer plans with the same protection it gives such single-employer plans as REA.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

OKLAHOMA SENATORIAL CONTESTED ELECTION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, Senate Resolution 356, which will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 356) relating to the Oklahoma senatorial contested election.

The Senate resumed the consideration of the resolution.

RECESS UNTIL 2 P.M.

Mr. GRIFFIN. Mr. President, with the approval of the distinguished majority leader, I ask unanimous consent that the Senate stand in recess until 2 p.m. today.

There being no objection, the Senate, at 1 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LAXALT).

OKLAHOMA SENATORIAL CONTESTED ELECTION

The Senate continued with the consideration of the resolution (S. Res. 356) relating to the Oklahoma senatorial contested election.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CANNON. 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. CANNON. Mr. President, I ask unanimous consent that the following staff members be granted the privilege of the floor:

William M. Cochrane, Edwin K. Hall, Peggy L. Parrish, Richard D. Casad, and James Schoener, minority counsel, and Aubrey Sarvis, of my staff.

I also ask unanimous consent that during the consideration of Senate Resolution 356 relating to the Oklahoma senatorial contested election—

First, the contestant, Mr. Edmondson, shall be admitted to the floor of the Senate;

Second, the attorneys for Mr. BELLMON, John Coffey, Kevin Hays, and Bert McElroy, and the attorneys for Mr. Edmondson, Morris Levin, James Edmondson, and John Claro, shall be admitted to the floor of the Senate;

Third, under the supervision of the Sergeant at Arms, two tables shall be placed in the rear of the Senate Chamber, one for the use of the attorneys for Mr. BELLMON and one for the use of the attorneys for Mr. Edmondson;

Fourth, under the supervision of the Sergeant at Arms, charts, photographs, and similar exhibits may be displayed in the Senate Chamber;

Fifth, under the supervision of the Sergeant at Arms, two voting machines used in Tulsa County, Okla., in the contested election may be displayed and demonstrated in the Senate Chamber; and

Sixth, the experts who testified before the Committee on Rules and Administration, Dr. Howard Penniman, Dr. Walter DeVries, Dr. Warren Miller, and Dr. Samuel Kirkpatrick, shall be admitted to the gallery reserved for employees of the Senate.

Mr. HATFIELD. Will the Senator add the name of Larry Smith?

Mr. CANNON. Please add Larry Smith of the committee staff.

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

Mr. BARTLETT. And will the Senator add the name of Don Cogman of my staff?

Mr. CANNON. Please add Don Cogman.

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

Mr. BARTLETT. And also the name of Charlie Waters from the staff of Senator BELLMON.

Mr. CANNON. I add the name of Charlie Waters to that list.

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

RECESS UNTIL 2:15

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2:15 p.m. for the purpose of carrying out the request of the chairman of the committee, the distinguished Senator from Nevada (Mr. CANNON).

There being no objection, the Senate, at 2:06 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LAXALT).

The PRESIDING OFFICER. The Senator from Nevada is recognized.

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

Mr. CANNON. I yield.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. CANNON. Mr. President, the Senate today begins consideration of Senate Resolution 356, which was reported on January 27, 1976. That resolution contains certain findings and declarations relating to the contested election for a seat in the U.S. Senate from the State of Oklahoma. These are discussed at great length in the report of the Committee on Rules and Administration submitted to the Senate, together with minority and supplemental views of committee members.

Senate Resolution 356, approved by the committee by a vote of 5 yeas to 3 nays, with one member rescuing himself, requires:

That the Senate of the United States exercise its constitutional responsibility under Article I, section 5, of the Constitution, as the Judge of Elections of its own Members to determine the outcome of the contested election of November 5, 1974, for the office of United States Senator from the State of Oklahoma, and, if unable to so determine, declare a vacancy exists in such office in order to enable a special election to be held in accordance with the laws of the State of Oklahoma governing special elections.

As the committee report sets forth in detail, the Oklahoma Senate election of November 5, 1974, resulted in a declaration of victory for Republican HENRY BELLMON over Democratic candidate Ed Edmondson by a margin of 3,835 votes.

Mr. Edmondson challenged the results in Tulsa County, and filed a contest with the State election board under the laws of Oklahoma. The matter was initially heard by a State district judge. Mr. Edmondson claimed that the election laws of Oklahoma had been violated in that, first, the voting machines used in Tulsa County listed the contest for U.S. Senator after 14 State contests, in violation of Oklahoma law; second, these voting machines did not have devices for straight party voting, in violation of Oklahoma law; and, third, that 545 of the 640 voting machines used in Tulsa County prominently displayed erroneous and misleading instructions for straight party voting, which could not be followed because of the absence of the straight party levers.

Mr. President, the statutes alleged by Mr. Edmondson to have been violated are set forth on pages 3 and 4 of the committee's report, as are the voting instructions which my colleagues can observe prominently displayed on the "Tulsa" voting machines.

I might say that the Tulsa and Amarillo voting machines, one of each, are on display here in the Senate Chamber. A photographic blowup of the ballot arrangement is on the side over on my right. On my left are photographic blowups of the misleading instructions that appeared on 545 of the 640 machines.

The Oklahoma district court sustained a demurrer by representatives of Senator BELLMON to the question of the placement of the senatorial race on the ballot, refusing to consider any evidence as to the effect of such ballot placement on the outcome of the election. The district court also did not find that there was a violation of the law requiring a straight party lever since it found that a voter could vote a straight party ticket by moving all the various selectors on the machine to candidates of one party. The district court upheld the legality of the election.

Mr. Edmondson then petitioned the Supreme Court of Oklahoma, which first of all clearly found that the voting machines in Tulsa County were not programed so as to permit straight party

voting, as required by section 274 of the Oklahoma statutes.

Second, the court assumed:

Arguendo, that a candidate for the United States Senate is a candidate for a national office, and that the placement of the United States congressional candidates in Column 6, instead of Column 3, where the candidates for state offices were placed, conflicts with the *mandatory* provisions of Section 277(c) of the Oklahoma Statutes.

Finally, the court found that—

Since the machines were not programmed to permit straight party voting by using a single lever per column of the ballot, and in fact, no such lever was on the machines, the contested instructions were clearly erroneous.

The Oklahoma Supreme Court thus found in favor of Mr. Edmondson's position that laws had been violated. However, the court held that Mr. Edmondson failed to establish by competent or sufficient evidence that these violations of law were sufficient to void the election or make it impossible to determine with mathematical certainty which candidate received the greater number of statewide votes and was entitled to a certificate of election.

On January 9, 1975, Mr. Edmondson filed with the Senate a petition and complaint, and on January 13, 1975, Senator BELLMON filed with the Senate a motion to dismiss the Edmondson petition and complaint, together with an answer. On January 14, 1975, Senator BELLMON was seated by the Senate "without prejudice" to the Edmondson contest, and the matter was referred to the Committee on Rules and Administration.

After the New Hampshire contest was resolved the committee commenced the consideration of the Oklahoma contest and authorized a staff investigation and staff hearings which were conducted in Tulsa, Okla., on August 12, 13, 14, and October 15 and 16, 1975. Opportunity was provided for both sides to present or offer witnesses and majority and minority staff reports were filed with the committee. Hearings were held by the committee on November 17 and 18, and December 4, 1975, with both sides invited to submit names of desired witnesses. On December 12 and 15, 1975, the committee met to consider the contest. The resolution and report before the Senate reflect the committee's determination that the violations of Oklahoma law and erroneous instructions, considered cumulatively, could well have affected the outcome of the Oklahoma Senate race, and that the committee was not able to determine with any degree of certainty the winner in the contest.

Mr. President, the volume of hearings and meetings on the Oklahoma contest—consisting of 1,281 pages, including various legal memorandums and exhibits—contains a full and complete record of the committee's actions in this contest. It will show that the investigations and hearings of the committee and its staff have been conducted in an impartial manner with an opportunity for all interested parties to be heard and present a complete picture of the facts and law, as they affected both sides of the controversy, to the committee.

Mr. President, we have before the Senate evidence which conclusively demonstrates that at the election of November 5, 1974, the election machines of Tulsa County, Okla., were not in conformance with the laws of the State of Oklahoma. The law required that candidates for U.S. Senator be listed in first place, but instead they were listed after 14 State contests. The law required that the voting machines have straight party voting devices, and it is undisputed that none existed in Tulsa County. Finally, it is undisputed that 545 of the 640 voting machines had affixed prominent instructions as to the use of straight party voting devices which were not available for use by the voters—thus the instructions were erroneous and misleading.

The Oklahoma Supreme Court concluded that Mr. Edmondson had not presented competent evidence to show that the irregularities, singly or together, and I use the court's language, "caused at least 3,835 voters who participated in the Tulsa County election to forgo or fail to record a vote in the U.S. Senate race."

That is in the hearings at page 243.

Although the court used the term, "irregularities," it is clear that there were two violations of Oklahoma law as well as the use of erroneous and misleading instructions.

It is established precedent, Mr. President, that the Senate is not bound by the findings of the Oklahoma Supreme Court, as the Senate is the sole judge of the elections, returns and qualifications of its own Members, under article I, section 5 of the Constitution. However, Mr. President, the committee has not totally rejected the holdings of the Supreme Court of Oklahoma, and does not ask the Senate to do so. The committee considered the court's findings and, indeed, is in agreement with its essential conclusions that Oklahoma law was not complied with on November 5, 1974, in Tulsa County. The committee considered, as must the Senate now, the court's findings, together with all the other evidence submitted, and concluded from all this evidence that the violations of law and misleading instructions, considered together, could well have affected the outcome of the election, thus making it impossible to determine with any degree of certainty, much less mathematical certainty, the rightful winner of that election. Furthermore, in this contest, substantial new evidence was presented to the committee, and is now before the Senate, which was not available to the Supreme Court of Oklahoma. This new evidence is set forth at pages 8 through 12 of the committee report.

The fact that Oklahoma law was violated in Tulsa County by the absence of a straight party lever and the placement of the Senate contest after 14 State offices rather than in first place is clearly established here. Also established is the fact that 545 of the 640 voting machines in Tulsa County had erroneous and misleading instructions. Had a voter followed instruction No. 1 on 545 of the Tulsa voting machines, he or she would have cast a vote only for the bottom candidate. If a voter had, however, followed those instructions in their entirety, his or her vote would have been canceled out completely. Thus, the question before the Senate is, Did these violations of the law and misleading instructions affect the outcome?

Mr. President, in this case substantial evidence was offered to the committee, and is now before the Senate, on behalf of Mr. Edmondson that the results of the election were, in fact, affected, and were it not for the violations of law and misleading instructions, Mr. Edmondson would have received sufficient votes in Tulsa County to win in the statewide election.

Dr. Samuel A. Kirkpatrick, a professor of political science and director of the Bureau of Government Research at the University of Oklahoma, testified as a qualified expert on Oklahoma elections, voting behavior, and voting patterns, that—

Without the irregularities associated with voting machines in the November 1974 election, there is a high probability that Ed Edmondson would have received sufficient votes in Tulsa County to win in the State-wide election.

Dr. Warren E. Miller, a qualified expert on voting patterns and the behavior of citizen participation in national elections, and the director of the Center for Political Studies of the Institute for Social Research at the University of Michigan, testified before the committee that, in his opinion, it was "most likely that Mr. Edmondson would have indeed won, had these irregularities not occurred."

The opinions of these expert witnesses and the evidence they presented to support their conclusions are all set forth at length in pages 12 through 17 of the committee's report.

The committee also received evidence on behalf of Senator BELLMON disputing the methodology and conclusions of Mr. Edmondson's witnesses. Dr. Howard R. Penniman, professor of government at Georgetown University, concluded that there was, "no reason to doubt the validity of the outcome" of the election. However, Dr. Penniman was unable, it appeared, to categorically conclude that the violations of law and misleading instructions had absolutely no effect on the election results, as evidenced by his acknowledgment that it was possible that several voting irregularities, when combined, might have made a difference in the election results.

Dr. Walter DeVries testified on behalf of Senator BELLMON that the violations of law and misleading instructions made no difference at all in the results of the election.

Mr. President, the crux of the question before us is, did these violations of law affect the outcome of the election? From my own experience, I would certainly have to disagree with Dr. DeVries' strong position that the absence of straight party levers made absolutely no difference in the outcome. In my own State of Nevada, one of the basic reasons for doing away with straight party voting was to make people think and vote in each race, rather than casting one vote for their party designation. From my own

experience, I am personally convinced that voters are more inclined to vote a straight party ticket if such a mechanism is available.

Leaving aside the merits of straight party voting, we cannot walk away from the fact that it was required by Oklahoma law and not provided for in Tulsa County.

I am certain we will hear some discussion later in these proceedings, with respect to the Chavez case in which our colleagues on the Republican side, who were then in the majority, voted 7 to 1 in support of the proposition that I am advancing here. They took the position that any violation of law alone, independent of any other fact or information, was sufficient to void the election.

Mr. President, I ask the Senate to review carefully the evidence before it in this contest and determine whether the violations of Oklahoma law, and the erroneous and misleading instructions on the voting machines affected the outcome of this election.

Mr. President, these are the questions we are to determine here; either the matter should go back for a new election or that it should not, that the violations of law did or did not affect the outcome of the election, and whether or not Mr. BELLMON should be seated permanently.

AMENDMENT NO. 1420

Mr. President, I offer an amendment to the resolution that is on file.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes an amendment,

Strike out all after "*Resolved*," and insert the following: That the Senate of the United States, in the exercise of its constitutional responsibility under Article I, Section 5, of the Constitution as the Judge of Elections of its own Members, does hereby declare its inability to determine the outcome of the contested November 5, 1974, election for the office of United States Senator from the State of Oklahoma, and does declare as of 1976, a vacancy to exist in such office as of such date, such vacancy to be filled in accordance with the laws of the State of Oklahoma.

Mr. CANNON. Mr. President, I yield to the Senator from Oregon.

Mr. HATFIELD. Mr. President, I ask unanimous consent that during debate and any rollcall votes on Senate Resolution 356, relating to the Oklahoma election contest, the following members of Senator BELLMON's staff be granted privileges of the floor: Robert Haught, Fred Davis, and Charles Waters; and Karleen Millnick of the Rules Committee staff.

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

Mr. HATFIELD. Mr. President, I yield to the Senator from Oklahoma.

Mr. BELLMON. I thank the distinguished Senator from Oregon for yielding to me.

Mr. President, it is not my intention to stand before the Senate to plead my case. Senator HATFIELD, the distinguished ranking minority member of the Budget Committee, and my colleague from Oklahoma, Senator BARTLETT, and others have graciously undertaken to fully inform the Senate as to the lack of merit in the challenge to my reelection.

My purpose, Mr. President, is to call to the attention of the Senate the precedent which could be established if this matter is sent back to Oklahoma for a new election. The fact is that no charges of misconduct on the part of either candidate or their supporters have been made. No request for a recount was filed and there is no question as to the number of votes received by either candidate.

The simple fact is that it was a close election, and the election officials, who were not members of my own party, conducted the election in a way they felt to be both fair and lawful.

Should the Senate establish the precedent of calling for new elections in cases of this kind, there is every reason to believe that from this point forward numerous close elections will be appealed to the Senate for final determination.

There has rarely been an election held in this country where technicalities of State election laws or procedures could not be differently interpreted. Such questions should properly be settled by the courts. This has already been done in the Oklahoma case, and again predominantly by members of the Democratic Party. Upholding a lower court ruling, the State supreme court in a unanimous opinion ruled the election was neither "illegal nor void."

For the Senate now, 16 months after the election, to reverse the decision of the Oklahoma voters and of the Oklahoma courts, would in my opinion establish a precedent that would haunt this body for decades to come.

Mr. President, it is my hope that the Senate will not establish such a precedent.

Mr. HATFIELD. Mr. President, 8 months ago, in June of 1975, the U.S. Senate began the lengthy debate on the contested New Hampshire Senatorial contest. There are those of us here today, and I include myself in this category, who hope and pray that the Senate's consideration of the Oklahoma contest is not as prolonged. There are those of us here today who believe the Senate's time should not be consumed by the considerations of this frivolous case. However, our desires did not prevail in the Rules Committee, and the Senate now finds itself in the midst of another hotly contested election.

While there are virtually no comparisons to be made between the New Hampshire contest and the Oklahoma contest, I believe a comparison can be made in terms of the position held by the minority members on the Rules Committee, and I would hope, the minority members of the Senate. It has been our consistent position that the Senate's considerations of these contests be in a fair and equitable fashion, and the rights of the people be preserved. This was the intent and purpose of our effort in the New Hampshire case, and it will be a central part of our participation in the Oklahoma case.

As members of the minority, we will not hesitate to utilize every right within our power to see to it that all issues are heard and discussed fully. To permit the Senate to do otherwise than as stated would be an abdication of our responsibility as members of the minority, and as representatives for a portion of the American people in this legislative body.

Some Members of the Senate have predicted that once the Oklahoma case reaches the Senate floor, a decision will be rendered by this great deliberative body within the matter of hours or days. Mr. President, may I respectfully remind my colleagues that we heard this same call, this same ring, when we first considered the New Hampshire Senatorial contest in January of 1975, and we now know how false, how hollow, those predictions were. None of us know how long the Senate will spend on the Oklahoma contest, but one prediction, one prophecy if you will, will remain true to the very end—that is the members of the minority intend to be as deliberate as is required to make sure that the Senate gives this issue a fair hearing, and that it disposes of this contest properly—by dismissing the petitioner's complaint.

Mr. President, while I believe the respective reports of the majority and the minority provide a rather complete outline as to the specifics of this case, I would like to review for my colleagues in the Senate some of the facts of this particular contested election.

The results of the 1974 Oklahoma senatorial contest are well known to all of us:

HENRY BELLMON, 390,997 votes; Ed Edmondson, 387,162 votes; Paul Trent, 13,650 votes.

More pertinent to this case, however, are the results of the contest in Tulsa County:

HENRY BELLMON, 72,145 votes; Ed Edmondson, 49,775 votes; Paul Trent, 1,789 votes.

In other words, Mr. President, HENRY BELLMON defeated Ed Edmondson in Tulsa County by 22,370 votes.

Mr. President, just as there is no dispute over the actual votes cast for each candidate in Tulsa County, or for that matter the entire State, there is also no dispute over the fact that in Tulsa County the Democrats outregister the Republicans by some 19 percent. We find, however, that the registration lists in Tulsa County are just as deceiving as they are in other parts of the country. I would like to bring to the attention of my colleagues the fact that Republican candidates have a history of doing well in Tulsa County, in spite of the 19 percent registration advantage Democratic candidates enjoy over their Republican opponents. Republican candidates have consistently won in Tulsa County, and have won big.

First. Tulsa County has voted for a Republican President every time since 1940.

Second. The Republican candidate for Governor has carried Tulsa County every time since 1940 except 1958.

Third. Former Democratic Senator Mike Monroney lost four times in Tulsa County.

Fourth. Former Democratic Senator

Fred Harris lost Tulsa County in 1964 and 1966.

Fifth. Ed Edmondson, the Democratic Candidate for the U.S. Senate in 1972 and 1974, lost in Tulsa County both times.

Mr. President, let there be no mistake—HENRY BELLMON's 22,370 margin over Ed Edmundson was not unusual nor out-of-line with past races.

Now, Mr. Edmondson has presented testimony, and apparently with some effectiveness, since a majority of the members on the Rules Committee have accepted, at least in part, his arguments that there was a certain amount of confusion at the polls due to:

First. The absence of straight-party levers on the Tulsa voting machines.

On the blown-up picture of the machine at the rear of the Chamber, Senators can see that the placement of names, with Ed Edmondson first and HENRY BELLMON second. Any voter had to pull that lever down past Edmondson's name in order to vote for HENRY BELLMON.

I think that is a point we ought to bear in mind about this argument, this fallacious argument, that somehow, the voters got confused because there was not straight party voting. Every voter, Democrat or Republican, had to vote the same way, and every voter faced that same situation, where Ed Edmondson's name was first and HENRY BELLMON's name was second.

Second. The attachment of straight-party lever voting instructions on the machines.

Third. The erroneous placement of the congressional races behind the statewide races on the machine ballots.

Mr. Edmondson's experts testified before the Oklahoma judicial system and the Senate Rules Committee that without the confusion associated with these irregularities, "There is a high probability that Ed Edmondson would have received sufficient votes in Tulsa County to win in the statewide election."

Mr. President, what Mr. Edmondson is saying, what these so-called experts are saying, is that Democratic voters become confused much more easily than Republican voters. I, as a Republican, am not willing to make this particular indictment or charge against good Oklahomans of either party.

I might add that the Oklahoma Supreme Court did not find this to be true, nor did the minority members of the Rules Committee accept this thesis. If there was any confusion, which still has not been proven, let alone properly documented, then such confusion would have been evenly divided among Republican and Democratic voters alike.

Mr. President, no one from the minority has argued or will argue that the irregularities pointed out by Mr. Edmondson did not take place. We all know that irregularities are a part of the history of every election contest. Additionally, we all know that HENRY BELLMON had nothing to do with these election irregularities and, in fact, Ed Edmondson knew 4 days prior to the election that the straight-party levers would not be on the voting machines in Tulsa County.

Had Mr. Edmondson been concerned about the voting rights of Tulsa County citizens, then he would have certainly sought a court order to stay the November 4 election until a later date when either the levers could have been placed on the machines, or until paper ballots could be printed. One wonders if Mr. Edmondson would have been so concerned about these voting rights had he won the election instead of losing it.

Mr. President, we also know that the Oklahoma Supreme Court, comprised of eight Democrats and one Republican, held the following unanimously:

> The record will not support a finding that any voter was deprived of his right to vote in the United States Senate race or failed to vote in the race because he could not vote a straight-party ticket, or because they could not find the lever to vote a straight-party ticket...
>
> Considering the irregularities together and their cumulative effect, Edmondson simply failed to establish by competent evidence that these irregularities singularly or together caused at least 3,835 voters, who participated in the Tulsa County election, to forego or fail to record a vote in the United States Senate race. Since Edmondson did not present sufficient evidence to establish this essential fact, and since the court may not indulge in presumptions, the candidate receiving the most statewide votes for the office of United States Senator can be determined with mathematical certainty and that candidate is entitled to be issued a certificate of election. Bellmon is that candidate.

Mr. Edmondson, Mr. Edmondson's experts, and some members of the Committee on Rules are asking the Senate to make presumptions as to the probable outcome of the race, had not these irregularities taken place. They are asking the Senate to make presumptions that Ed Edmondson won the race, even when the Oklahoma Supreme Court said that it could not indulge in such presumptions. I respectfully suggest that the U.S. Senate should not find itself in the position of having to make presumptions as to who should have won an election under a different set of unknown circumstances. And, if we do get into the presuming business, as Mr. Edmondson would like us to do, then I am afraid that the Senate will find in 1977 a lot of disappointed senatorial candidates making many presumptions and, at the same time, asking the Senate to listen and ultimately accept these presumptions, as the Senate is being asked to do in this case.

The burden is upon Mr. Edmondson to prove that it is impossible to determine, with mathematical certainty, which candidate is entitled to be issued a certificate of election. It is going to take a lot of presuming on the part of the Senate to wipe away HENRY BELLMON's 22,370 vote margin in Tulsa County. I submit to the Senate that Mr. Edmondson has failed to meet this test—the burden of proof.

After the Oklahoma Supreme Court had said that Mr. Edmondson's experts had failed to provide "competent evidence" to show that any voters were deprived of their rights to vote, these experts went back to their computers to develop, to formulate, to manipulate, if you will, new statistics to prove or support their thesis before the Senate Committee on Rules of an Edmondson victory in the 1974 election. It is this new material which finds itself in the majority report under the subtitle, "new evidence." It is this new evidence that some members of the Rules Committee can point to as their excuse to totally reject the unanimous finding of the Oklahoma Supreme Court.

The majority report states:

> The conclusions of both of the expert witnesses testifying on behalf of Mr. Edmondson before the Rules Committee, as well as a substantial portion of the data upon which they based their conclusions, were substantially different than that presented by the same witnesses to the Oklahoma Courts.

Mr. President, I submit to the Senate that some of the observations, data, and conclusions presented by Mr. Edmondson's experts to the Rules Committee in November would be substantially different even today if they were given the opportunity to appear before the Senate.

I believe that, if given another chance, these experts would appear before the Committee on Rules and would offer up a new set of statistics in order to support their original conclusions presented to the Oklahoma District Court. Their conclusions were false in Oklahoma, and they were false in Washington.

Many times a political scientist's study is as deceptive when first heard as is a legal brief defending a complex issue. It is only after you have dissected the legal brief or the political scientist's study do you find the true meaning of what is being presented.

We do not argue with the point that Mr. Edmondson's expert witness, Dr. Warren Miller of the University of Michigan, did not have the 1974 data available when he testified before the Oklahoma District Court. What concerns us on the minority is that Dr. Miller's representations of the 1974 study were clearly misleading, and that our brothers on the Rules Committee were misled.

Later on in this debate, we will show the Senate how cleverly deceptive the Miller report was, and how there was so little foundation for Dr. Miller to make the assertion that it was, "most likely that Mr. Edmondson would have indeed won had these irregularities not occurred."

The majority report goes on to say, on pages 14 and 15, that "Both of the 1956 and the 1974 surveys which formed the underlying data upon which Dr. Miller based his opinion before the Rules Committee, included two precincts in Tulsa County."

Now, please listen carefully, because this is the very heart of the matter when the majority of the committee comes on this Senate floor with the recommendation it does, based upon new evidence.

When Dr. Miller was asked to identify the two Tulsa County precincts he used in his 1974 study, he wrote to Senator CANNON on February 4, 1976, to say that he was in error. In referring to the sampling areas as precincts, Dr. Miller said in his letter:

I should note that in my letter to Mr. Levin I erred in referring to the jurisdictions as "precincts"—an error I did not make in my statement prepared for your committee. The jurisdictions were, in fact, counties, not precincts.

Mr. President, the Rules Committee was led to believe in the hearings by Dr. Miller that his position regarding the 1974 senatorial contest was based, in part, upon the voter survey information obtained from Tulsa County. Next, we were told the study included, "two precincts in Tulsa County." Now, we are told that the areas were not precincts but jurisdictions, and that the jurisdictions were, in fact, counties—one being Tulsa County, and the other being Osage County.

Now, it is very difficult for me to understand how an expert like Dr. Miller could become so confused over his own study as to whether it included jurisdictions, precincts, or counties. Furthermore, I cannot understand how Dr. Miller can use data from Osage County, a paper-ballot county, to formulate a position as to the voting trends of voters in Tulsa County, a voting machine county.

Dr. Miller also mentions that the 20 participants—and let me underscore that—from Tulsa County could not have their identity disclosed because they were assured of their privacy when they initially participated in the poll. Mr. President, I think this explanation by Dr. Miller seems quite reasonable, and I would certainly not want to intrude upon the privacy of these citizens. But, just as these citizens want their privacy to be protected, I cannot believe they would want the data they furnished Dr. Miller to be misrepresented, wilfully or unwilfully. Ample evidence will be provided later which will expose these misrepresentations and inaccuracies.

First though, Mr. President, I think the Senate needs to know about some of the games which were played concerning Dr. Miller's expert testimony. Around December 1, after Dr. Miller had testified before the Rules Committee on November 18, James Schoener, minority counsel on the Rules Committee's Subcommittee on Privileges and Elections, called Dr. Miller to ascertain some background information on the doctor's testimony and 1974 study. After waiting for a period of 2 weeks to receive the material requested of Dr. Miller, Mr. Schoener once again called Dr. Miller on December 15, but unfortunately Dr. Miller was not in his office. A message was left with Dr. Miller's secretary to the effect that the material requested on December 1 had not yet arrived. On that same day, December 15, the Rules Committee met to vote on a resolution offered by Chairman CANNON to refer the Oklahoma matter to the Senate. Before the committee voted on the resolution, I mentioned that the committee was going to be making a judgment on a contested election on the basis of a study by a political scientist, especially when only a synopsis of the study had been provided to the committee. Mr. President, if I may, I would like to read a portion of the hearing record which covers this very discussion.

Senator HATFIELD. Mr. Chairman.

The CHAIRMAN. Senator Hatfield.

Senator HATFIELD. I would like to point out to the committee that the very study upon which the Chairman relies so heavily has never been presented to this committee. We have only had a synopsis of that study.

He was asked to supply to this committee the full basic study from which he drew his conclusions. And unless I have been misinformed, none of our staff on the minority side has ever received any material—is that correct, Mr. Duffy?

Mr. DUFFY. We don't have any.

Parenthetically, I would add, Mr. Duffy was counsel for the majority.

Senator HATFIELD. We do not have the study. So here we are asked to make a determination of a whole new election on the basis of a synopsis of a study, when the full study was asked for—and not a single member of this committee has read the study because the study has not been provided.

Senator GRIFFIN. May I add that the request was made three weeks ago for the study.

Senator HATFIELD. That is right, specifically.

Senator GRIFFIN. And the fact that it was not available, of course, made it impossible for the experts who were testifying on behalf of Mr. Bellmon to challenge or question their conclusions.

Senator HATFIELD. I think that should be a very clear point made for the record, that when the Chairman is asking for this kind of determination and, in effect, rejecting the Oklahoma Supreme Court ruling, by substituting new evidence by some study made by a professor of political science. We don't even have the study. We only have a synopsis. We only have some highlights that this professor gave us in oral testimony.

And he was asked specifically at that time for the full study, because I indicated that, having seen many studies, I wanted to see the detail, and particularly the raw material, the raw data—three weeks ago. And we have yet to get that study, the very evidence that is now supposed to substitute for the Oklahoma Supreme Court.

Immediately afterwards, the committee voted 5 to 3 to report out the Cannon resolution. It was after this vote that more discussion took place regarding the report requested of Dr. Miller. I once again quote from the record:

Senator WILLIAMS. Mr. Chairman.

The CHAIRMAN. Senator Williams.

Senator WILLIAMS. The point has been made here several times that there was a synopsis of a report—I gather it was Dr. Miller's synopsis of his own report.

Senator HATFIELD. That is right, Dr. Miller—and the staff said it has not been received.

Senator WILLIAMS. You said that his report was asked for and not received. I would hope, after this voting is over, that we would find out about that report—whether a request was made, where it is, whether that shouldn't be made available to the Senate, if this should go to the Senate.

Senator HATFIELD. After the fact.

Senator WILLIAMS. Well, I thought that you were hoping that this would be hard evidence to be used by members to make a decision. If this goes to the Senate, I would hope this would be before it, if it is available.

Senator HATFIELD. I had hoped that the committee might want evidence before it sent something to the floor of the Senate. Obviously, the committee doesn't want it.

Senator WILLIAMS. I have been inquiring informally here of the staff, and it doesn't recall a request having been made on the record for this report.

Senator GRIFFIN. It wasn't made on the record, I am told by staff, but it was made.

Senator WILLIAMS. I see. I am content.

The CHAIRMAN. I would find it very difficult to understand why it is not made on the record, if such a request were made. I frankly don't have any recollection of it. If there had been a request, I would have thought that I would in fairness have requested it, although raw data—we had the best evidence here, which was the gentleman testifying as to the results of their study and what the study showed. They testified as expert witnesses.

Mr. President, since the vote and the discussion by the committee were very important, both Mr. Edmondson and his attorney, Mr. Morris Levin, as well as Senator BELLMON's attorney, Mr. John Coffey, were in the hearing room. The importance of the discussion regarding the Miller report was quite evident. And all in the hearing room were aware of the tension at this time between the majority and the minority members of the committee.

Much of the misunderstanding over this report, which I might add continued for several weeks, could have been cleared up had Mr. Edmondson's attorney, Mr. Levin, asked to address the committee in order to enlighten it regarding the facts of the case, as he had done on so many other previous occasions. However, Mr. Levin, Mr. Edmondson's attorney, elected to remain silent.

Again, on December 18, James Schoener called Dr. Miller to inquire about the requested information. Dr. Miller reported to Mr. Schoener that he had forwarded part of the requested material over 2 weeks ago to Mr. Edmondson's attorney, Mr. Levin, for transmittal to the committee. Mr. Schoener immediately called Mr. Levin, and Mr. Levin reported that he had, quote, forgotten, unquote, about Dr. Miller's letter.

In a letter to Senator CANNON, dated December 19, Mr. Levin wrote the following:

I received a telephone call on Thursday, December 18, 1975, from Dr. Warren Miller, Center for Political Studies, the University of Michigan, Ann Arbor, Michigan. Dr. Miller stated that he had just received a telephone call from James Schoener, minority counsel, Subcommittee on Privileges and Elections. Mr. Schoener reminded Dr. Miller that he had called him on or about December first, and requested of Dr. Miller certain information. At or about the same time, I had been in touch with Dr. Miller regarding the scheduling of Doctors Penniman and Devries as expert witnesses for Senator Bellmon. I advised Dr. Miller at that time to send me the materials requested, and I would forward them to Mr. Schoener.

The materials did arrive at my office, with a covering letter from Dr. Miller, on or about December 5, 1975. At that time, I was working on my memorandum in lieu of argument,

to be submitted to the committee on December 8, 1975, and I put the letter from Dr. Miller to one side. In the telephone conversation of December 18th, Mr. Schoener apparently repeated his earlier requests, and Dr. Miller told him he had sent these materials to me. Mr. Schoener also called me on December 18th, and I assured him I would provide the materials sent to me. I am, therefore, now submitting Dr. Miller's letter dated December 2, 1975, with enclosed materials to the committee, with my sincere apologies for the delay, which was unintentional.

As far as we know, Mr. Levin delivered Dr. Miller's material to the majority staff of the Rules Committee on or about December 19. The Miller material finally reached the minority staff on January 9, or approximately 5 weeks after it was requested of Dr. Miller.

Mr. President, Mr. Edmondson's attorney forgot Dr. Miller's letter even though he discussed the matter with Dr. Miller on the telephone; Mr. Edmondson's attorney forgot the letter even though he was present in the hearing room when the committee discussed this very request by members of the minority.

I would respectfully suggest to the Senate that Mr. Levin's memory failed because he knew that Dr. Miller's study could not stand up under close scrutiny. Mr. Edmondson's attorney knew that if all the raw data on the Miller study, being sought by members of the minority, reached the committee, then Dr. Miller's generalizations that, "Ed Edmondson probably would have won the election had the irregularities not occurred," would fall on their face—just as they did in Oklahoma.

Mr. President, I said earlier that conclusive evidence would be provided later on by the minority to show that Dr. Miller's study was in error, and that his expert testimony and his conclusions were in error. I would, however, at this time like to open up this can of worms just a little bit to give my colleagues a view of what is to come.

Dr. Miller, in his February 4, 1976, letter to Senator CANNON, wrote on page two that, "The number of respondents in the two Tulsa jurisdictions totaled 20." First, let me remind my colleagues that the so-called two Tulsa jurisdictions in the 1974 study Dr. Miller writes about happen to be Osage County and Tulsa County. How Dr. Miller could base a part of his analysis on Tulsa County with data obtained from respondents from Osage County just does not make sense.

But, the major point I want to make here is the magic number of 20 respondents. Let me repeat for my colleagues—Dr. Miller says in a letter to Senator CANNON that, "The number of respondents in the two Tulsa jurisdictions totaled 20."

Dr. Miller comes to the Senate citing a national study on voting trends that he compiled, which included a sampling of only 20 respondents from Tulsa and Osage counties. And then says to the committee and to the Senate that, based upon his study, "Ed Edmondson probably would have won the election had such and such not occurred."

Five members of the Rules Committee are saying to the Senate they believe the outcome of the 1974 Oklahoma senatorial race is in doubt based upon expert testimony received in the committee. This expert testimony, which is identified in the majority report as "new evidence," basically is a national study which Dr. Miller says included 20 citizens from Oklahoma, and not all of them from Tulsa County.

Mr. President, some of my colleagues in the Senate may be persuaded to vacate this Oklahoma Senate seat on the basis of a poll alleging to involve 20 respondents, but if they do, it will be a sad day for the U.S. Senate. I wonder how many Members of this legislative body would believe a poll involving only 20 respondents if it were their race or seat in jeopardy. I cannot believe there would be one man or woman in the Congress who would base his or her political campaign on data obtained from a poll involving only 20 participants in the district or State.

On February 14 of this year, the minority members finally received some of the more pertinent information needed to properly analyze Dr. Miller's 1974 study.

Mr. President, I hold in my hand some of the raw material, the raw data, from the computer as well as from his study which represented what he cranked into the computer.

We were very surprised to learn, to see for ourselves, from Dr. Miller's computer printout that despite what this political scientist said in his letter to Senator CANNON, only 14 respondents, not 20, were used in this study—1 respondent from Osage County, and 13 respondents from Tulsa County, for a total of 14 upon which this professor of political science makes his broad-based and general conclusions.

Mr. President, what is even more important—and this is the next step—is the fact that Dr. Miller's own computer printout shows that 6 of the 13 respondents from Tulsa County did not even bother to vote in the 1974 election. So, now after wiping away all of the political science jargon, we find that in truth Dr. Miller really only based his conclusions on data obtained from seven voters in Tulsa County.

Seven voters in Tulsa County led him to make this broad, profound observation that if those voting irregularities had not occurred Mr. Edmondson might have been elected to the U.S. Senate.

In Tulsa County, 125,189 citizens voted in the 1974 election, and Mr. Edmondson and his expert witnesses are suggesting on the basis of polling seven of those voters that the 22,370 vote margin HENRY BELLMON received in Tulsa County be wiped from the election books. With seven voters out of 125,000 votes passed of which Mr. BELLMON won by 22,370 votes, he is making a broad-based conclusion of the voting trends of the people of Oklahoma and, more specifically, of Tulsa County. Seven voters is the base for his material and his study. Here in my hand is the computer printout to prove the point.

Mr. President, the Senate is being asked to vacate the Senate seat held by HENRY BELLMON, when no fraud or criminal wrongdoing has been charged, on the basis of a national study which we now find only includes 13 participants from Tulsa County, six of whom did not even bother to vote in the election in question.

If the Senate accepts and bases its judgment on such flimsy, totally insubstantial expert testimony, then every close Senate election in the future will have to be settled in this Chamber. There is not one Senator in this Chamber today who has not been elected to political office without some sort of irregularities, referred to by the courts as ministerial in character, at least, in the election machinery in his home State. If the arguments suggested by Mr. Edmondson float in this Chamber, then anything will float in 1977.

To force a man, elected by the people of his State and certified by the highest court of his State, to leave the Senate and run for the Senate in another election on the basis of a poll involving only seven actual voters in one county, upon which the majority bases its "new evidence," would be to make a mockery of the U.S. Senate and the electoral process of our entire Government.

Mr. President, I am not asking my colleagues at this time to make a decision as to how they will vote on the Oklahoma contest. I have only touched upon a portion of the discrepancies in Dr. Miller's 1974 study. The test of these discrepancies will be made known to the Senate during the course of this debate. However, after my colleagues have heard the rest of these discrepancies, I believe they will be able to vote to dismiss the rest of the petitioner's complaint with a clear conscience, and with the feeling that justice has been done. I feel it was important to offer only one discrepancy at a time, and those I have offered today carry the base upon which this new evidence rests.

Mr. President, I sincerely hope the Senate will throw Mr. Edmonson's petition out of this Chamber. To accept it, to endorse it, is an open invitation to every loser of a Senatorial race to come into this building and make any sort of charge, without regard to reasonableness or validity, and ask for a new election, especially if he can bring in a political science professor with the kind of a study presented here today.

Mr. President, in closing I can only repeat the words of Senator Thomas Hennings, Democrat of Missouri, when he wrote the minority views in the Chavez case. Senator Hennings wrote:

> Every Senator should ask himself this question. Would he be content to have his own election judged under the circumstances and theories advocated by the majority report?

Mr. President, I am not content with the assertions made by Mr. Edmondson or some of the members of the Rules Committee. I believe, as I hope my colleagues

will come to believe, that Henry Bellmon, without question, was the man elected by the people of Oklahoma to represent them here in the U.S. Senate. The Senate, the Rules Committee, and Henry Bellmon have spent enough time on this case. Mr. Edmondson, the petitioner, should be dismissed, and the Senate should once again turn its attention to the business of the Nation.

Mr. BARTLETT. Mr. President, as we begin this very important debate, I think it is most important that we look at the record of the race between Senator BELLMON and Mr. Edmonson. I believe very strongly that Senator BELLMON should be seated, not because he is a good Senator, not because he is a Republican, but because he won the election; and because, having won the election, the courts in Oklahoma ruled according to Oklahoma law that he had won the election. And finally, of course, the Supreme Court reaffirmed the judge who had been assigned to hear the case. As my distinguished friend from Oregon has done, I wish to talk a little about the expert testimony.

On November 18, 1975, Warren E. Miller, professor of political science at the University of Michigan and Samuel A. Kirkpatrick, professor of political science at the University of Oklahoma, were called to testify before the Committee on Rules and Administration, as expert witnesses on behalf of Ed Edmondson.

Professor Miller based his testimony on 1956 and 1974 national sample surveys. Professor Kirkpatrick based his testimony on Oklahoma and Tulsa County vote totals in 1974 and in previous years. Both testified that, based on their research, they were of the opinion that had it not been for the voting machine irregularities in Tulsa County, there is a high probability that Mr. Edmondson would have won the election.

Concerning these two expert witnesses, the majority report states:

> The Committee has found the evidence presented to it by Drs. Kirkpatrick and Miller to be competent and sufficient to cast serious doubt upon the efficacy of the election results and the ability to determine with "mathematical certainty" who won.

At the time the majority wrote their report the committee had not yet seen the base data from which Dr. Miller drew his conclusions, nor did they have before them the official Oklahoma voting statistics upon which Dr. Kirkpatrick relied in drawing his conclusions.

In the weeks which followed this testimony, minority members of the Rules Committee attempted to secure Professor Miller's 1974 survey base data for the purpose of analyzing the same in light of his testimony.

Only within the past 2 weeks was Professor Miller's underlying data provided to the committee in the form of computer printouts and code books.

In the ensuing months, minority members were also able to secure from the Oklahoma State Election Board and the Tulsa County Election Board much of the raw vote total data upon which Professor Kirkpatrick based his conclusions.

For the past 2 weeks, the minority members have spent a considerable amount of time analyzing this underlying data. Their findings are contained in this supplemental report which I now have before me, which the distinguished Senator from Oregon showed to Senators then on the floor, and which I now ask unanimous consent to have printed in the RECORD.

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

SUPPLEMENTAL MINORITY REPORT OF MESSRS. HATFIELD, SCOTT OF PENNSYLVANIA, AND GRIFFIN OKLAHOMA SENATORIAL ELECTION CONTEST

INTRODUCTION

On November 18, 1975, Warren E. Miller, Professor of Political Science at the University of Michigan, and Samuel A. Kirkpatrick, Professor of Political Science at the University of Oklahoma, were called to testify before the Committee on Rules and Administration, as expert witnesses on behalf of Petitioner Ed Edmondson.

Professor Miller based his testimony on 1956 and 1974 national sample surveys. Professor Kirkpatrick based his testimony on Oklahoma and Tulsa County vote totals in 1974 and in previous years. Both testified that based on their research, they were of the opinion that had it not been for the voting machine "irregularities" in Tulsa County, there is a high probability that Mr. Edmondson would have won the election.

Neither Professor Miller nor Professor Kirkpatrick provided the Committee with the base data upon which they based their conclusions.

In the weeks which followed this testimony, Judge James F. Schoener, Minority Counsel for the Rules Committee, attempted to secure Professor Miller's underlying data for the purpose of analyzing the same in light of his testimony. Professor Miller first responded to this request by letter dated December 2, 1975, addressed to Morris J. Levin, Mr. Edmondson's attorney (see Appendix A-1). Judge Schoener finally received this letter on January 9, 1976, together with coverletter from Mr. Levin, explaining the delay (see Appendix A-2). Thereafter, on January 22, 1976, Judge Schoener wrote to Professor Miller requesting more specifically the base data which he thought he had requested previously, which request Professor Miller had apparently misunderstood (see Appendix A-4).

By letter dated February 4, 1976, addressed to Senator Cannon, Professor Miller responded to Judge Schoener's January 22, 1976, request, providing us with computer printouts and code books relevant to his testimony before this Committee (see Appendix A-5).

In the ensuing months, we have also been able to secure from the Oklahoma State Election Board and the Tulsa County Election Board much of the raw vote total data upon which Professor Kirkpatrick based his conclusions.

After a careful analysis of this base data, we found a multiplicity of inconsistencies between the data used and the testimony presented. We have also located numerous mistakes in calculations made by these experts.

In what follows, we have attempted to set forth our findings in this regard, in an effort to make clear the invalidity of the conclusions reached by these expert witnesses.

ANALYSIS OF PROFESSOR MILLER'S TESTIMONY

1. *Professor Miller's testimony re: his 1956 Survey.*

In his testimony before this Committee, Professor Miller first reiterated the testimony which he had presented to the Oklahoma Trial Court as an expert witness and to the Oklahoma Supreme Court in the form of an affidavit attached to Mr. Edmondson's Brief filed therein. This testimony was based solely on a 1956 national sample survey which Miller claims showed that 77% of all voters voted a straight party ticket in jurisdictions providing a straight party lever (or party circle on paper ballots), but that only 65% of all voters voted a straight party ticket in jurisdictions where each race had to be voted individually. This 12% difference (77%—65%), Miller claimed, was the direct result of the presence or absence of straight party levers. While Miller has never provided the Committee with the base data which he gathered from his 1956 survey, such data is really not necessary to show the inapplicability of this survey to this election contest.

Miller testified that his 1956 survey showed that the absence or presence of a straight party lever did not affect Democrats any more than it affected Republicans. Thus, Miller's *sole* basis for concluding that Mr. Edmondson was hurt more than Mr. Bellmon by the absence of the straight party levers in Tulsa County, based on his 1956 survey findings, was the fact that Democratic registration in Tulsa County was approximately 60% in 1974 while Republican registration was only 40%. In applying his 1956 survey results to Tulsa County, Miller simply *assumed* that 60% of the people going to the polls in Tulsa County were registered Democrats.

This assumption, that Democrats and Republicans did in fact turn out in numbers equal to their respective registration rates, is wholly inconsistent with Miller's own testimony before the Rules Committee (*Hearings*, p. 70):

"Mr. MILLER. There are two constancies, one of which is less important now than it was 20 years ago, having to do basically with the different social-economic advantage of Democrats and Republicans, with the Democrats, of course, traditionally being less well placed in society and simply responding less enthusiastically to politics. But interestingly, over time, even when you take that into account, *you still tend to find a noticeable Republican edge with regard to* such things as party solidarity and with regard to *turnout or participation. There apparently is something about being a Republican that gives one a little more spirit and a little heavier rate of participation.*" (Emphasis added)

In light of this belief, why then did Miller not assume, in applying his 1956 survey results to the 1974 Senate election in Tulsa County, that these "spirited Republicans" would have had a heavier rate of participation in Tulsa County?

There are several other reasons why Miller's 1956 survey cannot validly be applied to Tulsa County. His 1956 survey did not include the type of ballot configuration used in Oklahoma (i.e., separate National, State, County and Local Ballots with one straight party lever or party circle per ballot), as Miller admitted under questioning (*Hearings*, pp. 53 and 54):

"Senator GRIFFIN. Because you just finished discussing the significance and importance of a single-lever straight-party voting situation. And if I recall the testimony yesterday—correct me if I am wrong—even if there had been no irregularity with respect to these machines in Tulsa County, that you would not have had a single party lever, is that correct?

"Mr. MILLER. Correct; yes, indeed, sir.

"Senator GRIFFIN. That under the laws of Oklahoma, it would have required a lever

for the National ticket, the State ticket, the local ticket—there would have been three or four levers; is that correct?

"Mr. MILLER. Yes, sir.

"Senator GRIFFIN. I just want to be sure that I have that correct.

"Mr. MILLER. That is quite true. Mr. Penniman makes the same point in his statement. *And that is true, that our 1956 study was confined to a comparison of the single party lever as against all other varieties.*" (Emphasis added.)

Further, Miller's survey yielded only *National averages* which cannot validly be applied to any single electoral jurisdiction to predict voting behavior.

Finally, political motivation data collected in 1956 simply cannot be validly applied to an election held in 1974. To do so one would first have to assume that voters have not changed at all in nearly 20 years; that television, higher levels of education, higher income levels and younger voters have had absolutely no effect on the electorate's political motivations. Surely, Dr. Miller would not seriously contend that voters have not changed at all in 20 years, yet this is exactly what he necessarily must assume when he attempts to apply his 1956 data to a 1974 election.

2. *Professor Miller's Testimony re: His 1974 Survey.*

Professor Miller next testified concerning the results of another national sample survey. This survey, Miller claimed, showed that in 1974, the absence or presence of a straight party lever affected only Democrats (i.e., 14% more Democrats voted a straight ticket when a party lever was present) but had no effect whatsoever on Republicans or Independents. Miller also claimed that his survey showed that when the Senate race was in the first position on the ballot, more people voted straight (he did not distinguish between the effect on Democrats versus Republicans in this instance).

As noted in the introduction hereto, Professor Miller has only recently, and after several requests, provided the Committee with the base data from which he claims to have derived the conclusions stated above.

After a careful analysis of this data, we are astounded that any valid conclusions could be reached at all, much less the conclusion reached by Miller.

The numerous inconsistencies which we have found between Miller's testimony, his data, and his subsequent correspondence wholly invalidate any conclusions which were drawn by Professor Miller.

In what follows we have attempted to list only the most glaring of these inconsistencies:

a. In Miller's letter to Mr. Edmondson's attorney, Morris J. Levin, of December 2, 1975 (written in response to Judge Schoener's inquiry (see Appendix A-1)), Miller states that:

"*I am enclosing* a copy of one of the North Carolina ballots as well as *an interesting copy of the Tulsa machine ballot. The Tulsa ballot, of course, makes it appear that there were indeed five party levers. Consequently, in our coding of the information, Tulsa is included as one of the multiple ballot, straight party lever jurisdictions.*" (emphasis added)

A copy of the "Tulsa machine ballot" which Miller provided is attached hereto as Appendix A-6. This "ballot" is apparently the sole source of information which Miller had about the makeup of the Tulsa County machines. *However, while consulting with Senator Bellmon's attorneys, we were astonished to learn that this "Tulsa machine ballot" was not a ballot at all but was a mock-up Exhibit which had been prepared by Senator Bellmon's attorneys as an appendix to their brief filed with the Oklahoma Supreme Court.* (See Appendix A-7.) The purpose of the Exhibit was to show the location of the straight party levers had they been on the machines.

With this knowledge in mind, on January 22, 1976, Judge Schoener, on our behalf, wrote to Dr. Miller and specifically requested him to provide us with the following information (see Appendix A-4):

"6. Where, when and how you obtained the ballot configuration from Tulsa County, how you classified it, and the reasons for such classification."

By letter of February 4, 1976 (Appendix A-5) addressed to Senator Cannon, Miller responded to this request as follows:

"I am unable to provide all of the information requested in item six. I am, however, sending a xerox of the copy of the ballot that we coded. Our classification can, of course, be obtained from the printout of electoral jurisdictions. As copies of ballots, sample ballots or other descriptive information was *returned to us by the various election officials,* the material was usually detached from covering letters, if such were included. *I am sorry that I cannot tell you where, when and how we obtained the ballot, but from the torn upper left corner, I would presume that it was mailed to us with a covering letter which was subsequently detached as we coded and processed the information.*" (Emphasis added.)

Subsequent questioning of Danny McDonald, Secretary of the Tulsa County Election Board and Harmon Moore, Chief Clerk of the Tulsa County Election Board, reveals that neither Dr. Miller, nor any other person associated with the Center for Political Studies, Institute for Social Research, the University of Michigan, ever requested information about the ballot form used in the 1974 General Election in Tulsa County (see Appendices A-8 and A-9).

The question of where Dr. Miller actually obtained his "Tulsa machine ballot" is not important to a determination of the issues raised by Mr. Edmondson. What is important, however, is that the use of the "ballot" by Dr. Miller casts serious doubt on the reliability of his ballot form data from other jurisdictions. If Miller relied on an unofficial mock-up Exhibit used in a Court proceeding for demonstrational purposes only to provide him with his sole source of information about the Tulsa County ballot form, one must wonder how he collected the rest of his data on ballot forms.

b. In his testimony, Miller claimed that his survey included ballot form information from 285 electoral jurisdictions. He further claimed that of these 285 electoral jurisdictions, four types of straight party voting mechanisms were identified as follows:

Number of choices needed to vote a straight party ticket and number of jurisdictions having this type of mechanism

(1) Single party lever or box (one choice)	53
(2) 1 per ballot	6
(3) 1 per race	153
(4) Modified single party lever (use of party lever does not preclude voting for candidates from other parties)	73

An examination of the data which Miller provided the Committee, however, reveals that Miller only had ballot form information from 281 jurisdictions, and that these 281 jurisdictions were coded quite differently than his testimony indicated. The actual data is as follows (see Appendices B-1 and B-2, Miller's "Ballot Form Study" Code and his computer printout of ballot form information).

Number of choices needed to vote a straight party ticket and number of jurisdictions having this type of mechanism

(0) Data missing	70
(1) Single party lever or box (one choice)	35
(2) 1 per ballot	0
(3) 1 per race	125
(4) Modified single party lever	51
(5) Modified, 1 per ballot	0

Thus, Miller's data clearly shows that he did not have any information about the type of straight party mechanism used in 70 of his 281 electoral jurisdictions, roughly ¼ of this total. Further, Miller testified that 6 electoral jurisdictions used in his survey provided for the one lever per ballot type of straight party voting. Yet not one of the electoral jurisdictions shown in his data printout is coded as such.

c. Miller states in his letter of December 2, 1975, that, "in our coding of the information, Tulsa is included as one of the *multiple ballot, straight party lever* jurisdictions," yet the data which Miller provided the Committee shows quite the contrary (see Appendices B-1 and B-2). Miller's data shows that Tulsa County was divided into four preliminary sampling units, (psu's), numbered 3951, 3952, 3953 and 3956 (3952 actually being in Osage County). His data further shows that the ballot forms used in these four psu's were as follows (see Appendices B-1 and B-2):

Variable 4 separate ballots for U.S. Senate or Senate and House of Representatives

PSU:	
3951	No (code 5)
3952	Yes (code 1)
3953	No (code 5)
3956	Data Missing (code 0)

Variable 7 number of choices needed to vote a straight party ticket

PSU:	
3951	Data Missing (code 0)
3952	Data Missing (code 0)
3953	Data Missing (code 0)
3954	Data Missing (code 0)

It is thus clear that Tulsa County ballot form information was not coded as "multiple ballot, straight party lever", as Miller claims. The fact is, as seen from Miller's computer printout, he simply did not know whether Tulsa had straight party levers or not. Further, even if Miller would have coded the Tulsa data as he says he coded it, it would have been wrong. The three psu's in Tulsa County should have been coded as "multiple ballot, one per race" and the one Osage County psu should have been coded "multiple ballot, one per ballot." Not only did Miller not have the proper sample ballot from which to gather his information, it appears that he cannot even correctly read the printout from which he claims to have based his testimony.

d. Besides the numerous errors made by Miller with respect to his coding of the Tulsa ballot form, it is evident that similar miscoding occurred for other jurisdictions as well. In his December 2, 1975 letter Miller indicated that Pitt County, North Carolina, and Watauga County, North Carolina, were jurisdictions where "voting can be accomplished with a straight party lever for each of a number of ballots." From the "sample ballots" which Miller attached to his letter it appears that this statement is entirely true (see Appendix B-3). *However, this is not how Pitt County and Watauga County, North Carolina were actually coded in Miller's base data.*

From his base data it is really seen that the three psu's in Pitt County (5071, 5072 and 5073) and one psu in Watauga County (5372) were coded as "single party lever or

box." But the sample ballots provided by Miller clearly show they should have been coded as "one per race." Once again, the data was not coded as Miller said it was coded and the way it was coded was clearly in error.

e. In his December 5, 1975 letter Miller states that the Currituck County, North Carolina, falls "in the category that we defined as the 'single level, unmodified.'" Miller's data does show that this is in fact how the Currituck County ballot was coded. However, once again, his coding is obviously in error. The Currituck County ballot which Miller enclosed with his letter (see Appendix B-4) clearly shows that Currituck County was a "multiple ballot" jurisdiction. Thus, it should have been coded as a "1 per ballot" in the straight party level category (i.e., if a jurisdiction has separate ballots for National, State, County and local offices, it cannot have a "single lever" which would cast a straight party vote on all four ballots—it must necessarily be classified as "1 per ballot", "1 per ballot modified" or "1 per race"). Miller's own coding is inconsistent. He codes Currituck County (psu 5471) as having a separate ballot for U.S. Senate Race but then goes on to classify it as "single party lever or box", which is simply not possible when you have a separate ballot setup.

Miller further, in coding the Currituck County ballot form, programs as "missing data" the question of whether a party symbol was present on the ballot. Yet the copy of the Currituck County ballot which Miller attached to his December 2, 1975 letter clearly shows that the Currituck County ballot did not have party symbols.

f. In his letter of February 4, 1975, Miller states that, "The number of respondents in the *two* Tulsa jurisdictions totalled *20*." (Emphasis added) Miller's data shows (see Appendix B-5) that the number of respondents in the *three* Tulsa jurisdictions (psu's) totalled only *13* (7 in psu 3951, 3 in psu 3953 and 3 in psu 3956). There was only one person interviewed in Osage County, Oklahoma (psu 3952).

g. Finally, in coding his ballot form information for several electoral jurisdictions in Oregon, Miller actually shows that the winner of the 1974 Oregon Senatorial Contest was the Democrat, Betty Roberts, when in fact the Republican candidate, Senator Packwood, was the victor.

ANALYSIS OF PROFESSOR KIRKPATRICK'S TESTIMONY

1. *Professor Kirkpatrick's "citation" of authority.*

Dr. Kirkpatrick began his testimony before the Committee with "a brief review of scholarly findings about the impact of ballot and voting machine arrangements on the pattern of electoral outcomes." *Six out of the eight articles which he cited had previously been cited to the Oklahoma Supreme Court* in the form of an affidavit, prepared by Kirkpatrick, and attached to Edmondson's brief in the Oklahoma Supreme Court case.

The first "new" authority which Kirkpatrick cited was Warren E. Miller's "Preliminary Report of Findings from Analysis of the Impact of Variations in Voting Procedures and Ballot Form," Center for Political Studies, Institute for Social Research, University of Michigan, 1975 (*Hearings*, pp. 85–86). *In subsequent communications with Professor Miller, he has stated that no such "report" has been prepared by him or his institute* (see Appendix A-3).

The only other "new" authority which Kirkpatrick cited were pre-1960 articles (Kamin, Basin and Hecock) which conclude that "candidates listed lower on a ballot receive significantly fewer votes than higher candidates, and the top name on the ballot is also favored on nonpartisan elections" (*Hearings*, p. 87).

With respect to these authorities, Dr. Howard R. Penniman, one of the expert witnesses called on behalf of Senator Bellmon, correctly pointed out in his testimony before the Committee:

"The points of the Kamin article and the Bain and Hecock book are at best ambiguous in terms of their application to the Oklahoma scene. Kamin is talking about persons competing for the same office, while Bain is talking about top names on each column of a ballot but he is referring to nonpartisan elections. If there is a carryover to partisan elections, then any advantage in the listing of candidate names on the Tulsa County ballot presumably went to the top name that is, to Mr. Edmondson." (*Hearings*, p. 133)

In summarizing the relevance of all of Kirkpatrick's authorities, Dr. Penniman notes:

"In general, the articles have contributed to our understanding of voter attitudes and practices, but they are not directly related to the election questions before this committee." (*Hearings*, p. 132)

This is precisely the position taken by the Oklahoma Supreme Court—i.e., this "evidence" is simply not competent to establish that any of the irregularities complained of did in fact affect the outcome of the U.S. Senate race in Tulsa, Oklahoma.

2. *Dr. Kirkpatrick's 'evidence" re: "increased ticket splitting" in Tulsa County in 1974.*

Dr. Kirkpatrick then moved on to present his 'evidence" which he claimed supported his three conclusions, i.e. (1) that there was more ticket splitting in Tulsa County in 1974 than there had been in the past; (2) that this increase in ticket splitting in Tulsa County was greater than the increase in ticket splitting in the rest of the state (*NOTE:* Kirkpatrick recognized that ticket splitting in 1974 *increased* in *both* Tulsa County and the rest of the state—he only claimed that the *increase* in ticket splitting was greater in Tulsa County); and (3) that this greater increase in ticket splitting in Tulsa County was a direct result of Tulsa County not having straight party levers.

a. *Kirkpatrick's Table 1.*

Kirkpatrick's first piece of "evidence" is his "Table 1." (See Appendix C-1) What Kirkpatrick has done in this table is to take the percentage Republican vote in the offices of Governor and Senator, broken out by "Tulsa County only" and "Statewide Balance" (excluding Tulsa County) categories, for each year in which the Gubernatorial and Senatorial races appeared simultaneously on the ballot back to 1930. The purpose of his exercise, Dr. Kirkpatrick stated, was as follows (*Hearings*, pp. 76 and 77):

"The question addressed is the following: Is the Republican vote increase (lead) in Tulsa County over the balance of the State for U.S. Senate discrepant or different from Tulsa County's Republican percentage lead for Governor—and if so, is it more discrepant than in previous years with coterminous Senate/Governor races where party levers/circles were used on machines/ballots?"

To translate this into English Kirkpatrick first recognized that in the Senatorial and Gubernatorial races in Oklahoma, the Republican candidates have always run better in Tulsa County than they have in the rest of the state. For example, (refer to Table 1), in 1966 the Republican candidate for U.S. Senator from Oklahoma captured 57.2% of the Tulsa County votes but only captured 44.4% of the votes in the rest of the state, i.e., Republican Senatorial candidate ran 12.8 percentage points better in Tulsa County than he did in the rest of the state.

* * * * *

This is a relatively simple task to undertake (and one that no doubt Kirkpatirck did undertake but did not include the results in his report). Using Kirkpatrick's figures, we see that over the years, *on the average* Republican candidates for Senate have run 13.8 percentage points better in Tulsa County than in the rest of the state. Thus, if Tulsa County would have been true to form in 1974, Henry Bellmon, the Republican candidate for Senate would have run 13.8 percentage points better in Tulsa County than he ran in the rest of the State. Since he captured 47.7% of the vote in the rest of the state, he should have captured 61.5% of the vote in Tulsa County. But he didn't. He only captured 58.3% of the vote. *If, as Kirkpatrick claims, this discrepancy is due to Tulsa County not having party levers, then the conslusion which Kirkpatrick should have reached—the only logical conclusion using Kirkpatrick's assumption—is that Henry Bellmon not Ed Edmondson was hurt by the absence of straight party levers.*

b. *Kirkpatrick's Table 2.*

Kirkpatrick next turned to a discussion of the data presented in his Table 2 (see Appendix D-1), which he claimed to show magnitudes of ticket splitting between Tulsa County and the rest of the state over the same period of time as his Table 1. Kirkpatrick arrived at his figures in the following manner: He first looked at the raw vote totals in Tulsa County for all contested statewide offices (see Appendix D-3). He next calculated the percentage of the vote each Republican candidate received. Referring to Appendix D-3, it is seen that the Republican candidate receiving the highest percentage of vote in Tulsa County in 1974 was the Republican candidate for State Treasurer (63.1%), while the Republican candidate receiving the lowest percentage of the vote was the Republican candidate for Lieutenant Governor (34.0%). The difference between these two percentages is 29.1%, as seen in Kirkpatrick's table. Kirkpatrick calls this figure a measure of ticket splitting, i.e., he would say that in Tulsa County, 29.1% of those people who voted for the Republican candidate for State Treasurer, turned around and split their tickets by voting for a Democratic candidate for Lieutenant Governor.

Kirkpatrick performed the same calculations for the rest of the state and for Tulsa back to 1930. His conclusion is that while *both* Tulsa County and the balance of the state evidenced an increase in ticket splitting in 1974 (Tulsa's 29.1 and state balances' 21.3 are *both* the highest in their respective columns), Tulsa County's *increase* was greater than the remainder of the state's *increase*, i.e., Tulsa's 1974 figure (29.1) was 10.7 percentage points greater than Tulsa's 1962 figure (what Kirkpatrick found to be second highest—18.4), while the "state balance's" 1974 figure (21.3) was only 4.2 percentage points greater than its 1942 figure (second highest—17.1).

From this data, Kirkpatrick concludes that:

"The data presented in Table 2 confirm the impact of the absence of party 'levers' in Tulsa County in 1974. The amount of ticket-splitting in Tulsa County that year is substantially larger than it had ever been in Tulsa County or the rest of the state in any previous years in over four and one-half decades."

The reason Kirkpatrick's conclusion cannot be accepted is that his data for the year 1966 is incorrect. In fact, when Kirkpatrick's own analysis is applied to the correct data, it is seen that the increase in ticket splitting in the balance of the state in 1947 was greater than the increase in ticket splitting in Tulsa County.

As seen from Appendix D-7, which contains data provided by the Oklahoma State Election Board, the percentage point difference between the highest and lowest Republican candidate in Tulsa County in 1966

is 26.4, not 16.6, as Kirkpatrick's table shows. Further, as seen from Appendix D–6, the "State Balance % difference" for 1966 should be *13.4*, not 8.9, as shown in the Kirkpatrick table.

When this corrected data is used, it is seen that Tulsa County's "ticket splitting figure' 'of 29.1 in 1974 was only *2.7* percentage points greater than its "ticket splitting figure' 'in 1966 (26.4). When compared to the "state balance" increase, (4.2) (as correctly calculated by Kirkpatrick), Tulsa's 3.3 percentage point increase is seen to be *smaller not larger*. Thus, using Kirkpatrick's methods, but with the correct figures, it is apparent that Kirkpatrick's conclusion is not only erroneous, it is directly the opposite to what the correct figures show the case to be, i.e., the increase in ticket splitting in Tulsa County for 1974 was in fact *less* than, not greater than the increase in ticket splitting in the remainder of the state in 1974.

In addition to Kirkpatrick's use of erroneous data, he also refused to look at what happened in Oklahoma County in 1974.

When the use of erroneous data had resulted in the appearance that Tulsa County's increase in ticket splitting in 1974 was greater than the increase in the state balance-ticket splitting in 1974, Kirkpatrick immediately attributed the greater increase to Tulsa County's lack of straight party levers.

As seen from Appendices D–4 and D–8, Oklahoma County's ticket splitting figure increased from 19.7 in 1966 to *34.4* in 1974, or an increase of 14.7 percentage points.

How would Kirkpatrick explain this high increase in ticket splitting, not to mention the high *degree* of ticket splitting (34.4), in Oklahoma County where the machines used did have straight party levers?

Clearly, Dr. Kirkpatrick's "evidence" of the effect of the "discrepant ballot conditions" in Tulsa County does not constitute sufficient "evidence" to come to *any* valid conclusions, much less the conclusions which Kirkpatrick has attempted to draw.

3. *Dr. Kirkpatrick's evidence re: erroneous party vote instructions—the "bottom lever theory."*

Kirkpatrick next turned to the question of whether there is any statistical evidence to support Mr. Edmondson's "bottom lever" theory. Mr. Edmondson has theorized that many voters were so confused by the "straight party vote" instructions which had been permanently affixed to the "Tulsa" machines that they failed to vote in the Senate race. His theory is that voters, reading these instructions (which told voters to *"raise* lever at bottom of column until arrow on lever points to desired party"), mistook the selector tab in the bottom race in each column for the "party lever" (which wasn't there) and *lowered* this bottom race selector tab to the desired candidate thinking they were casting a "straight party vote" for the entire column. If a voter performed this feat, a vote only would have been cast for the desired candidate in the last race in the column. No votes would have been cast for *any* candidates in races above.

a. *Kirkpatrick's Tables 3, 4 and 5.*

In his Tables 3, 4 and 5, Kirkpatrick first attempted to present evidence to support Edmondson's "bottom lever" theory by contrasting the vote totals of Tulsa County * * *

Kirkpatrick then looked at the differences in the vote totals among the various races in Columns 3, and 4 and 11, broken down by "Tulsa" machine totals and "Amarillo" machine totals. His theory is that if the erroneous party vote instructions which appeared only on the Tulsa machines did in fact cause voters to vote only in the races located at the bottom of the columns, then the vote totals for these uncontested bottom position races, as compared to other uncontested races above them, should be relatively greater on the "Tulsa" machines than the "Amarillo" machines.

It should first be noted that Kirkpatrick's figures are simply in error in at least 10 instances (see the attached Appendices E–6 and E–7 which show the corrected figures as calculated from data provided by the Tulsa County Election Board). His findings of 0.50%, 0.89% and 0.60% differences between the two machines are so miniscule that it is almost amusing that Kirkpatrick is actually placing some significance in them.

Further, when one considers that the unopposed candidates received votes in the same rank order on both the "Tulsa" and "Amarillo" machines (the "Amarillo" machines having no "erroneous instructions," there would have been no reason for a voter to have attempted to vote a "straight column" vote by voting only in the race at the bottom of the column) *and* on absentee ballots (where all state officers were in *a single* column, not two columns), it becomes impossible to put any credence in Kirkpatrick's "bottom vote total evidence." (See Appendices E–9, E–10 and E–11.)

b. *Kirkpatrick's Table 6.*

Any conclusions drawn from Kirkpatrick's Table 6 (Appendix F–1) are simply incredible. Apparently Kirkpatrick has not even bothered to look at the 1966 ballot because the races which he shows in his table as being all in one column were actually distributed in *two* columns. Further not even one of the races shown in Kirkpatrick's Table 6 was in the bottom position in either column. (See Appendix F–2, for the actual positions of these races in 1966.)

c. *Kirkpatrick's Table A.*

In his "Table A" (Appendix G–1), Kirkpatrick purports to present evidence that the presence of the erroneous instructions on the "Tulsa" machines caused voters not to have their votes counted on the "Tulsa" machines ("the Jones and return" theory, as the CHAIRMAN calls it).

Kirkpatrick points out that while 99% of the voters going to the polls at precincts containing "Amarillo" machines vote in the Governor's race, only 97.9% of the voters going to the polls in precincts having "Tulsa" machines voted in the Governor's race.

Kirkpatrick concludes that these figures: "strongly suggest that a disproportionately larger number of voters were effectively disenfranchised by the presence of confusing instructions; that such voters were attempting to cast straight party votes; and that Mr. Edmondson was disproportionately and negatively affected by it."

While it will be shown below that there is simply no reason to find a causal connection between the erroneous instructions and the voter participation rates, it should here be pointed out that Kirkpatrick is once again showing his illogical and unprofessional bias. Even if such a causal connection could be made, there is simply *nothing* in the figures presented in Table A which would serve as a basis for his statement that Mr. Edmondson would be any more greatly affected than Mr. Bellmon.

However, to put Kirkpatrick's finding of a causal connection to rest, one needs only look at the "voter participation" figures shown on the attached Appendix G–2.

As Kirkpatrick recognizes, the "Amarillo" machines were all located in precincts contained in State House Districts 23 and 78. The "Tulsa" machines with the purported "confusing straight party vote instructions" were located in precincts making up the rest of Tulsa's State House Districts.

When the respective "voter participation rates" (percentage of voters who went to the polls and voted) for the Governor's race are broken down by the 16 State House Districts located in Tulsa County (see Appendix G–2), it is seen that these voter participation rates range from a low of 92.2% in House District 73 to a high of 99.2% in State House District 76, both of which house districts contained "Tulsa machines".

It can also be seen that State House Districts 23 and 78, which contained the "Amarillo" machines, had 99.1% and 98.9% figures. Thus, to lump these two "Amarillo" machine House Districts together, compare them to the rest of the House Districts and conclude that any differences are *caused* solely by the party vote instructions being on the "Tulsa" machines is simply not borne out by the evidence.

d. *Professor Kirkpatrick's Table 7.*

Lastly, in his Table 7 (see Appendix H–1) Kirkpatrick has used the same faulty reasoning as he used in Table A. Again he is comparing the "Amarillo" machine precincts to the "Tulsa" machine precincts to arrive at his conclusion that because Mr. Edmondson ran 0.6% better in the "Amarillo" machine precincts, than in the "Tulsa" machine precincts, such difference was the direct result of the erroneous instructions on the "Tulsa" machines.

Appendix H–2 quickly puts this argument to rest. Looking at the wide variances in Mr. Edmondson's percentages from House District to House District it is clear that there is simply no justification for attributing any differences to the instructions. Once again, Kirkpatrick has attempted to create "evidence" where none exists.

CONCLUSION

In the Resolution prepared by the Majority, the following statement, which is the heart of the Resolution, is made (*Report*, p. 2):

"That the evidence offered on behalf of Petitioner, Ed Edmondson, is that the results of the election were in fact affected by the violations of the laws of the State of Oklahoma, and that were it not for the violations of law, there is a high probability that Ed Edmondson would have received sufficient votes in Tulsa County to win the statewide election;"

It is thus clear that the Majority is basing its conclusion that it is unable to determine the winner of the United States Senate race in Oklahoma solely on the testimony of Mr. Edmondson's "expert" witnesses.

However, as demonstrated herein, when the testimony and underlying data of these "expert" witnesses is closely scrutinized, it becomes readily apparent that the "evidence" upon which the Majority relies is hardly worthy of being called evidence, much less evidence sufficient to overturn a duly held election and unseat a duly elected and sitting Senator.

MARK O. HATFIELD,
HUGH SCOTT,
ROBERT P. GRIFFIN.

EXHIBIT A–1

INSTITUTE FOR SOCIAL RESEARCH,
Ann Arbor, Mich., December 2, 1975.

MORRIS J. LEVIN,
Counselor and Attorney at Law,
Washington, D.C.

DEAR MORRIS: The information that Schoener wants is pretty much as follows:

First, he wanted the identification of the six jurisdictions where voting can be accomplished with a straight party lever for each of a number of ballots. There were six precincts located in Tulsa County, Oklahoma, Pitt County, North Carolina, and Watauga County, North Carolina. I am enclosing a copy of one of the North Carolina ballots as well as an interesting copy of the Tulsa machine ballot. The Tulsa ballot, of course, makes it appear that there were indeed five party levers. Consequently, in our coding of the information, Tulsa is included as one of the multiple ballot, straight party level jurisdictions.

Mr. Schoener appeared to be surprised that there were ballot forms with which, if one voted straight party ticket, it was then impossible to "scratch" and vote for selected candidates from another party. I am enclosing copies of the Taylor County, Texas ballot and the Currituck County, North Carolina ballot which fall in the category that we defined as the "single lever, unmodified". On those two ballots as well as

on ballots from places such as Phoenix, Arizona, Abilene, Texas, and Louisville, Kentucky, attempts to split one's ticket are at best left unrecognized if the party lever has been used, and at worst are thrown out as invalid ballots.

The "single lever, modified" form is represented by the ballot from Davis County, Utah in which it is clear that you can vote a straight ticket *and then* modify it for selected candidates. As you will recall from my testimony, the single lever jurisdictions were almost evenly divided between those in which it was possible to scratch your ticket following the casting of a straight party vote (party lever, modified) and those in which a straight vote could not be modified (party lever, unmodified).

Schoener was also apparently confused about my testimony. I thought I made it clear that the analysis basically contrasted settings where a straight ticket vote was possible with a single party lever (whether subsequently modifiable or not) and those settings in which no provision was made for straight ticket voting and a straight ticket could be voted only by choosing the same party's candidates as votes are cast for each successive office. With this comparison, of course, the question of whether differences between the office block form and the single unmodified party lever were greater than differences between the office block and the multiple ballot form was not a basic point of argument even though the first comparison, of course, produces the largest differences. Somehow Schoener had the impression that I was contrasting the six situations in which there was a single lever for each of several ballots with the office block situation. Since so few jurisdictions in our sample used the multiple ballot form, we did not have any substantial base on which to make that comparison.

I might note in passing, that it takes only a little exposure to the staggering variety of ballot forms in use to get a gut sense of how confusing the voting situation must be for many voters. Even the task of separating the single lever unmodified from the single lever where scratching is permitted is a difficult task to accomplish in the quiet of a research office.

Schoener's third request was for a copy of my memorandum of June 2 to you. Given the fact that it has some glaring errors in it, none of which were repeated in my statement or testimony, I think there is little to be gained from a wider distribution of that memorandum. If I can provide any further information, please let me know.

Best wishes.

Sincerely,

WARREN E. MILLER,
Director, Center for Political Studies.

Enclosures.

EXHIBIT A-2

MORRIS J. LEVIN,
COUNSELLOR AND ATTORNEY AT LAW,
Washington, D.C., December 19, 1975.

HON. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I received a telephone call on Thursday, December 18, 1975, from Dr. Warren Miller, Center for Political Studies, The University of Michigan, Ann Arbor, Michigan. Dr. Miller stated that he had just received a telephone call from James Schoener, minority counsel, Subcommittee on Privileges and Elections. Mr. Schoener reminded Dr. Miller that he had called him on or about December 1st, and requested of Dr. Miller certain information. At or about the same time, I had been in touch with Dr. Miller regarding the scheduling of Drs. Penniman and DeVries as expert witnesses for Senator Bellmon. I advised Dr. Miller at that time to send me the materials requested, and I would forward them to Mr. Schoener.

The materials did arrive at my office, with a covering letter from Dr. Miller, on or about December 5, 1975. At that time I was working on my Memorandum in Lieu of Argument, to be submitted to the Committee on December 8, 1975, and I put the letter from Dr. Miller to one side.

In the telephone conversation of December 18th, Mr. Schoener apparently repeated his earlier requests, and Dr. Miller told him he had sent these materials to me. Mr. Schoener also called me on December 18th, and I assured him I would provide the materials sent to me. I am, therefore, now submitting Dr. Miller's letter dated December 2, 1975, with enclosed materials to the Committee, with my sincere apologies for the delay, which was unintentional.

Please note that in the first full paragraph of Dr. Miller's letter, he has again stated that his national survey included two (2) precincts in Tulsa County. It is my understanding of the remainder of Dr. Miller's letter and enclosures, that they do not provide so much base data, as answers to specific inquiries made by Mr. Schoener.

I must add two further matters with regard to Dr. Miller's testimony and his letter to me. First, Dr. Miller has assured me that Mr. Schoener has never requested the back-up or raw data on which Dr. Miller based his testimony. Dr. Miller stated that no such request was made by Mr. Schoener in his earlier telephone call or his call of December 18th. In fact, Dr. Miller advised me that he has not to date received a request from Mr. Schoener or from any person connected with the Committee for raw or base data, or any other materials from his study other than the matters covered in his letter to me. Should there be any other question regarding this, I will supply an appropriate affidavit from Dr. Miller.

Finally, the last paragraph of Dr. Miller's letter of December 2, refers to a memorandum from him to me, dated June 2, 1975. This memorandum is no longer available, since I threw it away when I received his testimony for the Committee, some time prior to any phone calls or inquiries from Mr. Schoener. To the best of my recollection, the memorandum was a precis of Dr. Miller's proposed testimony, which I found to be inadequate. It was, in effect, a summary presentation which later proved to be inaccurate, and did not bear upon Dr. Miller's ultimate testimony to the Committee. The errors referred to by Dr. Miller in his letter of December 2, 1975, are not known to me, but since they were not repeated in his testimony before the Committee, they are irrelevant to the Committee's consideration of this matter.

If I may be of any further service, please advise, and I will make every effort to comply.

My best wishes for the holiday season.

Sincerely,

MORRIS J. LEVIN.

Enclosure.

EXHIBIT A-3

INSTITUTE FOR SOCIAL RESEARCH,
Ann Arbor, Mich., January 19, 1976.

Mr. JAMES SCHOENER,
Minority Counsel, Subcommittee on Privileges and Elections, Senate Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. SCHOENER: I am writing to you at the suggestion of Mr. Roderick Daane, General Counsel for the University of Michigan. As you know, Mr. Daane has become involved in the question of my relationship with the Senate Rules Committee because your complaints to Justice Lindemer of the Michigan Supreme Court were forwarded to University of Michigan's Vice President Pierpont's office and, in his absence from the University, were passed on to Mr. Daane.

First, may I repeat in writing the regret I expressed in our last telephone conversation at your confusion over the question of whether I withheld from you a report which you apparently still believe exists. Given the persistence of your belief, I can only repeat my earlier assertion to you that my testimony before the Senate Rules Committee was not based on any such report, confidential or public, prepared for Mr. Edmondson or his counsel or anyone else. As I told you in our telephone conversation, my written statement to the Committee was prepared by me working directly from computer printout consisting of tabulations of data. It is regrettable that your query concerning such a report was not transmitted as a formal request from the Rules Committee. If I had given my response directly to the Committee, no question would now be raised concerning its veracity.

I must also tell you that I am most distressed to have had charges of unprofessional, if not unethical, conduct by me conveyed to University of Michigan officials based on this misunderstanding. I do not appreciate being referred to as "the Democrats' hired gun" with the insinuation, if not direct accusation, that my testimony had been purchased. Although you have not raised the matter directly with me, let me try to set the record straight as to all transfers of money in which I have been involved in this case.

I agreed to appear as an expert, non-partisan witness in the Tulsa hearing, November, 1974, because a professional journal article I had co-authored in 1957 was thought to be relevant to Mr. Edmondson's argument in the special hearing that was to be conducted on the votes cast in Tulsa County for the U.S. Senate race earlier that month. In response to a request from Mr. Edmondson, I agreed to appear as an expert witness and to testify, on the basis of the research reported in 1957, that the presence or absence of party levers on voting machines influences the amount of straight party ticket and split-ticket voting in a general election. I travelled to Tulsa on November 11, 1974, testified and returned to Ann Arbor on November 12. Inasmuch as my preparation consisted solely of re-reading the 1957 journal article while en route to Tulsa, on my return to Ann Arbor I submitted an expense statement to Mr. Edmondson itemizing only my expenditure of $303.34 in out of pocket costs. Subsequently, I received a check, dated December 23, 1974, from "Oklahomans for Edmondson" in the amount of $350.00. No other funds, or remuneration in any other form, have been received by me relating to the Tulsa hearings or any other aspect of the case.

I have also been told by University officials that you believe I misrepresented the policies of my organization in my Oklahoma testimony insofar as payment for our professional services is concerned. Although I am not totally clear about the nature of your allegations to Justice Lindemer, I would guess two considerations might be relevant. The first concerns the conditions under which we would undertake research, the second concerns the research on which my testimony before the Rules Committee was based.

In my testimony in Tulsa, which is a matter of public record, Counsel for Mr. Edmondson attempted to establish my status as a non-partisan, expert witness by the following exchange, appearing on page 126 of the copy of the transcript of hearing testimony which I have: "Q. (by Mr. Claro, Counsel for Mr. Edmondson) Are you customarily hired by political parties?

A. No. Badly as we need money for research, not so because all of our research is non-confidential. Consequently, we do not do work for the political parties or political candidates.

Q. For whom do you ordinarily do project research?

A. We do project research for ourselves. The funding, however, comes from a variety of sources such as (the) National Science Foundation, the Rockefeller Foundation, Carnegie Corporation (or) Ford Foundation—by and large federal and private foundations responding to our requests for re-

search grants. We do virtually no contract work."

Counsel for Senator Bellmon was apparently not reassured by this brief response and, under cross examination, the following exchange took place, recorded on pages 147–149 of my copy of the hearing transcript:

"By Mr. McElroy (Counsel for Senator Bellmon) Doctor, in the early part of your testimony you referred, in answer to some questions, that had to do with your employment and who uses your services.

At one point you said we do not customarily, and the question did say customarily, are you customarily employed by political parties. You said, "customarily we are not."

Now, who is "we"?

A. By we I meant the organization of which I am director, the Center for Political Studies. I could have been more precise and said we have never been.

Q. All right. That's the Center for Political Study?

A. Yes.

Q. That's part of the University of Michigan or affiliated with?

A. It is part of the University of Michigan.

Q. And so would be your Institute of Social Research?

A. Yes.

Q. And those two organizations, as I understand it, seek funds from non-partisan or so-called non-partisan agencies. So when you speak of "we" and "we ourselves" you are referring to those two agencies, not you, individually?

A. I meant to refer most specifically to the Center for Political Studies.

Q. All right. Have you on occasions past served as consultant to different political groups or organizations?

A. We have given assistance to both parties.

Q. Are you speaking "we"—I'm talking about "you", not "we".

Have you, Dr. Warren Miller, in the past, have you been employed, retained—or retained as a consultant or as an advisor to political party organizations and groups?

A. Not to the best of my recollection, no, sir.

Q. You would remember if you had been retained by the Democratic National Committee?

A. I think I would.

Q. Or the Senatorial Campaign Committee?

A. I think so.

Q. And you are telling us that you have not been?

A. That is clearly true."

Had I been given the opportunity, I would have preferred to make my position and situation more explicit and complete. Within the Institute for Social Research, research activities are sanctioned only if they serve the interests of academic scholarship. If it were clearly in the interests of our programmatic research needs within the Center for Political Studies, Institute policy would permit us to do research for a political party or candidate, as we do on behalf of the policy needs of governmental agencies. However, this would be possible *only* if the Institute's basic policy of doing *no* confidential research could be preserved. Given the fact that we have seldom been approached by a party organization or candidate who would agree to open access for their opponents to data we might collect, prior to the present situation we have never undertaken any research financed by a party organization or candidate.

The present circumstances also illustrates all too clearly the second consideration that may be relevant concerning your understanding of the funding of our research. Since our research funding rests on non-partisan agencies, we have been most anxious to avoid any suggestion that our work is designed to serve one set of partisan interests against another. Consequently, we have been pleased to have been asked at various times by both the Republican and the Democratic parties to provide informal (i.e., unremunerated) consultation, election data (at cost) and professional (i.e., expenses paid) services. Beyond welcoming the occasional requests for professional assistance from both parties, we believe that the best protection against charges of bias in our research work is provided by a policy of open access to the data on which our conclusions rest. Indeed, both our professional competence and our personal prejudices can best be determined by the freedom of others to challenge our conclusions with complete access to the data on which those conclusions are based.

This policy is of immediate importance because, following the Tulsa hearings, I suggested to Mr. Edmondson that it would be of interest to us, and possibly useful to him, if we could repeat for 1974 the 1956 study on which my Tulsa testimony was based. I could not in any way promise that the results in 1974 would serve his interests, but I was, and am, convinced that the collection of the 1974 data would serve the interests of the social science research community. Mr. Edmondson agreed that an updating of the 1956 research should be carried out. With staff assistance, I subsequently concluded that $2,000 and some free clerical assistance would enable us to collect, codify and process the information necessary for such a replication. My interest was, and is, to add the data to our 1974 data file and thereby make it possible for other scholars to pursue their own research interests wtih these added data resources.

In March, 1975, a graduate student recruited by Mr. Edmondson arrived in Ann Arbor to assist us in the collection and processing of information about ballot forms, voting procedures and election administration under which the respondents in our 1974 election study had voted. With his help we assembled the full array of information that might be of possible interest to research scholars, including the information on procedures for straight ticket voting and on the location of the U.S. Senate race in the ballot that was of interest to Mr. Edmondson. All of these data will become a part of our 1974 election study data file and will be available to the entire national research community interested in such matters.

Our business office records indicate that on April 15, 1975, a check numbered 423 for $2,000 from "Oklahoma for Edmondson", identified with University of Michigan cash receipt number 41524 was credited to ISR Sundry Account 489388 under the projects title, "Voting Machine Analyses". The check may or may not have been mailed to my home address, I simply don't remember. On the basis of telephone conversations with Mr. Edmondson, I had expected the $2,000 to be provided by the Democratic Senatorial Committee. However, inasmuch as my Tulsa expenses had been paid by "Oklahoma for Edmondson", the receipt of the $2,000 from the same source did not seem an occasion for concern.

To this date, the personal reimbursement of $350.00 and $2,000 payment to the Institute for Social Research are the only monies we have received. On December 1, 1975 I submitted an itemized expense statement for $957.34 to Mr. Morris Levin, Mr. Edmondson's Counsel, for payment by the Senate Committee on Rules and Administration. I had been told to include a professional fee for services rendered the committee, and that item totaled $750.00 out of $957. Although I have been reassured that the bureaucracy is working on my statement, I have not as yet been reimbursed by the Senate Rules Committee or from any other source. If the reimbursement includes the $750.00 fee, that fee will also be deposited in ISR Sundry Account 489388 for use in Center research activities.

Even if we are ultimately paid the $750.00 by the Committee, I think the record indicates the "Democratic hired gun" appellation is totally inappropriate. Although I appreciate and regret the confusion that has followed your misunderstanding concerning the non-existent report, I am most unhappy with the other charges you have apparently made against me. If I have been misinformed about those charges or have otherwise misunderstood your intervention with Justice Lindemer and the administrative officers of the University of Michigan, I would certainly welcome receiving a letter from you that would correct the record.

Sincerely,

WARREN E. MILLER,
Director, Center for Political Studies.

EXHIBIT A–4

U.S. SENATE,
Washington, D.C., January 22, 1976.

Mr. WARREN E. MILLER,
Director, Center for Political Studies Institute for Social Research, The University of Michigan, Ann Arbor, Mich.

Re: Background Material for Testimony before the United States Senate

DEAR MR. MILLER: I am in receipt of your letters dated December 2, 1975 and January 16, 1976.

In your letter of January 16th, you allude to several matters which I think should be corrected initially. First, I called Justice Lindemer (a former Regent of the University of Michigan) to find out who, at the University, would be able to assist me in obtaining the information I needed. Nothing further than the name of Vice President Pierpont as requested nor given. In the absence of the Vice President of the University of Michigan, in response to my call, Roderick Daane contacted me. Mr. Daane assured me that the underlying data would be sent to me.

You also seemed offended at the "hired gun" characterization, but I was not referring to you but to the remarks made publicly against Dr. DeVries. I pointed out that if $2,000 or other funds had been paid to you the same characterization could possibly be made against you.

The material you transmitted to Morris Levin on December 2, 1975, for delivery to me finally reached me on January 9, 1976. Although I was on vacation during that period, my secretary was supposed to have forwarded it to me when (or if) it arrived. Anyway, the material submitted, I am sure you will admit, does not come near to the requested information.

I previosuly asked you for the underlying data that would give the basis for your conclusions. Certainly, in the 1956 study you gave such information, and I assume you had the same for your 1974 update.

The scant information given in your December 2, 1975 transmittal and the January 16th letter would hardly seem relevant to the Tulsa problem, as far as I can see, nor did it answer my numerous requests. Specifically, I wonder (and hope you will answer speedily) if you compare paper ballot configurations in Texas and North Carolina to machine configurations in Tulsa?

You further refer to two precincts in Tulsa County, Oklahoma, as being part of your survey. Would you please identify the precincts used and the number and names of the respondents. I would also request the names and background of the interviewers in Tulsa. Please advise when your study of Tulsa was started and completed. Were there any other counties in Oklahoma studied in 1974 or 1975? If so, please advise.

In order to understand your approach, I thought I had made it clear that I needed this material when I called you on December 1, 1975. I specifically asked for the June 1974 unpublished data referred to by Dr. Kirkpatrick. Morris Levin, on December 19, 1975, transmitted your letter to me to Chairman Cannon, and in that letter, Levin says:

"Dr. Miller has assured me that Mr.

Schoener has *never* requested the backup or raw data on which Dr. Miller based his testimony."

I believe that I did request precisely that backup material and/or raw data in my calls to you, but if I did not make myself clear, perhaps this letter will help to clarify the request.

Specifically, in order to do a decent study of your testimony, *in addition* to the above items, I need:

1. The list of the 1974 and 1975 electoral jurisdictions studied, and the number of persons interviewed both before and after the election.

2. The number of persons interviewed in 1974 and 1975, and how they were selected in each jurisdiction.

3. The breakdown of 1974 electoral jurisdictions, by party registration, and how they compare with the 1956 jurisdictions, specifically by state and county and by party registration.

4. A copy of the 1974–1975 questionnaire used before the election and after the election and the total tabulation in the nationwide study. Please advise if the questionnaires were conducted by personal interview or by telephone.

5. The voting configuration (submit copy) of each 1974 jurisdiction studied, whether by paper ballot, by punch card, or by machine (identifying the type and setup of the machine).

6. Where, when, and how you obtained the ballot configuration from Tulsa County, how you classified it, and the reasons for such classification.

7. A copy of your June 2, 1975 memorandum to Mr. Levin with your explanation of the errors in it if you desire to point them out.

8. You refer to the assistance of a graduate student furnished by Mr. Edmondson. Please furnish his name, address, and his background qualifying him to do the duties assigned.

I am sure that in accordance with your letter of January 16, 1976 the Institute policy of "open access to the data on which your conclusions rest" would seem to allow me to have this data.

Some of the Senators have suggested that this task is such that it might be better if I came to Ann Arbor along with the Chief Counsel and the attorneys for the parties. We could arrange to obtain this material by deposition rather than by correspondence and telephone. I have been requested to obtain this information by several of the Minority Senators before Floor debate to properly evaluate your testimony both in the Committee and at the trial in Oklahoma. Their request was publicly made at the Committee hearing on December 15, 1975.

I will be interested in your suggestion and reply to the last alternative.

Very truly yours,

JAMES F. SCHOENER,
Minority Counsel.

EXHIBIT A–5

INSTITUTE FOR SOCIAL RESEARCH,
Ann Arbor, Mich., February 4, 1976.

Hon. HOWARD W. CANNON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CANNON: Thank you for your letters of January 29 and February 3. I have delayed responding to Mr. Schoener's letter of January 22 until hearing from you and receiving assurance that my response will be understood as being offered as an expert witness for the Committee. May I also say, that I appreciate very much your expression of concern over my personal situation. I am distressed at the turn events have taken but my response to Mr. Schoener's intervention was offered in some detail because my personal scholarly reputation and our institutional reputation are matters of considerable importance to me. I am now pleased to respond as directly as possible to Mr. Schoener's letter of January 22.

Contrary to the assertion in his letter, the material that I transmitted to Mr. Levin was, I thought, fully responsive to every detail of the request Mr. Schoener had transmitted in his telephone conversation with me. First, Mr. Schoener only asked for the location of jurisdictions we had classified as places where there was a straight party lever for each of a number of ballots. As I indicated in my December 2 letter to Mr. Levin, the jurisdictions were located in Tulsa County, Oklahoma, Pitt County, North Carolina and Watauga County, North Carolina. I should note that in my letter to Mr. Levin I erred in referring to the jurisdictions as "precincts"—an error I did not make in my statement prepared for your committee. The "jurisdictions" were, in fact, counties, not precincts. More precisely, they were "sample segments" within the primary sampling units (usually counties or aggregations of contiguous counties) on which our national probability sample of the electorate is based. Mr. Schoener did not ask for the identity of the Tulsa County precincts; had he done so my response would have been then, as it must be now, that our respondents are not located by precinct so, I do not have that information. The two jurisdictions associated with Tulsa County were two segments, one in Tulsa County and one in Osage County, that have mapped boundaries but are not identified by lesser political subdivision.

Mr. Schoener's second request was for evidence that there were indeed jurisdictions in which if one voted a straight party ticket it was then impossible to "scratch" and vote for selected candidates from another party. Inasmuch as his question was apparently only an inquiry as to whether there were in fact any such situations, I simply responded illustratively with copies of ballots from Taylor County, Texas and Currituck County, North Carolina. I also pointed out that there were other jurisdictions as well where the voting instructions indicate that attempts to split one's ticket will either go unrecognized or will result in invalidating the ballot.

Mr. Schoener's third and final request was for a copy of a report which he assumed was the basis for my written statement presented in testimony before the Committee. I explained to him that no such report existed, and that I had, in fact, prepared the written statement directly from computer printout. Inasmuch as no other analysis of data had been completed, for me or for Mr. Edmondson, I told Mr. Schoener that my assumption was that Dr. Kirkpatrick's reference to agreeing with the results of our study was doubtless a reference to the conclusions presented in my prepared written statement which, of course, Dr. Kirkpatrick had seen before either of us testified.

Mr. Schoener's request for these three pieces of information was simply a verbal request made over the telephone. I have no written record that proves that he did not ask for additionl information. I simply repeat to you, Sir, that prior to the receipt of his letter of January 22, I had not in fact received any request for information beyond the three specific items I have just mentioned. I am most willing to reply to the other requests made in Mr. Schoener's letter of January 22, but it should be understood that those are all requests for new information and can scarcely be construed as "clarifications" of an earlier request.

To begin at the top of page two of Mr. Schoener's letter, and taking his requests in sequence: in our analysis we categorized voting procedures precisely as I indicated in my testimony. *All* situations with provisions for straight party voting with no "scratching", whether or not executed on more than one ballot, were indeed treated as comparable. In a similar manner, all situations in which a straight party vote *could be* modified and the ballot "scratched" for a candidate of a different party were treated as constituting a second category, and all situations in which the office block format was used with no option for straight ticket voting (as in the Tulsa situation) were treated as a third category. In these categorizations both paper ballots and machine configurations could appear under any one of the three categories.

The number of respondents in the two Tulsa jurisdictions totalled 20. I must respectfully decline to give the names of the respondents. Interviews were taken with the guarantee of confidentiality and it would be a clear violation of our promise to reveal their names. This is, of course, in accord with the standards followed by all responsible pollsters as well as by all academic researchers.

The names and backgrounds of our Tulsa interviewers could be made available to the Committee if the Committee desires. At this point I am reluctant to provide the information unless assured that it is the Committee's wish.

It would be possible to reconstruct the dates between which interviewing was carried out in Tulsa following the 1974 election. This would, however, require some additional clerical work and I would prefer to carry it out only if the Committee desires it as a part of the much larger task that would be involved in securing some of the other information that would have to be collected and assembled to meet all of Mr. Schoener's requests.

Interviews were conducted in both Tulsa County and Osage County but nowhere else in Oklahoma. For the purposes of construction of our national sample, the two counties were treated as a single unit and constitute one of the primary sample units. As Counsel for Senator Bellmon made clear during the Tulsa hearings, this primary sampling unit was selected to represent all similar primary sampling units within the region, and it in no way constitutes a sample of the State of Oklahoma. The role which the Oklahoma data play in our national study is perhaps best described in an attempt to provide a partial response to item numbered "2" on page two of Mr. Schoener's letter. To that end, I am enclosing a document entitled "The Survey Research Center's National Sample of Dwellings" by Professor Leslie Kish and Ms. Irene Hess, Head of the SRC sampling section. Although the document may contain more information than is necessary for the committee's purposes, pages one through four and seven through fourteen give a non-technical description of the role of the primary sampling unit (PSU) in our national studies.

The other part of the answer to item number two, as well as the answers to item number one and items number four and five, is provided in most complete detail by the two copies of printout that I am enclosing. The smaller of the two lists the electoral jurisdictions included in our 1974 study. The listing identifies each location by PSU and place within PSU. It provides the number of respondents attached to each jurisdiction, and it provides all of the information on ballot configuration and voting procedures that we collected. The key to this information is provided by the codebook which provides a verbal description of the content associated with the numerical codes assigned to each piece of information or "variable". In response to item four, the longer listing presents the total tabulation of relevant data from the nation-wide study. It is comprised of information from the interviews with individual respondents along with the ballot form and voting procedure information applicable to each respondent. Item number five can be extracted from the short listing of electoral jurisdictions.

To correct a misunderstanding, it should be recognized that no separate survey was undertaken by us in 1975; and, in 1974

only a single interview was conducted. That one interview was carried out after the election in November and December, 1974, so that respondents would indeed be able to tell us who they voted for in each of the several offices of interest to us.

We are unable to provide the information requested in item three. Although our archives contain county level election returns for both 1956 and 1974, we do not attempt a systematic collection of party registration data. Some of that information might be obtained from the reports of Secretaries of State, but practice varies widely from state to state, as you know, and it would be a formidable task to reconstruct the party registration figures for any significant portion of our national sample in the two years.

In response to item four, I am enclosing a copy of the 1974 post-election interview schedule. All of the interviews were personal, confidential interviews conducted, in almost every instance, in the respondent's home.

I am unable to provide all of the information requested in item six. I am, however, sending a xerox of the copy of the ballot that we coded. Our classification can, of course, be obtained from the printout of electoral jurisdictions. As copies of ballots, sample ballots or other descriptive information was returned to us by the various election officials, the material was usually detached from covering letters, if such were included. I am sorry that I cannot tell you where, when and how we obtained the ballot, but from the torn upper left corner, I would presume that it was mailed to us with a covering letter which was subsequently detached as we coded and processed the information.

All of the information that we have in our possession pertinent to questions one through six is being transmitted to you. The printouts contain the total tabulations relevant to my analysis and are interpretable through the use of the accompanying codebook. I should note that the tabulations and codebook were prepared specifically for the Committee and do not present the full body of data from the 1974 study. I am, however, enclosing a separate copy of the full codebook for the complete survey portion of that study. The document on sampling procedures, the interview schedule and the xerox of the Tulsa ballot form provide the remaining information requested.

Inasmuch as the June 2 memorandum to Mr. Levin was no more than a three page preliminary report confirming the fact that the findings from our 1956 study were apparently replicated, and it did not constitute the tabulations on which my written statement was based, I do not see the relevance of that personal communication to the Committee's deliberations. There was, moreover, as I immediately reported to Mr. Levin, a gross internal error consisting of an inexplicable assertion (belied by the preliminary data that were reported in the same page) that all jurisdictions in our national sample made some provision for straight party voting.

I am unable to give you the information concerning the graduate student recruited by Mr. Edmondson. Inasmuch as he provided voluntary assistance and was not on our payroll, we don't have any of the pertinent information on file beyond his name, Mr. Paul Rumler. I would imagine, however, that Mr. Edmondson could provide the desired information.

Given the difficulties that have already arisen concerning reimbursement for services to the Committee, I am somewhat hesitant to conclude this letter on the same note. Nevertheless, I should point out that a number of hours of research assistance and a small amount of computer time have been consumed in providing the information that I am submitting and in ascertaining the non-availability of other information. If it is appropriate, I would appreciate being permitted to submit a statement covering those expenses.

If I can be of further service to the Committee, please let me know.

Sincerely,

WARREN E. MILLER,
Director, Center for Political Studies.

EXHIBIT A-7

AFFIDAVIT

State of Oklahoma, County of Tulsa: ss.

I, J. Kevin Hayes, of lawful age, after having been duly sworn upon oath, do now state: that I was one of the attorneys who represented Senator Henry Bellmon in the election contest District Court Hearings in Tulsa, Oklahoma, and before the Oklahoma Supreme Court.

I do further state that I personally prepared the "Exhibit A-4" mock-up of the Tulsa County voting machine elective office panel, a copy of which is attached hereto, and that such mock-up was attached as an exhibit to a Reply Brief filed on behalf of Senator Bellmon in the Oklahoma Supreme Court proceeding.

J. KEVIN HAYES.

Subscribed and sworn to before me this 28th day of February, 1976.

MARY KAY BENTSON,
Notary Public.

My commission expires September 13, 1979.

EXHIBIT A-8

AFFIDAVIT

State of Oklahoma, County of Tulsa: ss.

I, Danny McDonald, of lawful age, after having been duly sworn upon oath, do now state: that I am currently and have been since July 1, 1974, Secretary of the Tulsa County Election Board; that at no time prior to or subsequent to the 1974 General Election held in Tulsa County did Warren Miller or any other representative of the Center for Political Studies, Institute of Social Research, the University of Michigan, request information from me concerning the type of ballot arrangement in use in Tulsa County in the November, 1974 General Election.

I further state that I had never seen, until today, the copy of the Tulsa machine ballot attached hereto, and did not therefore provide Warren Miller or anyone else with a copy of said ballot.

DANNY MCDONALD.

Subscribed and sworn to before me this 27th day of February, 1976.

MARY KAY BENTSON,
Notary Public.

My commission expires: September 13, 1979.

(SEAL)

EXHIBIT A-9

AFFIDAVIT

State of Oklahoma, County of Tulsa: ss.

I, Harmon Moore, of lawful age, after having been duly sworn upon oath, do now state: that I am currently and have been since May 15, 1974, Clerk of the Tulsa County Election Board; that at no time prior to or subsequent to the 1974 General Election held in Tulsa County did Warren Miller or any other representative of the Center for Political Studies, Institute of Social Research, the University of Michigan, request information from me concerning the type of ballot arrangement in use in Tulsa county in the November, 1974 General Election.

I further state that I had never seen, until today, the copy of the Tulsa machine ballot attached hereto, and did not therefore provide Warren Miller or anyone else with a copy of said ballot.

HARMON MOORE.

Subscribed and sworn to before me this 27th day of February, 1976.

MARY KAY BENTSON,
Notary Public.

My commission expires: September 13, 1979.

(SEAL)

EXHIBIT B-1

CODEBOOK FOR COMPLETE TABULATION OF BALLOT FORM DATA

1974 ELECTION

(Prepared for Senate Subcommitte on Rules and Administration, Center for Political Studies, The University of Michigan, February 11, 1976)

BALLOT FORM STUDY

Description

Variable:

1. PSU—See upper left of ballot.
2. Type of ballot coded:
1. Machine
2. Paper
3. Absentee
4. Votomatic—punch card
7. *Prototype or unclear (make card)
3. Ballot forms:
1. Party Column
2. Office Block
7. *Other (make card)
4. Separate ballot for U.S. Senate or Senate and House of Representatives:
1. Yes
5. No
9. *NA
0. *No Senate Race
5. Party Symbol:
1. Present
5. Not present
9. *NA
6. Separate ballot for the Governor's race or Governor's race and other state legislative races:
1. Yes
5. No
9. *NA
0. *No Governor's race

(NOTE: * denotes that these codes have all been programmed as missing data and are 0's in the present listing of the data.)

7. Number of choices needed to vote a straight party ticket:
1. Single party lever or box (one choice)
2. 1 per ballot
3. 1 per race
4. Modified single party lever (use of party lever does not preclude voting for candidates from other parties)
5. Modified, 1 per ballot
7. *Other (make card)
8. *Not clear
9. *NA.
8. Order of candidates (Senate):
1. Party of governor or other incumbent determines order of candidates within office column or row
2. Senatorial incumbent first
3. Random or alternating system
4. Local discretion
0. *No Senate race
7. *Other (make card)
9. *NA
9. Order of candidates (Governor):
1. Party of incumbent to some office (usually Governor or Secretary of State)
2. Incumbent first
3. Random of alternating system
4. Local discretion
0. *No Governor's race
7. *Other (make card)
9. *NA
10. Position of Senate race on ballot (column or row number of race):
1-7. 1-7 column or row (code actual number)
8. Column or row 8 or lower on ballot
9. *NA—or separate ballot (see #4)
0. *No race
11. Position of Governor's race on ballot (column or row number of race):
1-7. Column or row 1-7 (code actual number)
8. Column or row 8 or lower on ballot
9. *NA—or separate ballot (see #6)
0. *No race
12. Position of Democratic Senate candidate within block 1-7 column or row 1-7 (code actual number):

8. Column or row 8 or lower on ballot
0. *No race
9. *NA
13. Position of Democratic Gubernatorial candidate within block 1–7 column or row 1–7 (code actual number):
8. Column or row 8 or lower on ballot
0. *No race
14. Party of winner—Senate race (determined from *CQ*, Vol. 32, No. 45, No. 9, 1974, pp. 3084–3091):
1. Democrat
2. Republican
3. Other
0. *No Senate race
15. Party of winner—Governor's race (see 14 for source):
1. Democrat
2. Republican
3. Other
0. *No Governor's race
16. Party of candidate indicated:
1. Yes
5. No
9. *NA
17. Incumbency indicated:
1. Yes.
3. Indicated only for some offices on ballot.
5. No.
9.* NA.
18. Elections Held:
1. Both Senate and Gubernatorial elections held.
2. Only Senate race held.
3. Only Gubernatorial elections held.
4. Neither Governor nor Senators up for re-election in 1974.
19. Weighted count of the number of interviews corresponding to each ballot coded.

EXHIBIT C-1

TABLE 1.—DIFFERENCE BETWEEN TULSA COUNTY'S REPUBLICAN PERCENTAGE LEAD OVER THE BALANCE OF THE STATE FOR COTERMINOUS GUBERNATORIAL AND SENATORIAL RACES: 1930–74

[In percent]

	State balance Rep.	Tulsa County Rep.	Difference
1974:			
Senate	47.7	58.3	10.6
Governor	33.2	51.5	18.3
			7.7
1966:			
Senate	44.4	57.2	12.8
Governor	53.3	69.2	15.9
			3.1
1962:			
Senate	44.9	55.6	10.7
Governor	53.7	65.3	11.6
			.9
1954:			
Senate	41.9	56.0	14.1
Governor	39.6	53.3	13.7
			−.4
1950:			
Senate	45.5	59.2	13.7
Governor	46.4	65.4	19.0
			5.3
1942:			
Senate	53.5	66.1	12.6
Governor	45.9	62.7	16.8
			4.2
1938:			
Senate	32.7	49.6	16.9
Governor	29.1	32.8	3.7
			−13.2
1930:			
Senate	46.5	62.6	16.1
Governor	39.6	57.1	17.5
			1.4

EXHIBIT D-1

TABLE 2.—PERCENTAGE DIFFERENCE BETWEEN THE HIGHEST REPUBLICAN PERCENT OF THE VOTE FOR A STATEWIDE OFFICE AND THE LOWEST REPUBLICAN PERCENT OF THE VOTE FOR A STATEWIDE OFFICE IN TULSA COUNTY COMPARED TO THE BALANCE OF THE STATE: 1930–74

[In percent]

Year	Tulsa County difference	State balance difference
1974	29.1	21.3
1966	16.6	8.9
1962	18.4	17.0
1954	8.1	7.3
1950	10.5	11.5
1942	15.3	17.1
1938	16.8	3.6
1930	17.9	13.9

EXHIBIT D-2

1974 VOTE TOTALS

"STATE BALANCE" (ALL OKLAHOMA COUNTIES EXCEPT TULSA)

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate [1]
Governor	453,692	225,967		679,659	33.2
Lt. Governor	465,884	167,404		633,288	[2] 26.4
Sec. of State	344,839	263,412		608,251	43.3
Auditor					
Atty. General	439,648	186,697		626,345	29.8
Treasurer	342,250	284,331		626,581	45.4
Pub. Instr					
Exam./Insp	322,104	289,788		611,892	47.4
Mine Insp					
Labor Comm	321,374	283,876		605,250	47.0
Insur. Comm					
Char./Correct	387,448	209,248		596,696	35.1
Corp. Comm	410,800	204,996		615,796	33.8
U.S. Senator	337,387	318,852	11,682	668,091	[3] 47.7

[1] Difference between high and low: 21.3 percent.
[2] Low.
[3] High.

EXHIBIT D-3

TULSA COUNTY ONLY

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate [1]
Governor	60,697	64,492		125,189	51.5
Lt. Governor	79,802	41,041		120,843	[2] 34.0
Sec. of State	47,833	69,203		117,036	59.1
Auditor					
Atty. General	67,388	52,036		119,424	43.5
Treasurer	44,159	75,535		119,694	[3] 63.1
Pub. Instr					
Exam./Insp	43,877	70,447		114,324	61.6
Mine Insp					
Labor Comm	41,579	70,337		111,916	62.8
Insur. Comm					
Char./Correct	61,047	46,681		107,728	43.3
Corp. Comm	62,894	49,012		111,906	43.8
U.S. Senator	49,775	72,145	1,798	123,718	58.3

[1] Difference between high and low: 29.1 percent.
[2] Low.
[3] High.

EXHIBIT D-4

OKLAHOMA COUNTY ONLY

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate
Governor	85,625	57,770		143,395	40.3
Lt. Governor	92,291	41,289		133,580	[2] 30.9
Sec. of State	50,483	75,165		125,648	59.8
Auditor					
Atty. General	86,749	44,965		131,714	34.1
Treasurer	55,142	76,478		131,620	58.1
Pub. Instr					
Exam./Insp	45,593	80,057		125,650	63.7
Mine Insp					
Labor Comm	42,967	80,910		123,877	[3] 65.3
Insur. Comm					
Char./Correct	66,094	55,500		121,594	45.6
Corp. Comm	67,042	58,068		125,110	46.4
U.S. Senator	59,125	74,897	4,821	138,843	53.9

[1] Difference between high and low: 34.4 percent.
[2] Low.
[3] High.

EXHIBIT D-5

PAPER BALLOT COUNTIES

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate [1]
Governor	368,067	168,197		536,264	31.4
Lt. Governor	373,593	126,115		499,708	[2] 25.2
Sec. of State	294,356	188,247		482,603	39.0
Auditor					
Atty. General	352,899	141,732		494,631	28.7
Treasurer	287,108	207,853		494,961	42.0
Pub. Instr					
Exam./Insp	276,511	209,731		486,242	43.1
Mine Insp					
Labor Comm	278,407	202,966		481,373	42.2
Insur. Comm					
Char./Correct	321,355	153,748		475,103	32.4
Corp. Comm	343,758	146,928		490,686	29.9
U.S. Senator	278,262	243,955	7,031	529,248	[3] 46.1

[1] Difference between high and low: 20.9 percent.
[2] Low.
[3] High.

EXHIBIT D-6

1966 VOTE TOTALS

"STATE BALANCE" (ALL OKLAHOMA COUNTIES EXCEPT TULSA)

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate [1]
Governor	266,016	306,616	2,813	575,445	[2] 53.3
Lt. Governor	288,599	249,248	2,409	540,256	46.1
Sec. of State	268,533	237,688		506,221	47.0
Auditor	269,694	231,233		500,927	
Atty. General	248,392	266,569		514,961	51.8
Treasurer	314,251	208,955		523,206	[3] 39.9
Pub. Instr					
Exam./Insp					
Mine Insp					
Labor Comm	255,039	243,163		498,202	48.8
Insur. Comm					
Char./Correct	265,632	232,483		498,115	46.7
Corp. Comm	278,026	223,916		501,942	44.6
U.S. Senator	303,487	242,513		546,000	44.4

[1] Difference between high and low: 13.4 percent.
[2] High.
[3] Low.

EXHIBIT D-7

TULSA COUNTY ONLY

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate [1]
Governor	30,310	70,462	1,039	101,811	[2] 69.2
Lt. Governor	39,981	56,805	1,035	97,821	58.1
Sec. of State	38,264	55,409		93,673	59.2
Auditor	39,572	52,413		91,985	57.0
Atty. General	30,396	65,461		95,857	68.3
Treasurer	54,760	40,967		95,727	[3] 42.8
Pub. Instr					
Exam./Insp					
Mine Insp					
Labor Comm	34,252	55,829		90,081	62.0
Insur. Comm					
Char./Correct	34,772	56,222		90,994	61.8
Corp. Comm	41,881	46,525		88,406	52.6
U.S. Senator	39,670	53,072		92,742	57.2

[1] Difference between high and low: 26.4 percent.
[2] High.
[3] Low.

EXHIBIT D-8

OKLAHOMA COUNTY ONLY

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate [1]
Governor	43,989	73,817	1,338	119,144	62.0
Lt. Governor	52,661	59,410	1,018	113,089	52.5
Sec. of State	44,784	59,429		104,213	57.0
Auditor	45,054	55,745		100,799	55.3
Atty. General	38,827	67,673		106,500	[2] 63.5
Treasurer	60,299	46,959		107,258	[3] 43.8
Pub. Instr					
Exam./Insp					
Mine Insp					
Labor Comm	41,503	60,321		101,824	59.2
Insur. Comm					
Char./Correct	44,576	56,202		100,778	55.8
Corp. Comm	48,477	54,038		102,515	52.7
U.S. Senator	52,273	56,026		108,299	51.7

[1] Difference between high and low: 19.7 percent.
[2] High.
[3] Low.

EXHIBIT D-9

PAPER BALLOT COUNTIES

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate [1]
Governor	222,029	232,799	1,475	456,303	[2] 51.0
Lt. Governor	235,938	189,838	1,391	427,167	44.4
Sec. of State	223,749	178,259		402,008	44.3
Auditor	224,640	175,488		400,128	43.9
Atty. General	209,565	198,896		408,461	48.7
Treasurer	253,592	161,996		415,948	[3] 38.9
Pub. Instr					
Exam./Insp					
Mine Insp					
Labor Comm	213,536	182,842		396,378	46.1
Insur. Comm					
Char./Correct	221,056	176,281		397,337	44.4
Corp. Comm	229,549	169,878		399,427	42.5
U.S. Senator	251,214	186,487		437,701	42.6

[1] Difference between high and low: 12.1 percent.
[2] High.
[3] Low.

EXHIBIT D-10

1962 VOTE TOTALS

"STATE BALANCE" (ALL OKLAHOMA COUNTIES EXCEPT TULSA)

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate [1]
Governor	282,531	329,929	1,771	614,231	[2] 53.7
Lt. Governor	309,548	247,437		556,985	44.4
Sec. of State	307,087	221,773		528,856	41.9
Auditor					
Atty. General	315,908	222,606		538,514	43.3
Treasurer	296,673	259,262		555,935	46.6
Pub. Instr					
Exam./Insp					
Mine Insp					
Labor Comm					
Insur. Comm	338,750	196,587		535,337	[3] 36.7
Char./Correct	311,967	222,707		534,674	41.7
Corp. Comm	314,723	210,195		524,918	40.0
U.S. Senator	315,015	258,643	2,482	576,140	44.9

[1] Difference between high and low: 17 percent.
[2] High.
[3] Low

EXHIBIT D-11

TULSA COUNTY ONLY

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate [1]
Governor	32,826	62,387	319	95,532	[2] 65.3
Lt. Governor	38,303	52,304		90,607	57.7
Sec. of State	39,987	46,937		86,923	54.0
Auditor					
Atty. General	43,721	44,951		88,672	50.7
Treasurer	34,971	54,074		89,045	60.7
Pub. Instr					
Exam./Insp					
Mine Insp					
Labor Comm					
Insur. Comm	46,286	40,832		87,118	[3] 36.9
Char./Correct	39,450	48,436		87,886	55.9
Corp. Comm	42,088	43,569		85,657	50.9
U.S. Senator	38,875	49,323	374	88,572	55.7

[1] Difference between high and low: 18.4 percent.
[2] High.
[3] Low.

EXHIBIT D-12

OKLAHOMA COUNTY ONLY

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate [1]
Governor	52,779	74,470	682	127,931	[2] 58.2
Lt. Governor	61,076	58,010		119,086	48.7
Sec. of State	60,799	51,932		112,732	46.1
Auditor					
Atty. General	64,234	52,801		117,035	45.1
Treasurer	54,597	63,155		117,752	53.6
Pub. Instr					
Exam./Insp					
Mine Insp					
Labor Comm					
Insur. Comm	71,326	44,391		115,717	[3] 38.4
Char./Correct	61,998	52,347		114,345	45.8
Corp. Comm	63,488	48,132		111,620	43.1
U.S. Senator	57,738	50,385	629	108,752	46.3

[1] Difference between high and low: 19.8 percent.
[2] High.
[3] Low.

EXHIBIT D-13

PAPER BALLOT COUNTIES

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate [1]
Governor	229,752	255,459	1,089	486,300	[2] 52.5
Lt. Governor	248,472	189,427		437,899	43.3
Sec. of State	246,284	169,841		416,125	40.8
Auditor					
Atty. General	251,674	169,805		421,479	40.3
Treasurer	242,076	196,107		438,183	44.8
Pub. Instr					
Exam./Insp					
Mine Insp					
Labor Comm					
Insur. Comm	267,424	152,196		419,620	[3] 36.3
Char./Correct	249,969	170,360		420,329	40.5
Corp. Comm	251,235	162,063		413,298	39.2
U.S. Senator	257,277	208,258	1,853	467,388	44.6

[1] Difference between high and low: 16.2 percent.
[2] High.
[3] Low.

SUMMARY TABLE.—PERCENTAGE DIFFERENCE BETWEEN THE HIGHEST REPUBLICAN PERCENT OF THE VOTE FOR A STATEWIDE OFFICE AND THE LOWEST REPUBLICAN PERCENT OF THE VOTE FOR A STATEWIDE OFFICE

Year	Tulsa County percent difference	State balance percent difference	Oklahoma County percent difference	Paper ballot County percent difference
1974	29.1	21.3	34.4	20.9
1966	26.4	13.4	19.7	12.1
1964	18.4	17.0	19.8	16.2

EXHIBIT E-1

TABLE 3.—STATEWIDE, OKLAHOMA COUNTY, AND TULSA COUNTY VOTE TOTALS FOR STATE OFFICERS (COL. 3 OF TULSA BALLOT), NOVEMBER, 1974

Office	Statewide [1]	Oklahoma County	Tulsa County		
			Tulsa total	Amarillo machines	Tulsa machines
Governor	804,848	143,395	125,189	19,390	103,744
Lieutenant Governor	754,131	133,580	120,843	18,854	99,978
Secretary of state	725,287	125,648	117,036	18,406	96,657
Auditor (unopposed)	NA	57,652	87,957	14,436	72,276
Attorney general	745,769	131,714	119,424	18,700	98,733
Treasurer	746,275	131,620	119,694	18,723	98,971
Public instructor (unopposed)	NA	56,574	88,642	14,556	72,839

[1] NA equals not available on a statewide basis,

EXHIBIT E-2

TABLE 4.—STATEWIDE, OKLAHOMA COUNTY, AND TULSA COUNTY VOTE TOTALS FOR STATE OFFICERS (COL. 4 OF TULSA BALLOT), NOVEMBER, 1974

Office	Statewide [1]	Oklahoma County	Tulsa County		
			Tulsa total	"Amarillo" machines	Tulsa machines
Exam./Insp	726,216	125,650	114,324	18,082	94,303
Mine Insp. (unop.)	NA	55,081	87,703	13,859	69,626
Labor Comm	717,166	123,877	111,916	17,766	92,245
Insur. Comm. (unop.)	NA	61,020	90,138	14,771	74,092
Char./Correct	704,425	121,594	107,728	17,017	88,841
Corp. Comm	727,702	125,110	111,906	17,685	92,303
D.A	NA	57,037	91,344	14,855	75,175

[1] NA=Not available on a Statewide basis.

EXHIBIT E-3

TABLE 5.—STATEWIDE, OKLAHOMA COUNTY, AND TULSA COUNTY VOTE TOTALS FOR JUDICIAL OFFICERS (COL. 11 OF TULSA BALLOT), NOVEMBER, 1974

Office	Statewide [1]	Oklahoma County	Tulsa County		
			Tulsa total	"Amarillo" machines	Tulsa machines
Supreme Ct. No. 2	573,247	80,431	96,237	15,553	78,114
Supreme Ct. No. 5	557,361	78,911	94,447	15,316	77,583
Supreme Ct. No. 6	553,485	76,357	98,472	15,903	80,847
Supreme Ct. No. 7	547,229	76,240	92,902	15,031	76,318
Supreme Ct. No. 8	546,727	76,494	92,813	15,076	76,281
Supreme Ct. No. 9	545,351	75,519	92,302	14,870	75,890
Criminal App. No. 1	558,792	77,290	92,804	15,078	76,149
Remainder of Oklahoma County ballot:					
Dist. 7, No. 1		84,792			
Dist. 7, No. 3		79,184			
Dist. 7, No. 5		77,338			
Assoc. Dist. No. 1		93,861			
Assoc. Dist. No. 2		83,334			
Remainder of Tulsa County ballot: Dist. 14, No. 4			104,187	16,516	85,897

[1] Remainder of ballot varies by locale.

EXHIBIT E-6

TABLE 3.—STATEWIDE, OKLAHOMA COUNTY, AND TULSA COUNTY VOTE TOTALS FOR STATE OFFICERS (COL. 3 OF TULSA BALLOT), NOVEMBER 1974

Office	Statewide [1]	Oklahoma County	Tulsa County		
			Tulsa total	"Amarillo" machines	Tulsa machines
Governor	804,848	143,395	125,189	19,385 [19,390]	103,749 [103,744]
Lieutenant Governor	754,131	133,580	120,843	18,854	99,978
Secretary of State	725,287	125,648	117,036	18,409 [18,406]	96,654 [96,657]
Auditor (unopposed)	(1)	57,652	87,957	14,436	72,276
Attorney general	745,769	131,714	119,424	18,700	98,733
Treasurer	746,275	131,620	119,694	18,723	98,971
Public Instr (unopposed)	(1)	56,574	88,642	14,556	72,839

[1] Not available on a statewide basis.

Note: Bracketed figures denote matter stricken out.

EXHIBIT E-7

TABLE 4.—STATEWIDE, OKLAHOMA COUNTY, AND TULSA COUNTY VOTE TOTALS FOR STATE OFFICERS (COL. 4 OF TULSA BALLOT), NOVEMBER 1974

Office	Statewide [1]	Oklahoma County	Tulsa County		
			Tulsa total	"Amarillo" machines	Tulsa machines
Examiner/Inspector	726,216	125,650	114,324	18,082	94,303
Mine Inspector (unopposed)	(1)	55,081	84,703	14,059 [13,859]	69,426 [69,626]
Labor Commissioner	717,166	123,877	111,916	17,766	92,245
Insurance Commissioner (unopposed)	(1)	61,020	90,138	14,771	74,092
Char./Correct	704,425	121,594	107,728	17,107 [17,017]	88,751 [88,841]
Corp. Commissioner	727,702	125,110	111,906	17,785 [17,685]	92,203 [92,303]
District attorney	(1)	57,037	91,344	14,855	75,175

[1] Not available on a statewide basis.

Note: Bracketed figures denote matter stricken out.

EXHIBIT F-1

TABLE 6.—*Tulsa County judicial ballot vote totals, Nov. 1966*

Office:	Total Votes
Supreme Court No. 1	88,752
Supreme Court No. 2	84,343
Supreme Court No. 6	87,924
District 14, No. 1	90,234
District 14, No. 2	91,488
District 14, No. 3	89,930

EXHIBIT G-1

TABLE A.—TOTAL VOTES CAST FOR MOST POPULAR CONTESTED OFFICE (GOVERNOR) AND TOTAL NUMBER OF VOTERS SIGNING SIGNATURE BOOKS IN PRECINCTS USING VOTING MACHINES WITH NO PARTY VOTING INSTRUCTIONS COMPARED TO THOSE PRECINCTS USING MACHINES WITH CONFUSING INSTRUCTIONS

	Total votes cast for Governor	Total number of voters	Difference between votes cast and voters	Percent of voters casting votes for Governor
Precincts without confusing instructions	19,390	19,578	188	99.0
Precincts with confusing instructions	103,744	105,975	2,231	97.9

EXHIBIT G-2

TOTAL VOTES CAST FOR MOST POPULAR CONTESTED OFFICE (GOVERNOR) AND TOTAL NUMBER OF VOTERS SIGNING POLL BOOKS, BROKEN DOWN BY STATE HOUSE DISTRICTS IN TULSA COUNTY

State representative District No.	Total votes cast for Governor	Total number of voters	Difference between votes cast and voters	Percent of voters casting votes for Governor	State representative District No.	Total votes cast for Governor	Total number of voters	Difference between votes cast and voters	Percent of voters casting votes for Governor
76 "Tulsa" machine	10,456	10,543	87	99.2	68 "Tulsa" machine	6,044	6,171	127	97.9
23 "Amarillo" machine	10,182	10,272	90	99.1	66 "Tulsa" machine	5,406	5,559	153	97.2
80 "Tulsa" machine	11,391	11,507	116	99.0	74 "Tulsa" machine	3,635	3,746	111	97.0
69 "Tulsa" machine	8,900	8,991	91	99.0	72 "Tulsa" machine	4,190	4,324	134	96.9
78 "Amarillo" machine	9,203	9,306	103	98.9	67 "Tulsa" machine	10,492	10,838	346	96.8
79 "Tulsa" machine	9,743	9,872	129	98.7	75 "Tulsa" machine	5,607	5,810	203	96.5
71 "Tulsa" machine	9,485	9,619	134	98.6	73 "Tulsa" machine	3,759	4,075	316	92.2
70 "Tulsa" machine	9,178	9,335	157	98.3					
77 "Tulsa" machine	5,463	5,565	102	98.2	Total	123,134	125,533	2,399	

TOTAL VOTES CAST FOR 2D MOST POPULAR CONTESTED OFFICE (U.S. SENATOR) AND TOTAL NUMBER OF VOTERS SIGNING POLL BOOKS. BROKEN DOWN BY STATE HOUSE DISTRICTS IN TULSA COUNTY

EXHIBIT G-3

State representative District No.	Total votes cast for U.S. Senator	Total number of voters	Difference between votes cast and voters	Percent of voters casting votes for U.S. Senator	State representative District No.	Total votes cast for U.S. Senator	Total number of voters	Difference between votes cast and voters	Percent of voters casting votes for U.S. Senator
80 "Tulsa" machine	11,300	11,507	207	98.2	79 "Tulsa" machine	9,575	9,872	297	97.0
76 "Tulsa" machine	10,357	10,543	186	98.2	66 "Tulsa" machine	5,323	5,559	236	95.8
23 "Amarillo" machine	10,082	10,272	190	98.2	74 "Tulsa" machine	3,580	3,746	166	95.6
69 "Tulsa" machine	8,822	8,991	169	98.1	75 "Tulsa" machine	5,517	5,810	293	95.0
67 "Tulsa" machine	10,624	10,838	214	98.0	68 "Tulsa" machine	5,863	6,171	308	95.0
78 "Amarillo" machine	9,101	9,306	205	97.8	72 "Tulsa" machine	4,074	4,324	250	94.2
77 "Tulsa" machine	5,422	5,565	143	97.4	73 "Tulsa" machine	3,636	4,075	439	89.2
71 "Tulsa" machine	9,935	9,619	260	97.3					
70 "Tulsa" machine	9,063	9,335	272	97.1	Total	121,698	125,533	3,835	

EXHIBIT G-4

EXHIBIT "D"

	Total number of voters signing poll books	Total number of votes cast in Senate race	Percent of total votes cast in Senate race to total signing poll books
Tulsa County:			
1974	127,588	123,718	97.0
1972	168,358	162,933	96.8
1968	153,437	145,820	95.0
1966	104,976	92,742	88.3
1964	141,955	132,854	93.6
1962	101,248	88,572	87.5
Oklahoma County:			
1974	145,904	138,843	95.2
1972	210,326	190,244	90.5
1968	189,819	173,674	91.5
1966	124,162	108,299	87.2
1964	177,113	165,712	93.6
1962	129,344	108,752	84.1
Paper ballot counties:			
1974	548,534	529,248	96.5
1972	678,712	651,971	96.1
1968	620,473	589,625	95.0
1966	466,380	437,701	93.9
1964	630,262	613,608	97.3
1962	494,382	467,388	94.5

EXHIBIT H-1

TABLE 7.—VOTE TOTALS AND PERCENTAGES FOR 1974 SENATORIAL RACE IN TULSA COUNTY PRECINCTS USING VOTING MACHINES WITH NO PARTY VOTING INSTRUCTIONS COMPARED TO THOSE PRECINCTS USING MACHINES WITH PARTY LEVER INSTRUCTIONS

	Precincts without instructions		Precincts with instructions	
	Total vote	Percent	Total vote	Percent
Edmondson	7,848	41.6	49,204	41.0
Bellmon	11,020	58.4	70,735	59.0

EXHIBIT H-2

Shows percentage of votes received by Mr. Edmondson in each State representative district located in Tulsa County

State representative district No.	*Democratic percent of votes cast in U.S. Senate race*
73	74.0
74	58.5
72	56.2
75	55.7
77	55.3
66	52.8
68	52.2
23*	42.2
78*	39.5
69	37.2
79	37.0
70	32.8
76	32.8
71	31.0
80	28.7
67	28.3

*Denotes that "Amarillo" machines were used in all precincts within district. "Tulsa" machines were used in all others.

Mr. BARTLETT. Mr. President, I am submitting this report for the RECORD so that my colleagues will have the opportunity to review, as I have done, the facts set forth in this report.

Even the most cursory glance at the report will reveal the glaring inconsistencies and mistakes in the data used by these experts and even more glaring mistakes and inconsistencies in the con-

clusions reached by relying on the erroneous data.

Obviously, I do not wish to belabor this Chamber with a reading of the report in its entirety, but I would like to briefly highlight some of the more significant findings.

THE TESTIMONY OF PROFESSOR MILLER

The only "evidence" Professor Miller presented to the committee which had not been previously presented to the Oklahoma courts was his testimony with respect to a 1974 national sample survey, which he claims he conducted.

Miller testified that based on the data gathered in this national survey he had concluded that straight party levers affected only Democrats—that they had no effect whatsoever on Republicans or Independents.

Mr. President, I call the attention of the distinguished Senator from Rhode Island and the distinguished Senator from Nevada to that particular statement, that straight party levers affected only Democrats, that they had no effect upon Republicans or Independents.

Obviously, Dr. Miller has not consulted with the politicians of Oklahoma, or the politicians of Oklahoma certainly have not read of Dr. Miller's finding and agreed with him, because in 1969, when I was Governor of the State of Oklahoma, the Democratic legislature passed and submitted to my desk a proposition to eliminate straight party voting on voting machines, which meant eliminating straight party voting in Tulsa and Oklahoma Counties.

Why? Did they do this for any reason of evening up voting between the two parties? No, they did it because it was generally agreed between Republicans and Democrats in Oklahoma, and certainly in the legislature and by those running statewide, that straight party voting does have an effect, that it does have an effect favorable to Republicans in Oklahoma and Tulsa Counties, because of the straight party lever on the voting machines, and that it has an effect favorable to Democrats in the rural counties.

This contention, I want to emphasize, is completely inconsistent with the thinking of those running for office in Oklahoma, as far as Tulsa County is concerned. In 1971, I know, the members of the Rules Committee were well aware that the legislature in Oklahoma, with a Democratic majority did pass a bill which did permit, under certain circumstances, that there need not be a straight party lever under certain conditions in Tulsa County.

When I ran for office in 1972, for the U.S. Senate, the voting machine was programed just exactly the way it was for 1974 as far as the Republican candidate for the Senate was concerned.

In 1972, there was not a requirement that there be a straight party lever.

In 1974, there was a requirement, but, as far as the position on the panel and as far as erroneous instructions were concerned, it was exactly the same.

The point I am making is that the Democrats and Republicans in our State do believe that there is an effect of straight party voting where voting machines are used with a lever for straight party voting, but they are also in agreement that if this lever is lacking, then the party benefited is the Democratic candidate, not the Republican.

This was reaffirmed in 1974, as the members of the committee know, when the legislature passed another bill which does not permit straight party voting in Tulsa County beginninig in 1975, and I believe it was January 1.

So, straight party voting on the voting machines in Tulsa County, both at the Tulsa and Amarillo machines, are outlawed at the present time for any future elections. This was done by a Democratic legislature, a Democratic Senator, and certainly was not done for the benefit of the Republican candidates running in Tulsa County. It was done for the benefit of Democratic nominees.

So I find it impossible to have any credibility in the statement made by Dr. Miller that straight party levers affected only Democrats and not Republicans or Independents.

Dr. Miller also testified that his survey data showed him that when the Senate race occupied the first place on the ballot more people voted straight tickets.

If these two "findings" seem a little odd to my fellow colleagues, and they seemed more than a little odd to me when I first heard them, they become at least a little more understandable when we look at the quality of data used by Dr. Miller to arrive at these conclusions.

There is a phrase used in the computer business—"garbage in—garbage out"—it simply means if what you feed into the computer is garbage, then you had better expect that garbage is what you are going to get out.

As this minority report clearly shows, Professor Miller simply made the mistake of putting "garbage" in his computer.

To cite only a few examples from the report:

First, Professor Miller had testified that as a part of his survey he had gathered information about the various ballot forms and arrangements for straight ticket voting in various parts of the county. When questioned as to how he gathered this information, Dr. Miller responded in a letter to the chairman that the information was taken from copies of ballots, sample ballots, and other descriptive information provided by various election officials. Dr. Miller was then specifically asked how he gathered the information about the ballot forms used in Tulsa. He responded, again in his letter to the chairman, that he did not know, he assumed it was from election officials and enclosed a copy of the "Tulsa machine ballot" from which he took his information about the Tulsa setup.

Mr. President, here is a copy of the ballot which Dr. Miller says he used in feeding his computer with information about Tulsa.

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

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

[Due to the unavailability of reproducible copy the exhibit is not printed in the RECORD.]

Mr. BARTLETT. Mr. President, what is so strange about this "ballot," as the report points out, is that it is not a ballot at all.

This "ballot," which Dr. Miller used as the sole source of his information about Tulsa, it turns out, is actually a copy of a mockup exhibit which was prepared by Senator BELLMON's attorneys as an exhibit to a brief filed in the Oklahoma Supreme Court case.

We will see that down at the bottom of each column the words "party lever" have been typed in. Of course, these "party levers" were not on the machines in 1974. The reason they are shown on the exhibit is that the exhibit was for the purpose of showing the court where the levers would have been had they been on the machines.

But Dr. Miller apparently did not know this. Because he used this "ballot," Dr. Miller says in his letter to the chairman, he classified Tulsa as a "straight party lever" jurisdiction.

This is how Dr. Miller says in his letter he classified Tulsa. But as the report points out, this is not how Miller's data shows he did classify Tulsa. What does Dr. Miller's data show? It shows that he did not have any information one way or the other. Under the column on his computer printout which shows the type of straight party voting mechanism used in each sample jurisdiction, Tulsa County has been coded as "data missing." If you tell your computer that you do not know what type of ballot was used in Tulsa County, how can you expect your computer to tell you anything about how the Tulsa ballot affected the Tulsa County voters? The fact is you cannot.

What about the information Dr. Miller fed his computer about types of ballots used in other jurisdictions? We know that his information about Tulsa was incorrect—that he relied on a mockup exhibit used by Senator BELLMON's attorneys for demonstration purposes only—and, incidentally, which the minority found out was not provided to him by anyone at the Tulsa County Election Board. Can we assume that the information he gave his computer about ballot forms in other jurisdictions was any more reliable?

While the report cites numerous other instances of mistakes and inconsistencies in Dr. Miller's testimony and data, I shall cite one more right now. In feeding his computer information about the great State of Oregon—and I think the distinguished Senator from Nevada, which is near Oregon, and the distinguished Senator from Oregon would be very interested in this particular bit of information—Dr. Miller made a mistake which I am sure would be of interest to the distinguished Senator from Oregon (Mr. PACKWOOD).

Dr. Miller's computer printout shows that Senator PACKWOOD was defeated in his recent election by the Democratic candidate, Betty Roberts. Based on this same "expert evidence," should we now entertain a motion to unseat Senator PACKWOOD?

PROFESSOR KIRKPATRICK'S TESTIMONY

With respect to the testimony of Mr. Edmondson's second expert witness, the report goes into great detail, pointing out the numerous flaws in Kirkpatrick's data, his assumptions, his calculations, and his conclusions.

Dr. Kirkpatrick basically had testified that his figures showed there was a greater increase in ticket splitting in Tulsa County, which did not have straight party levers, than in the rest of the State which did have straight party levers or circles for the various separate ballots.

But as this report points out, based on official Oklahoma election returns, Dr. Kirkpatrick simply used the wrong figures in many instances. When the corrected figures are used, it turns out that, contrary to Dr. Kirkpatrick's assertion, there was actually a greater increase in ticket splitting in the rest of the State than there was in Tulsa County.

I do not wish to belabor the point any further, as I think the findings contained in this report speak for themselves.

To quote from the report:

> When the testimony and underlying data of these "expert" witnesses is closely scrutinized, it becomes readily apparent that the "evidence" upon which the Majority relies is hardly worthy of being called evidence, much less evidence sufficient to overturn a duly held election and unseat a duty elected and sitting Senator.

Mr. President, I shall talk a little further about straight party voting in Oklahoma and will make some references to the various influences on elections.

I think the distinguished Senator from Nevada would agree with me that there are a number of matters affecting the outcome of elections. Straight party voting is one of them; the weather; the respective candidates; the issues, national and local and State; money; the home town of the candidates; the experience of the candidates; the media; and, certainly very important, the organizational effort and efficiency.

When conclusions are drawn from scattered national returns and then compared to Tulsa County, Okla., there is the assumption, I believe, first, that the conditions of weather, candidates, issues, money, the home town of the candidate, the experience of the candidate, the media, and the organizational effort are not important at all and have absolutely no relationship, but just that the straight party voting has this effect. So, what Dr. Miller and Dr. Kirkpatrick are assuming is that they are utilizing data which is affected by many things and claiming that the only effect on it is straight party voting.

How can one isolate just straight party voting and somehow establish values and influences to the weather, to the candidates, to the money, and all the rest? It cannot be done.

So I think that the Senator from Nevada will agree with me that you cannot take average data from all over the country, including Oregon, which is incorrect, and then draw conclusions in Oklahoma about straight party voting. As I said, I agree that straight party voting has its effect in this particular election. The effect of there not being the levers was to help Mr. Edmondson.

It has been brought out that in Tulsa County the registration is roughly 60 percent Democratic and 40 percent Republican. I have run countywide in Tulsa County four times and am a resident of Tulsa County. I have run statewide three times—all three times, of course, in Tulsa County. On one other occasion, I ran in a district in Tulsa County.

I am very much aware that the ratio is 1½ to 1—1½ Democrats to 1 Republican; 60 percent Democrats, 40 percent Republicans. But those running in Tulsa County, I say to the distinguished chairman, are very much aware that the breakdown of registrations and actual desires with respect to voting is like this: 40 percent Republican, more or less; 20 percent registered Democrats voting Republican, 40 percent registered Democrats voting Democratic. So the ratio in actual voting habits is 60 percent Republican, 40 percent Democratic.

Mr. President, I have in my hand the results of 13 statewide elections, beginning in 1962, including all the Governor, Senate, and Presidential elections for the ensuing years, for a total of 13 elections. In each election, the Republican nominee received more than half the votes. The average is 61.6 percent Republican during that 13-election period. So when I say that the voting habits are 60 percent Republican and 40 percent Democratic, it is borne out by what actually has happened.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing the results of elections in Tulsa County between 1962 and 1974.

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

TULSA COUNTY ELECTION RESULTS

	Percent
1962	
Bellmon	65.5
Crawford	55.9
Average	60.7
1964	
Wilkinson	60.5
Goldwater	55.5
Average	58.0
1966	
Patterson	57.1
Bartlett	69.7
Average	63.4
1968	
Nixon	71.0
Bellmon	57.4
Average	64.2
1970	
Bartlett	62.0
1972	
Bartlett	59.3
Nixon	77.8
Average	68.5
1974	
Bellmon	58.3
Inhofe	51.5
Average	54.9
Total average, 13 Republican candidates	61.6

Mr. BARTLETT. Mr. President, if the voters are going to vote a straight party vote with the lever in Tulsa County, which they have done, the 40 percent Republicans are going to tend to have that opportunity and vote a straight party ticket, Republican; but so are the 20 percent reigstered Democrats who normally vote Republican. There is no reason to assume that the manner in which that lever will be utilized, if there is a lever, is going to be in the ratio of 60 percent Democrats to 40 percent Republicans, when the actual voting, on the average, in 13 statewide races in Tulsa County was 61.6 percent.

So I think it is very clear that Drs. Miller and Kirkpatrick have had no causal effect relationship with their arguments. They are not showing any meaningful contribution to the understanding of this race and are claiming that their evidence is of an expert variety.

Mr. President, I might add that after hearing the facts brought out in this report, the only serious doubts which my fellow Senators should have should not be with respect to the outcome of the Oklahoma election, but as to the accuracy and sufficiency of the expert testimony relied on so heavily by the majority.

Mr. PELL. Mr. President, once again the Senate has before it the grave constitutional responsibility of serving as judge of elections and qualifications of two highly qualified men who seek a seat in the U.S. Senate from the State of Oklahoma.

In January, 1975, the issue was referred to the Committee on Rules and Administration after Mr. Ed Edmondson filed a petition and complaint with the Senate. Accordingly, under the chairmanship of Senator CANNON, the committee conducted an extensive investigation which included staff hearings in both Oklahoma and here before the full committee. Results of the committee's efforts has been ably summarized by the senior Senator from Nevada, and are set forth in detail in the committee's report and in the 1,281-page volume of hearings.

Mr. President, it is incumbent upon the Senate to serve as judge of the evidence presented to it. This is mandated by the Constitution. The committee was directed to investigate and receive evidence in the matter of the contested seat; it did so, and it has now discharged its responsibility and made its report. It can do no more. The matter now rests squarely before the Senate and we must deal with it on the basis of the evidence before us.

As a member of the Committee on Rules and Administration, I want to emphasize and clarify some of the evidence which the Senate must consider.

At the outset of this debate, we must all be very clear on one critically important aspect of this contest—it is that Mr. Edmondsons' petition is not in any way a frivolous one.

There is no question that substantive election laws of the State of Oklahoma were violated in Tulsa County on November 5, 1974.

Oklahoma law required that candidates for the U.S. Senate be listed in first place on the ballot. Instead, candidates for the U.S. Senate were placed on the

voting machine ballots after 14 State contests. As we can see from observing the voting machines themselves, a voter would have to cast his or her vote for 14 different State contests prior to consideration of the Bellmon-Edmondson contest. If these ballots had been arranged as required by Oklahoma law, the U.S. Senate contest would have been the very first one for the voters to consider in casting their votes.

Oklahoma law further required that Oklahoma voting machines have a device to enable the voter to cast a straight party vote on each ballot. It is undisputed that this law was not complied with and straight party voting devices were not available to the voters in Tulsa County on election day.

Mr. President, a third critical fact in this contest, which is also undisputed, is that of the 640 voting machines in Tulsa County, 545 had affixed upon them prominent instructions as to the use of the straight party voting devices which were not available at the election. We can all see these instructions, as they existed on election day, by looking at the Tulsa voting machine which has been brought to Washington. A brief examination of these machines will show that had a voter followed instruction No. 1 on the machines, he or she would have cast a vote only for the bottom candidate on each column. However, of even further importance, if that very same voter had followed these instructions completely, his or her vote would have been canceled out entirely by returning the lever to the original position. This extremely confusing situation, of course, would not have existed had the straight party voting levers been affixed to the machine at the bottom of each column, as required by Oklahoma law.

The Committee on Rules and Administration has received testimony and affidavits from many witnesses as to how and why Oklahoma law was violated on election day in Tulsa County and on the question now before the Senate as to whether the violations of law, considered cumulatively with the presence of these misleading and erroneous instructions, affected the outcome of the election. In considering this very important question, Mr. President, I would like to emphasize that there is absolutely no evidence or suggestion of any wrongdoing or responsibility of any kind on the part of either of the candidates involved in this contest, both of whom I greatly admire and respect.

Although the Oklahoma Supreme Court found it possible to determine with mathematical certainty which of the two candidates received the greater number of statewide votes and was entitled to a certificate of election, we are not and cannot be bound by that decision. We must consider the evidence before us in its entirety, which, I would like to point out, includes additional evidence which was not available to the Oklahoma Supreme Court when it made its determination.

Mr. President, the evidence is set forth in detail in the committee's report, and I would urge all to review it and the hearing record carefully. I have reviewed the evidence in this matter, I have heard the testimony of the witnesses and have weighed all this very carefully and, Mr. President, it is impossible for me to conclude with mathematical certainty which candidate received the greater number of votes on November 5, 1974.

Expert witnesses, well-qualified to give their opinions on matters of this nature, were in disagreement before the committee. One such expert, Dr. Samuel Kirkpatrick, was of the opinion that without the irregularities associated with the voting machines in the November election in 1974, there was a high probability that Mr. Edmondson would have received sufficient votes in Tulsa County to win the statewide election.

Another expert, Dr. Warren Miller, was of the opinion that Mr. Edmondson would have indeed won had these irregularities not occurred. Still another, Dr. Howard Penniman, concluded that there was no reason to doubt the validity of the outcome of the election in question, while Dr. Walter DeVries took an extremely strong position that the violations of law and the erroneous instructions made absolutely no difference in the outcome.

Mr. President, we must consider these qualified opinions. We must also consider the other testimony and evidence submitted on behalf of both Senator BELLMON and Mr. Edmondson. If the outcome of the election could have been affected by what happened in Tulsa County on November 5, 1974, then the voice of the people of that fine State has not been heard. In a situation such as this, where neither of the contestants has offered evidence or arguments which logically compel a conclusion in his favor, beyond any doubt, where there is evidence in the case on both sides, and where it is possible to conclude, as we have in the committee, that the violations of law and the misleading instructions, considered cumulatively, could well have affected the outcome of the election, then in such a difficult situation, I believe that the Senate has no alternative but to refer the matter back to the voters of the State of Oklahoma since any doubt in this matter should be resolved in favor of and by the voters of the State of Oklahoma.

Mr. BARTLETT. Will the Senator yield?

Mr. PELL. Certainly.

Mr. BARTLETT. I ask the distinguished Senator from Rhode Island, is it correct, in reference to the matter he mentioned of straight party levers, that the Supreme Court of Oklahoma said, in its decision:

> We hold that while the use of the voting machines, which did not permit straight party voting as required by statute, constitutes an irregularity, it did not constitute such an irregularity as to void the election or to make it impossible to determine with mathematical certainty which candidate received the greater number of Statewide votes and is entitled to a certificate of election.

Mr. PELL. That is correct.

Mr. BARTLETT. Will the Senator yield further?

Mr. PELL. Certainly.

Mr. BARTLETT. Did not, then, in the proceedings, the matter come up as to whether the point in the question was to determine whether there were irregularities, or was not the point made that the real question is to decide whether the irregularities affected the outcome of the election?

Certainly, irregularities existed. The Senator mentioned that there were irregularities because of the manner in which the Tulsa County Election Board conducted the election. I certainly agree with that. So does the supreme court. But I think it is also noteworthy that the membership on that board is two Democrats and one Republican, is that not correct?

Mr. PELL. That is their party affiliation, as they are registered.

Mr. BARTLETT. I wish to ask the distinguished Senator another question with regard to erroneous instructions. Did not the supreme court say the following in its conclusions:

> We also hold the erroneous instructions did not void the election, or make it impossible to determine with mathematical certainty which candidate received more statewide votes and entitled to a certificate of election?

Mr. PELL. That is the opinion of the supreme court. As the Senator well knows, under the Constitution, that is an advisory opinion for us to consider. In our view, having heard this matter, we think there is an element of doubt in it.

I must say that I started out not convinced on it. Then, as time went on, I rather came to the conclusion that there really was a very real element of doubt here, that if the instructions had been followed, and if there had been straight voting levers, it is quite likely that Mr. Edmondson would have been elected.

Mr. BARTLETT. If the Senator will yield, is it not the responsibility of this body to decide this question considering the Oklahoma law and the supreme court decision?

Mr. PELL. Right.

Mr. BARTLETT. Because was the election not held under Oklahoma law? It was.

One final question as to the position of the Senate race on the ballot: Did the Supreme Court of the State of Oklahoma not decide the following:

> Assuming that the failure to place the U.S. Senate race in the upper left panel does constitute an irregularity, it is not such an irregularity as would vitiate or invalidate the Tulsa County election. This irregularity does not make it impossible to determine with mathematical certainty which candidate received a greater number of statewide votes and is entitled to a certificate of election?

Then ultimately—

> The candidate receiving the most statewide votes for the office of U.S. Senator can be determined with mathematical certainty and that candidate is entitled to be issued a certificate of election. Bellmon is that candidate.

Is that not part of the final decision of the Supreme Court of the State of Oklahoma?

Mr. PELL. My understanding is that the supreme court did not have before it all the evidence that came to us in the full committee. I think that is correct.

Mr. BARTLETT. I think that is correct, and I think the Senator is also aware

that the additional evidence is interpretive evidence based on 1974 data, scattered all over, that is affected by every kind of thing, including the weather, the respective candidates, the amount of money, the personal effort, the organization and all the other things that affect an election. Somehow, this is analyzed—incorrectly, but nonetheless analyzed—then somehow determined that, because straight party voting is one thing that affects an election, the straight party voting was effective in this particular election and, contrary to what all the politicians believe in Oklahoma, that this effect was against Mr. Edmonson and for Mr. BELLMON; whereas, the politicians in our State, I shall advise the distinguished Senator, feel that straight party voting being denied in this election was harmful to Senator BELLMON, not to Mr. Edmonson.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. PELL. I would like to complete my statement, but carry on.

Mr. HATFIELD. I would like to ask the Senator a question. I understood the Senator to say that we are not required to take the ruling of the State Supreme Court of Oklahoma that tried this case, it is only advisory in nature. Obviously, if we do not take the advice or counsel of the Supreme Court of Oklahoma, we have to take some other advice, make some other base upon which to come to this conclusion the Senator has come.

I would like to know what other base the Senator has used in rejecting the supreme court counsel for what other counsel.

Mr. PELL. As I went through the testimony and heard some of the witnesses, in fact, nearly all of them—they did not all testify before the supreme court—I came to the conclusion it could be either way, which was not the conclusion I had when I started out.

Mr. HATFIELD. Based upon what?

Mr. PELL. Based upon the evidence of Messrs. Miller and Kirkpatrick, and the other evidence before us.

Mr. HATFIELD. Did not the Senator also say there was a division between the experts?

Mr. PELL. There was.

Mr. HATFIELD. But there was the unanimous decision by the supreme court.

Mr. PELL. That is correct.

Mr. HATFIELD. So that in rejecting the unanimous decision by the supreme court we are now asked, as I understand the Senator, to accept as a basis for judgment conflicting testimony. If the Senator had been on the floor he would have heard my analysis of that very testimony that was given on behalf of Mr. Edmondson.

Mr. PELL. I was on the floor.

Mr. HATFIELD. I understand the Senator is now asking us to accept as a basis for judgment the conflicting evidence as presented by experts; is that correct?

Mr. PELL. That is what I am accepting, together with all the other evidence presented to the committee. I am not asking the Senator to accept anything.

Mr. HATFIELD. All right.

Mr. PELL. I find the contest is open to doubt.

Mr. HATFIELD. Would the Senator be open to a question? The Senator mentioned the placement of these names as an irregularity, which was rejected by the supreme court as a mathematical irregularity, but that it was merely a ministerial irregularity.

Does the Senator know how the names were placed upon the ballot for the primary and for the runoff election which preceded the general election?

Mr. PELL. I presently do not recall.

Mr. HATFIELD. I think the record will show they were placed in the same position as they were in the general election. Does that raise any question in the Senator's mind whether there was really a significant issue then, whether it tended to confuse voters if they had gone through a primary and a runoff election prior to a general election with the names in the same positions?

Mr. PELL. It would if it had been raised at the time, but it was not raised at the time.

Mr. HATFIELD. I see, it was not raised. The Senator is correct.

I would like to ask the Senator a further question as to how we make a decision or judgment as to how many of the voters were confused either as to the placement or of failure to have a straight party vote or because of instructions. Does the Senator have any estimate of how we can make a judgment as to how many of the voters were confused?

Mr. PELL. I know I would have been confused to have seen the instructions, if I wanted to vote a straight ticket, did that, and then nullified my own vote.

Mr. HATFIELD. Did we have any evidence before the committee as to voters who had been confused by this?

Mr. PELL. I do not at present recollect the specific evidence.

Mr. HATFIELD. I do not think the record will show we did.

But I would like to also ask the Senator if he is aware of the voting trends since 1962 that show in this last election the highest percentage of Tulsa people turned out to vote, 97 percent, as compared to the 1972 senatorial election of 88 and the 1962 of 87. Would that not raise a question in the Senator's mind that, perhaps, with this extraordinary increase in voter activity there must not have been any great confusion?

Mr. PELL. It would show a more informed electorate than across the country, certainly a more active participatory one. As the Senator knows, the average is 60 percent.

Mr. HATFIELD. I would like to ask a last question. The Senator said he was impressed, I believe, that neither candidate had made a solid and completely overwhelming case or something to that effect. Let me ask the Senator who has the burden of proof in a case before our Rules Committee or before a court?

Mr. PELL. I think when there is a real element of doubt, as there is in this case, then the decision should be rendered by the people of the State.

Mr. HATFIELD. But the question is before that decision can be made there has to be some proceeding before the committee. My question has to do with before the committee makes its decision who has the burden of proof coming before the committee?

Mr. PELL. I am not talking about the Senator's mind or anybody else's mind. I am talking about my own mind. In my mind there is enough doubt created by the evidence submitted on behalf of Mr. Edmondson to make me believe, this should be sent back to Oklahoma.

Mr. HATFIELD. I think the Senator is completely right. His opinion and my opinion are really peripheral to this thing, to the question I am asking, but what does the Constitution and due process require?

Mr. PELL. The Constitution says we are the judges of our own Members.

Mr. HATFIELD. No, I mean as far as the burden of proof goes.

Mr. PELL. I am not a lawyer, nor is the Senator.

Mr. HATFIELD. I know that elementary political science 101 would teach someone that the burden of proof is on the petitioner.

Mr. PELL. Well, in this case sufficient evidence has been presented by the petitioner to create enough doubt in my mind to think that the contest should be referred back to the State.

Mr. HATFIELD. In other words, the Senator is not requiring the burden of proof to be placed upon the petitioner.

Mr. PELL. He has complied—if that is the Senator's question—with that requirement and enough doubt therefor has been cast on the election so that it should be sent back to the State.

I recognize, as the Senator made his presentation earlier, the difficult precedent that has been caused with other close elections.

Mr. HATFIELD. Would not the Senator agree that it should be convincing evidence rather than a question of doubt?

Mr. PELL. My view is it should go back. I do not understand what the Senator is pressing at.

Mr. HATFIELD. The point I am pressing is there are certain rights which any citizen has before any body, even before the U.S. Senate.

Mr. PELL. Right, I agree.

Mr. HATFIELD. We do not divest people of basic rights which they have when they have a contest or when they make a challenge before the law or under the law. My only question is when the Senator has made a statement that neither candidate presented convincing, overwhelming evidence, I am merely asking the Senator under the rights of the Constitution which any citizen of this country has, who has the burden of proof to present overwhelming, convincing evidence rather than opinion, that there may be doubt, convincing evidence that the case is for his side or that it is against the defendant?

Mr. PELL. As I have said before, the plaintiff's presentation has put into my mind enough doubt so that I want it referred back.

Mr. HATFIELD. I accept the Senator's statement. The Senator, I understand, then says it is doubt rather than evidence.

Mr. PELL. Doubt in my mind.

Mr. HATFIELD. Rather than evidence.

Mr. PELL. The evidence has produced the doubt.

Mr. HATFIELD. I see. I just wanted to get clear as to upon what basis the Senator was making his judgment.

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

Mr. PELL. I would like to finish my statement.

Mr. BARTLETT. I thank the Senator for yielding.

I think we agree that straight party voting is influential in the campaign in Tulsa County. I think we agreed that straight party voting does have an effect upon an election in Oklahoma, and in Tulsa County.

I submitted for the record—and I do not have it in front of me, but I think the Senator has heard me talk about it—13 elections, all the statewide elections, national, Senate and Governor, starting in 1962 for a total of 13, with an average vote in Tulsa County of 61.3 percent for the Republican candidate, the balance for the Democratic or other candidates.

Let us call that 60 percent Republican voting and 40 percent Democratic voting. I know the Senator realizes that the registration is somewhat the reverse of that, roughly 40 percent Republican and 60 percent Democratic. I also know the Senator will agree that people do not vote, fortunately, and I think this is good for both parties, exactly the way the precedent show.

The record shows the standard voting average is 61.3 percent Republican.

Would the Senator answer the question that perplexes me as to how, basing his decision on the expert testimony that the lack of straight party lever—benefits Mr. Edmondson—I mean hurts Mr. Edmondson rather than being harmful to Senator BELLMON when the majority voting in this election was 58 percent and nearer the 60 percent on the average?

Mr. PELL. I had the good fortune to run the Democratic registration drive in 1956 as national chairman. My recollection of that time in getting out the vote is that as a general rule the Democrats were less good than the Republicans were about being registered to vote; that when they did vote they tended to vote the straight lever more often than the Republicans did, and, as a general rule, the straight party voting is of greater advantage to the Democrats. This is my view.

Mr. BARTLETT. Will the Senator explain that when we have in this election 58 percent of the voters registered Democratic, at least 20 percent and certainly not more than 38 percent of the 40 percent of Republicans voting for the Republican candidate, all having the equal opportunity to vote the straight party ticket if there was one? Since there was not a lever in this case, how is it that the lack of the lever was beneficial to Senator BELLMON rather than being harmful to him?

Mr. PELL. I think I can reply and then I would like to finish my statement. Everybody else had had the chance to make a statement. I would like to finish it, if I could.

In reply to the question, I believe the Senator said earlier about 40 percent of the people were registered Republican who voted Republican, about 40 percent voted Democrat, and another 20 percent who were registered Democrats voted Republican. My point is those who voted the straight party ticket would more likely come out of the 40 percent who were Democrats than out of the 20 percent who were Republicans who would vote Democrat because they would probably split.

Mr. CANNON. Will the Senator yield?

Mr. PELL. I yield.

Mr. CANNON. I would like to answer the Senator from Oklahoma on this point. I think it is quite obvious that the Senator from Oklahoma has not read the works of political scientists in this country. I would quote from a book coauthored by Walter DeVries, who was one of the expert witnesses for Mr. BELLMON in this particular case. It is entitled, "The Ticket Splitter, a New Force in American Politics," by Walter DeVries and Lance Tarrance.

This is a well-known fact. It is recognized by virtually all political scientists. What they say is:

> National sample survey data indicates that lower socioeconomic voters are more likely to be Democrats and Democrats are more inclined to vote a straight ticket.

That is the answer. There are more Democrats here. If there is the opportunity for them to vote a straight ticket, they are more likely to vote a straight ticket. This is a common finding of virtually all political scientists.

Mr. BARTLETT. Will the Senator yield?

Mr. CANNON. No, I will not yield until I finish my statement.

This fact is well recognized by political scientists in this field and it explains very precisely why Mr. Edmondson is disadvantaged in this case. Democrats and the lower socioeconomic group people, who are traditionally Democrats, could not vote a straight party ticket. This results in confusion.

Mr. BARTLETT. Will the Senator yield?

Mr. CANNON. I am sorry I am not going to yield until I finish my statement, if the Senator will please accord me that privilege.

That explains one of the reasons why there is a problem here. People went in there to vote and they are more likely to be confused, as they are in the lower socioeconomic status. They cannot vote a straight party ticket because the level is not on there to permit them to do so. As a result, they start searching and increased ticket splitting results.

If the Senator will read the testimony of all four of the experts who appeared before the Rules Committee he would find that position is pretty well supported.

I thank the Senator for yielding.

Mr. HATFIELD. Will the Senator yield?

Mr. PELL. May I finish my statement or is there a burning question now?

Mr. BARTLETT. If the Senator from Nevada will yield——

Mr. PELL. I have the floor. Is the question to me?

Mr. BARTLETT. Yes; I would like to ask a question of the Senator from Rhode Island, and I asked it earlier: Why is it when 58 percent in an election vote for the Republican candidate, leaving 42 percent who voted for the Democratic candidate, could a majority of those voting in the election be disadvantaged in favor of the Republican when the lack of a straight party lever certainly could have its effect, and if it does have an effect it is going to have its effect against Republicans, because there were 58 percent of the people who voted for him? There was no lever. This only leaves 42 percent Democrats. On the other side there are 40 percent Republicans but 20 percent Democrats who also can vote a straight party vote.

The point I am trying to make is the percentages of Democrats. I do not agree with what was said as far as Tulsa County is concerned. What we are talking about here is the percentage of those voting in the election, not percentages of Democrats or percentages of Republicans. I am claiming that those who could not vote the straight party ticket in that election were 58 percent voting Republicans, consisting of 40 percent, roughly, registered Republicans, and 20 percent, roughly, registered Democrats.

Obviously, those Democrats who voted Republican were not in any way disadvantaged to hurt Mr. Edmondson. The disadvantage there of voting a straight Republican ticket, which they could also do in a general election, would have worked to the detriment of Senator BELLMON.

Mr. PELL. The question the Senator raises is exactly the one he raised before. I would like to answer it, to repeat myself as the Senator repeated himself. I say that the reason for it is that the Democrats tend to take more advantage of voting the straight party ticket. The Republicans would probably vote the little lever, ping, ping, ping, right down, and the Democrats tend to vote the big lever.

I yield only for a question.

Mr. BARTLETT. Even taking the fact that there would be a slightly higher percentage of Democrats, which I do not believe, there are 20 percent of the Democrats voting with the Republicans. Are those Democrats going to be less likely to vote a straight party ticket for the Democrats than the 40 percent for the Republicans?

Mr. PELL. Absolutely. A voter is much more selective when he goes back and forth in a zig-zag.

Mr. BARTLETT. I am talking only about registered Democrats. I do not think the statistics recited by the distinguished chairman broke down those registered Democrats who voted Republican from the registered Democrats who voted Democrat. What I am saying is there are 40 percent who voted Democrat from the registered Democrats, and 20 percent who voted Republican. In addition, we have 40 percent voting as registered Republicans. Certainly, the 60 percent is going to be unfairly treated more than the 40 percent. This is the point I am trying to make, because they could all vote a straight party Republican ticket, whether they are registered Republican or Democrat.

Mr. PELL. To again repeat myself and

answer the same point which has been made several times, I think that the Democrats benefit more by the straight party ticket.

Mr. BARTLETT. If the Senator will yield further, I respectfully say the Senator is not addressing the question based on the fact that we have Democrats voting on both sides.

Mr. PELL. Right. But I am talking about those who register Democrat and vote Democrat. They would more likely take advantage of the straight lever.

Mr. BARTLETT. But then we have the 40 percent Republicans. I do not think the Senator's case holds water.

Mr. PELL. I submit that it does, but that is a question of opinion and what we are debating here now.

Does the Senator from Oregon have a question?

Mr. HATFIELD. If I could ask the Senator a question when he completes his statement, I would appreciate it.

Mr. PELL. I thank the Senator.

The burden thus far has been upon Mr. Edmondson, who brought this contest, and he has presented strong evidence which, if accepted in its entirety, would well nigh mandate a return of this question to Oklahoma for a new election.

Strong evidence has also been presented on behalf of Senator BELLMON, which cannot be ignored by the Senate. I know, like, and respect Senator BELLMON very much, as do so many of his colleagues on both sides of the aisle.

The arguments on each side are closely balanced. I have worked on this matter from the beginning, constantly evaluating and reevaluating evidence and arguments printed on behalf of the contestants. I can only conclude that what happened in Tulsa County on November 5, 1974, could well have been the determining factor in the election on that date.

Under such difficult circumstances, I believe the Senate has no other alternative than to declare that a vacancy does exist in that seat, thereby allowing the voters of the State of Oklahoma to express their will again—this time in full conformance with the election laws of their State—and return to the Senate the duly elected candidate of their choosing.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. PELL. Certainly.

Mr. HATFIELD. I assume the Senator heard the distinguished chairman quote from a book written by Walter DeVries, who was before our committee as an expert witness on behalf of Senator Bellmon.

Does the Senator from Rhode Island agree with that thesis, as expressed by the chairman of the committee, as quoted from the book by Walter DeVries?

Mr. PELL. That those of less education are more likely to vote a straight party ticket?

Mr. HATFIELD. Yes.

Mr. PELL. Yes, I do agree with that.

Mr. HATFIELD. And the Senator, from his experience as chairman of the voter registration program in 1956, found this to be true?

Mr. PELL. Yes.

Mr. HATFIELD. Was this on a nationwide basis?

Mr. PELL. Yes. I was more concerned with registration. What I noticed was that in any area where it has been found, as a general rule, that more Republicans were registered than Democrats in relationship to the total pattern, a registration drive designed equally to benefit both parties usually benefited the Democrats more than the Republicans.

Mr. HATFIELD. And the straight party voting was more effective for the Democrats?

Mr. PELL. I was more concerned with registration, but when you get to the voting, in my own State, I think there is more emphasis upon straight party voting by the Democratic Party.

Mr. HATFIELD. And the lack of a straight party lever would tend to inhibit Democratic voters from voting a straight party ticket, and therefore was a disadvantage to Mr. Edmondson; is that what I understand the Senator's position to be?

Mr. PELL. This is obviously disagreed with by others. It was one of the elements that caused problems here.

Mr. HATFIELD. But this is basically the issue upon which the study was made, and the reason why the search for new evidence, based upon new information the majority had asked for, returned to the voters of Oklahoma; is that correct?

Mr. PELL. Plus the placement on the ballot.

Mr. HATFIELD. And the other irregularities?

Mr. PELL. And the other irregularities.

Mr. HATFIELD. Then I would like to ask the Senator, if that be so, as the Senator knows, the straight party lever in Tulsa County went out with the election of 1966; before that time there was a straight party lever for the citizens in Tulsa County. Therefore, I would like to ask the Senator why the voting pattern in Tulsa County was the same before, when they had a straight party lever, as it is now, when they do not have a straight party lever, and why, therefore, there is a disadvantage for Mr. Edmondson.

Let me remind the Senator, as I did earlier, that in spite of the straight party lever, every Presidential candidate on the Republican ticket has carried Tulsa County since 1940, and with the exception of 1958, the Republican candidates for Governor carried Tulsa County, at times when they had a straight party lever and later when they did not have a straight party lever. I would like to ask the Senator why Senator Harris lost Tulsa County in 1964 and 1966, or why Mike Monroney lost Tulsa County four times when they did have straight party levers, if we are being asked to reject this election because Mr. Edmondson could not win in Tulsa County except by a straight party lever.

Mr. PELL. I cannot give the Senator an answer as to why the results turned out one way or the other.

Mr. HATFIELD. Would it not raise a question in the Senator's mind as to whether or not some national voting pattern might have very glaring exceptions when it came down to specific localities, counties, and States?

Mr. PELL. Surely. We have that all the time in our own area.

Mr. HATFIELD. Yes. Therefore, would it not be inconsistent to use a national study as the basis for rejection of a local result?

Mr. PELL. As the sole basis for rejection of a result, yes.

Mr. HATFIELD. The other bases are placement on the ballot and the instructions——

Mr. PELL. The placement on the ballot.

Mr. HATFIELD. What placement on the ballot? The 2,820 votes——

Mr. PELL. No, the placement on the ballot, the placement of the instruction, and the lever.

Mr. HATFIELD. As the Senator says, the lever could be questioned, because it might be one of the exceptions to a national pattern, as I understand the Senator.

Mr. PELL. Yes.

Mr. HATFIELD. So then we are reduced to really only two valid points.

Mr. PELL. The study and the additional evidence that came in to us.

Mr. HATFIELD. What was that additional evidence?

Mr. PELL. The Miller findings and——

Mr. HATFIELD. But that was a national study.

Mr. PELL. Right.

Mr. HATFIELD. Based upon seven voters in Tusla County.

Mr. PELL. Then there is other evidence from Dr. Kirkpatrick that related to Oklahoma, that was not just national.

Mr. HATFIELD. But let me remind the Senator that Dr. Kirkpatrick's material was based upon the study of Professor Miller. So, if, as I believe, there is valid reason to question Dr. Miller's study, there is reason to throw out Dr. Kirkpatrick's material, which was based on the study of Mr. Miller.

I thank the Senator.

(Mr. GRIFFIN assumed the Chair as Presiding Officer.)

Mr. BARLETT. Mr. President, will the Senator yield for a question?

Mr. PELL. I yield.

Mr. BARLETT. As I understand, in Tulsa County, the voters in this election were divided approximately 40 percent Republicans voting Republican, 20 percent Democrats voting Republican, and 40 percent Democrats on the other side. What percentage of the Democrats vote the straight party ticket, on the average, and what percentage does he say did so in Tulsa County?

Mr. PELL. I have no idea how many would have if they could have. There is a disputed declaration.

Mr. BARTLETT. But how many do in this mockup of 40, 20, and 40?

Mr. PELL. I do not know.

Mr. BARTLETT. I was just doing some figuring; and using the figure of, say, 20 percent of the Democrats who normally vote the State party lever, if we have 40 percent of them, then, voting Democratic, that would be 20 percent voting a straight party ticket on the Democratic side, and

the other 20 percent of the Democrats voting a third party ticket or on the Republican side. That amounts to 10 percent, but then there are 40 percent of the Republicans voting; let us assign them 6 percent who normally vote the straight party ticket, considerably less than the Democrats, which the Senator contends is the case nationwide and in Tulsa County. This would be 16 percent, if you add the 6 and 10, and you would have on the average 26 percent of the voters voting Republican who would vote the straight party ticket, versus 20 percent of those voting Democratic.

So I think if the Senator is going to base the matter on this kind of a trend, he would want to have the figures from Tulsa County. I can assure the Senator, and I hope he believes it, that the politicians in Oklahoma very strongly do believe that straight party voting affects the outcome of elections, and that is why the Democrats, who are in the majority, have made an effort, and successfully so, to eliminate straight party voting. As the Senator knows, it is now eliminated in any future election in Tulsa County. That was not done, by a legislature the great majority of which was Democratic, and a Governor who was Democratic, for the purpose of helping Republicans. So I think the weight of the evidence is very strong that the lack of straight party levers in this election hurt Henry Bellmon.

Mr. CANNON. Mr. President, I would like to respond to the Senator from Oklahoma for a moment, and I am glad to see he is apparently going to be in the Chair.

(At this point, Mr. BARTLETT assumed the chair.)

Mr. CANNON. The Senator, I am sure inadvertently, is obscuring the issue. I think if he had read Dr. Miller's testimony, he would find that issue clarified. I am going to read a part of it into the RECORD, and then yield to the Senator from Nebraska (Mr. CURTIS) on another matter.

I quote Dr. Miller:

My earlier testimony in the case presented before Trial Judge J. Knox Byrum in Tulsa, Okla., November 12, 1974, and supplemented in an affidavit submitted December 13, 1974, focuses almost entirely on the significance of the presence or absence of a party lever on the Tulsa County voting machines. Subsequently, I would indeed, as I suggested earlier, appreciate being able to comment on Mr. Penniman's statement, which refers to my work, and in that comment I do want to expand the substantive area beyond the question of the sheer presence or absence of the party lever.

The question that we asked and attempted to answer earlier was whether the absence of a party lever affected the propensity of the voters to vote a straight ticket ballot or to split their ticket among candidates from two or more parties. The information now associated with our 1974 election study, collected following the earlier testimony, permits an examination of one additional feature that appears to be relevant to the contest between Mr. Edmondson and Senator Bellmon. This pertains to the location of the senatorial contest on the ballot.

(At this point, Mr. GRIFFIN assumed the chair.)

Mr. CANNON. Will the Senator from Oklahoma listen to this?

The 1956 study had concluded that the presence or absence of a single lever by which a straight party vote could be cast made at least a 12 percent difference in the frequency with which straight party votes were cast. For example, considering first the most highly motivated voters, in States where a multiple choice across races was necessary to achieve a straight party vote, 65 percent of the highly involved voters cast a straight ticket; among comparably motivated voters in States providing for a single party choice, with the party level, 77 percent voted a straight ticket. Among weakly motivated voters, however, the impact of the presence or absence of the party level was somewhat greater. For those relatively disinterested citizens who nevertheless managed to get to the polls in 1956, the proportion of straight ticket voting varied from 27 percent in the multiple-choice States to 45 percent in the single-choice States. The same analysis indicated that the presence or absence of the party level made little or no impact on loyal party supporters. The impact of the party level was reserved for weak partisans or, most particularly, for independents who voted. For them, the comparable proportions voting straight ticket were 27 percent in multiple-choice States and 46 percent in single-choice States. These data are described in much fuller detail in the article I just cited, page 304 and page 306 of that issue of the Political Science Review. Turning to the application of the findings—

And these are the 1956 findings.

to the contest for the Senate in Oklahoma, and recognizing that turnout in offyear elections, such as 1974, is low precisely because the least motivated of the citizens do not bother to vote, it seemed reasonable to assume that the voters in Tulsa County were by and large highly motivated voters. The presence or absence of a party lever on the Tulsa voting machines could, therefore, very conservatively be assumed to have made a difference of some 12 percent in the total amount of straight-ticket voting in the elections of 1974. This, again, would be presuming the hypothetical presence of the single lever.

The 1956 data indicated there was no difference in the way in which Democrats and Republicans responded to the absence or presence of the party lever."

Which is what the Senator was querying about.

Consequently, votes lost by virtue of ticket splitting would disadvantage a candidate of one party while advantaging his opponent only if the potential supporters of the first candidate out-numbered those of his opponent.

. . . The January 1974 registration figures in Tulsa County suggest that Democratic candidates did indeed have such potential for greater support; Democratic registration out-numbered Republican registration by approximately 119,000 to 81,000. Approximately 61.7 percent of those registered actually cast votes the following November—127,000 out of 205,000.

Incidentally, if I may depart from that testimony, the Senator said earlier that 97 percent of the registered voters voted in Tulsa County, if I understood him, in 1974. That is not correct. It was 97 percent of those voting who voted in the Senate race in Tulsa County in 1974. Maybe I misunderstood the Senator.

Mr. BARTLETT. The Senator from Oklahoma made no mention of 97 percent of which I am aware.

Mr. CANNON. The Senator used the 97-percent figure, but maybe I misread his application of it.

Back to the testimony:

If Democrats and Republicans turned out at reasonably similar rates, some 73,500 Democrats would have voted against some 50,050 Republicans. If that in fact was the case, the net effect of reducing straight-ticket voting would reduce to the question of the impact of the absence of the party lever on the 23,450-vote margin separating Democrats from Republicans.

The Tulsa machines, with the party levers removed, became prototypes of the machines (or paper ballots) classified as multiple choice ballots in our 1956 study. Presumably the addition of a party lever would have increased the straight-party voting by 12 percent. The 12-percent increase in straight-ticket vote among 50,000 Republican votes would, of course, have constituted an increase of 6,000 more straight-ticket Republican votes. A 12-percent increase among the 73,000 potential Democratic supporters would have produced an additional 8,800 straight-Democrat votes. The Democratic candidates who were disadvantaged because of ticket splitting would, therefore, have picked up an additional 2,800 votes—simply the difference between the straight-ticket voting that would accrue to both parties, or 12 percent of the 23,450 would produce, more precisely, and probably with an undue degree of implied precision, 2,814 votes.

Since these are all votes that must go to one side or the other, the gain of 2,800 for the Democratic side would result in a Republican loss of 2,800, for the resultant shift of 5,600 Democratic.

The net shift is visibly larger than the margin of 3,835 votes by which Mr. Edmondson lost to Senator BELLMON in the Oklahoma contest.

The Senator from Oregon was pointing out a little earlier there was no way that Mr. Edmondson could have won in Tulsa County. That was not the contention, that Mr. Edmondson could have won there. The contention was that, by the inability to vote straight party tickets as required by law, plus the placement on the ballot in a place that was in violation of the law, plus the very misleading instructions on the machines for voting, cumulatively these factors could have affected a difference or a shift of more than 1,918 votes. 1,918 votes was the break point for a shift for Mr. Edmondson to have won. Not a winning of some 18,000 or 21,000 in Tulsa County, but a shift of 1,918 votes.

If the Senator will read the balance of Dr. Miller's testimony I think it explains it very clearly and answers the questions that he was asking about earlier.

EXECUTIVE SESSION

Mr. CANNON. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering a nomination reported earlier today by Mr. Talmadge for the Committee on Finance.

The PRESIDING OFFICER. Is there objection?

Mr. CANNON. Mr. President, I yield to the Senator from Nebraska.

Mr. BARTLETT. Mr. President, reserving the right to object, and I shall

not object. I wish to have an understanding with the distinguished Senator from Nevada that as soon as this matter is taken up he will yield to me.

Mr. CANNON. Certainly.

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

DEPARTMENT OF THE TREASURY

Mr. CURTIS. Mr. President, on behalf of the Senator from Georgia (Mr. TALMADGE), from the Committee on Finance, I call up the nomination of George H. Dixon, of Minnesota, to be Deputy Secretary of the Treasury, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the nomination.

The second assistant legislative clerk read the nomination of George H. Dixon, of Minnesota, to be Deputy Secretary of the Treasury.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. CURTIS. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

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

LEGISLATIVE SESSION

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

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

OKLAHOMA SENATORIAL CONTESTED ELECTION

The Senate continued with the consideration of the resolution (S. Res. 356) relating to the Oklahoma senatorial contested election.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. CURTIS. Mr. President, I ask unanimous consent that Mr. Jerry Statkus of Senator HANSEN's staff have access to the floor during deliberations of this matter.

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

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

Mr. CANNON. I yield to the Senator.

Mr. BARTLETT. I thank the distinguished Senator for quoting from the report.

The first part of that report that he referred to was a 1974 report, which is the one that shows that Senator PACKWOOD in Oregon in his race lost the election.

Mr. CANNON. I have not seen that. I wonder if the Senator will furnish me something about that.

Mr. BARTLETT. I will furnish that information. That is in the information that was turned in, but it is in a very voluminous submission, and we will isolate that particular information for the Senator's attention.

Dr. Miller testified that his 1956 survey showed that the absence or the presence of a straight party lever did not affect Democrats any more than it affected Republicans; thus Dr. Miller's sole basis for concluding that Mr. Edmondson was hurt more than Senator BELLMON by the absence of the straight party lever in Tulsa County, based on his 1956 survey findings, was that the Democratic registration in Tulsa County was approximately 60 percent in 1974 while the Republican registration was 40 percent.

But the point that I was making earlier is that that is not the way the voting goes.

The voting consistently goes 60 percent Republican, consisting of roughly 40 percent registered Republicans and 20 percent registered Democrats.

In applying the 1956 survey results to Tulsa County, Dr. Miller simply assumed that 60 percent of the people going to the polls in Tulsa County were registered Democrats. This assumption that Democrats and Republicans in fact turn out in numbers equal to their respective registration rates is wholly inconsistent with Dr. Miller's own testimony before the Rules Committee, at page 70 of the hearings.

Mr. MILLER. There are two constancies, one of which is less important now than it was 20 years ago, having to do basically with the different social-economic advantage of Democrats and Republicans, with the Democrats, of course, traditionally being less well placed in society and simply responding less enthusiastically to politics. But interestingly, over time, even when you take that into account, you still tend to find a noticeable Republican edge with regard to such things as party solidarity and with regard to turnout or participation.

In light of this belief why, then, did Dr. Miller not assume, in applying his 1956 survey results to the 1974 Senate election in Tulsa County, that the spirited Republicans and obviously more spirited registered Democrats voting Republican would have had a heavier rate of participation in Tulsa County and in fact would have, if they had the opportunity, voted a straight party ticket to a greater extent than the 40 percent registered Democrats?

Mr. CANNON. Dr. Miller did precisely that. I am sorry the Senator did not read where I suggested he read, in Dr. Miller's testimony, or he would have known that, so I will read it to him:

To carry this example one step further, one way of approaching the problem is to specify turnout conditions under which at least 1,918 Democrats who voted for Senator Bellmon on a split ticket rather than Mr. Edmondson on a straight Democratic ticket might have voted for Mr. Edmondson, with the 1,918 being, of course, the minimum number that would have to shift in order to overturn the results of the election.

Now, the previous argument assumed equal rates of turnout, approximately 62 percent, both for registered Democrats and registered Republicans.

That is precisely the point that the Senator was raising.

If, however, turnout varies by party, with Democrats turning out less than Republicans, the net shift might have been smaller than the 5,600 votes specified above. In fact, the limit for 1,918 Democrats shifting from a split Republican vote to a straight Democratic vote would be reached if only 60.1 percent of the 119,167 registered Democrats voted. A 60.1 percent vote for the Democrats would produce 71,619 votes—while 68.5 percent of the 81,117 Republicans voted . . .

The Senator was using 60 percent a little while ago, but he uses 68.5 percent, with 81,117 Republicans voting, producing 55,565 votes. The resulting 16,054 plurality of voting Democrats would have produced an added 1,926 straight party Democratic votes if a party lever had been added to the voting machines.

That is only one of the three issues—the lever permitting the straight party vote.

That completely disregards the placement on the ballot. Anybody who has had any experience in the field of political science knows that makes a difference, because every candidate wants to be on the highest spot on the ballot. He knows that he gets away from voter fatigue; if he is the first man on there, and he is more likely to get the higher percentage of votes. This completely disregards that factor. Also, it completely disregards the erroneous and misleading instructions that were on the machines.

So I think that if the Senator had read that part, he would not have raised the questions he was raising a few moments ago, because it answers specifically the questions he was raising.

Mr. BARTLETT. Mr. President, if the Senator will yield, I have found that the information in the 1974 record that he cited earlier, so far as Dr. Miller's testimony is concerned, which has in it that Senator PACKWOOD lost the election, is in the computer printout we have. So we will help the Senator find that. That is in the information that has been available to the majority which was supplied to the minority.

As to the second point, if the Senator takes the breakdown of 40 percent Republicans, 20 percent Democrats voting Republican on the average, and 40 percent Democrats voting Democratic, and he assigns a factor of 50 percent to the Democrats who vote Republican and Democratic, he will come up on the Democratic side with 20 percent voting a straight party ticket. If he assigns to the Republicans even 30 percent, instead of 50 percent, he will come up with 12 percent of the Republicans. Added together, these come to 22 percent.

So what the Senator is not doing and what Dr. Miller has not done is to realize that registered Democrats, who in our State frequently vote for Republicans, can also vote a straight party ticket. When you then talk about denying that opportunity of voting a straight party ticket in Tulsa County and Oklahoma County, the one being hurt is the Republican candidate.

Can the Senator answer this question: Why is it that in 1969, the Democratic legislature in our State passed a bill to do away with straight party voting in the two counties with voting machines?

Mr. CANNON. I do not have the slightest idea why the legislature in the State of Oklahoma, the Senator's own State,

did something that he says they did. I am not even sure that they did it.

However, as to the previous set of circumstances that he has advanced here, I say that is truly hypothetical, purely hypothetical nonsense, because there are no statistics, either in the testimony of his witnesses or in the testimony of Mr. Edmondson's witnesses, to justify the so-called 40-20-40 split he has been talking about. That is purely hypothetical, picked out of the air by the Senator from Oklahoma. If we are going to stick to statistics, we should go by some of the studies that have been made an that are recognized.

To get back to the question the Senator asked me, I cannot account for why the legislature of Oklahoma did something, any more than I can account for why they took action after this election to try to change the law. They did not change it. The Senator said earlier that they changed the law so that you do not have to have a straight party lever on the machine. That is not correct. There are some qualifications on that.

The revised statute has not eliminated the requirement for straight party levers and does not even touch on placement on the ballot or the need for correct instructions, the two other items. The amended statute says:

> Said voting machines must be programmed so as to permit straight party voting as well as split or mixed tickets, unless existing machines are so constructed as to make straight party voting impossible without substantial modification of the machines.

Mr. BARTLETT. The Senator knows, from the testimony he has received, that what the Senator from Oklahoma said is correct—that with the provisions that were written into that bill, this applies to Tulsa County, unequivocally. That was the purpose of it. This is what the people of Oklahoma believe. I do not know what the Senator from Nevada thinks of it, but that is the fact.

The Senator referred to my information as being hypothetical nonsense. I say that what I have been talking about is in the real world of politics in Oklahoma; that the people of Oklahoma have believed for years and believe today that straight party voting benefits the Republican, if it takes place in Oklahoma County or Tulsa County, and if it takes place in the rural areas on paper ballots, it benefits the Democrats. This is accepted by both sides.

So the effort in 1969 and 1971 and 1974 has been to remove the straight party voting where election machines exist, or some machines exist, for the purpose of helping the Democrats, not the Republicans.

I favored removing straight party voting on voting machines and paper ballots when I was Governor, but I did not have any takers in the legislature to the extent of passing a bill to do that.

I cannot agree that what I have said is hypothetical nonsense. What I have been talking about is what the people who are fighting the battles between the Republicans and the Democrats in Oklahoma believe in. That is what they believe.

Mr. CANNON. I cannot vouch for what the people of Oklahoma believe on that subject. I do not know anything to support it. I do not know what they believe. However, I cannot believe that the people of Oklahoma are any different from those in any other part of the country.

There are two counties in my State that are inclined to be Republican counties. There are counties that register one way and vote another. I think that is pretty typical throughout the country. I do not think that one can necessarily say that one county in one particular part of the country is so much different from many other counties.

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

Mr. CANNON. I yield.

Mr. BARTLETT. If the Senator has in his State a county that consistently votes 60 percent Republican and 40 percent Democratic and it has a registration ratio of 40 percent Republican and 60 percent Democratic, and if the Senator believes in straight party voting—which he does, as do I—that straight party voting can be effective in an election, and if straight party voting is denied in that county and the votes cast in that election are 58 percent for the Republican and the remainder for Mr. Edmondson, more or less, with some votes for a third candidate, would he say that in his State the effect of not having straight party levers is going to be beneficial to the Republican?

Mr. CANNON. Mr. President, I am not going to engage in a sheer exercise in speculation, that has no purpose as far as what we are discussing here, as to what might happen in my State. I will say this as a flat statement: I think that political scientists will all bear me out that Democrats are more likely nationally—and I think that would be true in every State—to vote a straight party ticket than Republicans are. They come generally from a lower socioeconomic class, and those people are more inclined to vote a straight party ticket, if they have the opportunity, than people who are in a higher socioeconomic class. I do not know of any political scientist that disagrees with that statement or that philosophy. If they do, I should be very interested to listen to what they have to say or read what they have to say.

Mr. BARTLETT. Will the Senator yield?

Mr. CANNON. Yes.

Mr. BARTLETT. The Senator says he wants to use expert testimony and real facts; yet he talks about the whole United States and what that result is, in his opinion, according to certain experts. What is important is what goes on and what went on in Tulsa County, not across the country.

Mr. CANNON. The Senator is absolutely right.

Mr. BARTLETT. Yet this was not done in this case.

Mr. CANNON. The Senator is not correct. I have been pointing out for the benefit of the distinguished Senator that in Oklahoma, the consensus is very clear among those who are interested in this and who are political experts in both parties—at least to the extent of knowing what influences there are on voting—it is generally agreed that straight party voting in the two larger countries in the voting machines is helpful to the Republican nominee.

Mr. CANNON. I think that Dr. Kirkpatrick is a recognized authority in Oklahoma, from the Senator's statement. He did testify on the Oklahoma patterns. He testified on the results of the 1956 study and the results of the update with the 1974 information. I am sorry to hear the Senator downgrade, or attempt to downgrade, a recognized expert in this field from his own State who has made a study of Oklahoma voting patterns and who has related precisely the voting patterns—I think they went back to the 1930's, up to the present time.

Mr. BARTLETT. Will the Senator yield?

Mr. CANNON. Yes; I shall yield.

Mr. BARTLETT. The Senator was very kind, when I was referring earlier to Dr. Kirkpatrick's evidence and testimony and statements, when I referred to inaccuracies in the material that were included in the record. I shall be happy, in the future, to relate additional examples of inaccuracies in his information. I think it is unfortunate that Dr. Kirkpatrick did give testimony and information to the majority on the Committee on Rules that cannot be borne out by the facts.

Mr. CANNON. Mr. President, it certainly seems to me that it is borne out by the facts. I suggest that the Senator from Oklahoma read Dr. Kirkpatrick's testimony on page 89 and that he review the chart on page 90 that goes back to 1930, and that he read the testimony on page 91. I shall help him with a little bit of it, to be sure that he does listen to part of it:

> The data presented in table 2 confirm the impact of the absence of party 'levers' in Tulsa County in 1974. The amount of ticket-splitting in Tulsa County that year is substantially larger than it had ever been in Tulsa County or the rest of the State in any previous years in over 4½ decades.

That is Dr. Kirkpatrick from Oklahoma. That is using the statistics of the results of the election in Tulsa County in 1974.

> Its value (29.1) is 10.7 percentage points higher in 1974 than ever before in Tulsa County, and ticket-splitting in the remainder of the State was only 4.2 percent higher than ever before.

If that is not using statistics in the State of Oklahoma and in Tulsa County, I certainly do not know what is.

To finish that paragraph,

> In addition, the average ticket-splitting for all observations in table 2 where party levers/circles were used (State balance and Tulsa values without 1974) is 13.6—a full 15.5 points lower than the one current case without party levers.

Now, I yield to the Senator.

Mr. BARTLETT. I thank the Senator and I appreciate his interest in Dr. Kirkpatrick's information. I trust that he will read the information that we have

submitted and areas in which we have pointed out errors and inaccuracies.

As this report that we submitted points out, based on official Oklahoma election returns, Dr. Kirkpatrick simply used the wrong figures in many instances. When the corrected figures are used, it turns out that, contrary to Dr. Kirkpatrick's assertion, there was actually a greater increase in ticket splitting than there was in Tulsa County. I recognize that we can talk about that point right now without either one of us going over the information. But I do want to go over this information with the distinguished Senator from Nevada or ask him to do so and then refute tomorrow my statement that I just made.

Mr. CANNON. I shall certainly be glad to receive and review any additional information the Senator has to submit. But I am reading from the hearing record, as I said, on pages 89, 90, and 91, although I was reading from 91. That relates to table 2 on page 92, and also the information relates to table 1 on page 90, which is helpful, but not precisely the binding factor on that. I shall be glad to review any additional information.

Mr. BARTLETT. I thank the Senator and I shall submit this information to him.

Mr. CANNON. 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. JAVITS. 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. JAVITS. Mr. President, I ask unanimous consent that Charles Warren of my staff may have the privilege of the floor during the consideration of Senate Resolution 356.

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

Mr. JAVITS. Mr. President, I again 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 (Mr. CULVER). Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 12 o'clock noon tomorrow.

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

ORDER FOR RECOGNITION OF CERTAIN SENATORS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders or their designees have been recognized under the standing order, Mr. BARTLETT, Mr. PACKWOOD, and Mr. ROBERT C. BYRD be recognized each for not to exceed 15 minutes, and in that order.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND CONSIDERATION OF UNFINISHED BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of Senators under the orders previously entered, there be a period for the transaction of routine morning business on tomorrow of not to exceed 15 minutes with statements limited therein to 5 minutes each, at the conclusion of which the Senate will resume the consideration of the unfinished business.

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

ORDER TO HOLD H.R. 11700 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 11700, relating to the Internal Revenue Code, be held at the desk until the close of business on Friday, March 5, 1976.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CHANGE OF REFERENCE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent on behalf of Mr. HARTKE that H.R. 8507, a bill to revise the per diem allowance authorized for members of the American Battle Monuments Commission when in a travel status, be discharged from the Committee on Interior and Insular Affairs and referred to the Committee on Veterans' Affairs.

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

Mr. ROBERT C. BYRD. In connection with this matter, I ask unanimous consent that a statement by Mr. HARTKE be printed in the RECORD at this point.

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

STATEMENT OF SENATOR HARTKE

On October 30, 1975, the House Committee on Veterans' Affairs unanimously reported H.R. 8507, a bill to revise the per diem allowance authorized for members of the American Battle Monuments Commission when in travel status. That legislation subsequently passed the House unanimously under suspension of rules on November 4, 1975 and was referred in the Senate to the Committee on the Interior and Insular Affairs, ably chaired by the distinguished Senator from Washington (Mr. JACKSON). Of course, the Veterans' Affairs Committees of both houses conduct general oversight of the operations of the American Battle Monuments Commission. Although the cost impact of this bill is minor—the first full year cost is estimated at less than two thousand dollars—it nevertheless has occasioned considerable interest since there is general agreement that current per diem structures simply do not provide fair reimbursement to members of the American Battle Monuments Commission. Thus, in an effort to expedite action on this measure, which appears to be meritorious, Senator Jackson as Chairman of the Committee on the Interior and Insular Affairs has agreed that he has no objection in having H.R. 8507 discharged from that Committee and referred to the Committee on Veterans' Affairs for appropriate and prompt action.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at the hour of 12 o'clock noon. After the two leaders or their designees have been recognized under the standing order, Mr. BARTLETT, Mr. PACKWOOD, and Mr. ROBERT C. BYRD will be recognized, each for not to exceed 15 minutes, and in that order. Following that, there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes each, at the conclusion of which the Senate will resume consideration of the unfinished business, Senate Resolution 356, a resolution relating to the senatorial contested election in Oklahoma. Also on tomorrow, or soon, it is hoped that the Senate can take up H.R. 7688, an act providing for the continuance of civil government for the Trust Territory of the Pacific Islands; in addition thereto, H.R. 8650, an act to assist low-income persons in insulating their homes, and other measures that may be cleared and ready for action at any time.

ADJOURNMENT

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 12 o'clock noon tomorrow.

The motion was agreed to; and at 5:09 p.m., the Senate adjourned until Wednesday, March 3, 1976, at 12 meridian.

NOMINATIONS

Executive nominations received by the Senate March 2, 1976:

THE JUDICIARY

Gerald L. Goettel, of New York, to be U.S. District Judge for the Southern District of New York, vice Arnold Bauman, resigned.

Charles S. Haight, Jr., of New York, to be U.S. District Judge for the Southern District of New York, vice Murray I. Gurfein, elevated.

CORPORATION FOR PUBLIC BROADCASTING

Louis P. Terrazas, of Texas, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for the re-

mainder of the term expiring March 26, 1978, vice Neal Blackwell Freeman, resigned.

IN THE NAVY

Rear Admiral Patrick "J" Hannifin, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of Title 10, United States Code, Section 5231, for appointment to the grade of vice admiral while so serving.

CONFIRMATION

Executive nomination confirmed by the Senate March 2, 1976:

DEPARTMENT OF THE TREASURY

George H. Dixon, of Minnesota, to be Deputy Secretary of the Treasury.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Tuesday, March 2, 1976*

The House met at 12 o'clock noon.

Rev. Claude E. Smithmier, national chaplain of the American Legion, offered the following prayer:

For our country, its citizens, its leaders and the blessings of freedom, justice and democracy, we thank You, Father.

Bless our Representatives as they seek to maintain a climate where hope, love, and freedom to worship are the right and privilege of every individual.

Enable us to be faithful to the principles upon which America stands. Increase our devotion to the ideals of brotherhood.

Grant us wisdom to seek first Your kingdom that we may enjoy the advantages of our spiritual heritage.

Use us to build a better world where Your will shall prevail and all people work together for common good.

Guide us in our places of responsibility and in our worship of You to know the path that leads to peace for all the Earth. 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 without amendment a bill of the House of the following title:

H.R. 7824. An act to amend section 142 of title 13, United States Code, to change the date for taking censuses of agriculture, irrigation, and drainage, and for other purposes.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

FIDEL GROSSO-PADILLA

The Clerk called the bill (H.R. 6817) for the relief of Fidel Grosso-Padilla.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AUTHORIZING SECRETARY OF THE INTERIOR TO CONVEY CERTAIN LANDS IN MADERA COUNTY, CALIF., TO MRS. LUCILLE JONES

The Clerk called the bill (H.R. 1404) to authorize the Secretary of the Interior to convey certain lands in Madera County, Calif., to Mrs. Lucille Jones, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 1404

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to convey to Lucille Jones, Madera, California, all right, title, and interest of the United States in and to a tract of land in Madera County, California, more particularly described as the northeast quarter of the northwest quarter of section 29; the south half of the southwest quarter of section 20; and the southeast quarter of the southeast quarter of section 19, all in township 9 south, range 20 east, M.D.B. & M., Madera County, California, consisting of one hundred and sixty acres, more or less. Such conveyance shall only be made if Lucille Jones makes application therefor, and, within one year after the date of this Act, makes payment of the fair market value of the land as of the date of this Act, less any enhancement in value brought to the land by Lucille Jones or her predecessors on the land, as determined by the Secretary of the Interior. Lucille Jones shall bear any administrative expenses, including appraisal, filing, and recording fees, arising from the conveyance.

Mr. JOHNSON of California. Mr. Speaker, it is my privilege to sponsor this legislation on behalf of Mrs. Lucille Jones. I have had the pleasure of working with Mrs. Jones for several years in an attempt to clarify ownership of the land which she and her family have occupied since 1893.

The property was originally patented to Mrs. Jones' father in 1893. Recent searches of land records brought to light the fact that the land was returned to the United States under a trespass judgment in 1904. This information was never noted by the Madera County clerk's office which recorded the patent in 1909.

Because the land was listed in the name of Mrs. Jones' father, the family continued to live on the land and paid full and prompt taxes on it up to the present.

Upon learning that the land did, indeed, belong to the United States, she sought to purchase the land which she had always assumed belonged to her family. Because there is no administrative provision which would allow Mrs. Jones to buy the land without having to bid for it in open sale, I have introduced the legislation which has been reported to the House by the Interior and Insular Affairs Committee.

This legislation would not give the land to Mrs. Jones. It simply gives Mrs. Jones the first option to purchase the land. She must pay fair market value for the land and must pay all administrative costs involved.

Mrs. Jones, herself, has lived on and occupied the land in question for approximately 65 years. She, and her father before her, have paid complete taxes on the land. Since the Federal Government has declared the land surplus, Mrs. Jones simply seeks to purchase the land which she knows as home. I think that equity lies with Mrs. Jones on this matter and hope that my colleagues will agree by passing this legislation.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Private Calendar.

REV. CLAUDE E. SMITHMIER

(Mr. FLYNT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLYNT. Mr. Speaker, our guest chaplain today is pastor of Skyland United Methodist Church in Atlanta, Ga., and the national chaplain of the American Legion. Rev. Claude E. Smithmier, a veteran of the Korean war, has also served as his American Legion district chaplain and as chaplain of the Department of Georgia. He has also served in other important positions in the American Legion at the national level, including membership on the National Economic Commission and chaplain of the National Legion Press Commission.

A distinguished theologian, Reverend Smithmier earned a bachelor of science degree from Memphis State University, Memphis, Tenn., a bachelor of divinity degree from the Chandler School of Theology, Emory University, Atlanta, Ga., where he also received his master of divinity in 1972.

Reverend Smithmier is also active in civic matters in his community. He is a member of the board of directors, Greater Atlanta chapter, Memphis State Alumni, a member of the Leroy Duncan Lodge No. 262, F. & A.M., Atlanta, the Sardis Lodge Royal Arch Mason, Atlanta,