mained as part of the Queens section of New York through the 1880's; it was transferred from Oyster Bay in Nassau County to Huntington in Suffolk County in the late 1880's; and then it established an independent identity of its own as one of the towns and villages on Long Island. Fifty years ago, while remaining geographically as a part of the town of Huntington, Lloyd Harbor received a charter and became an incorporated village on its own.

Mr. Speaker, Lloyd Harbor is a community of incredible beauty. It is one of the few as yet unspoiled areas still remaining in the New York metropolitan area. It boasts miles of tree-lined country roads and large estates. It is also an area of beautiful public parks and beaches and a newly acquired center for the teaching and promotion of the arts. It is a community which generously shares its natural and manmade beauty and advantages with its citizens and those of the township in which it is located. It is an entirely residential community whose citizens work hard and take pride in maintaining it in this state.

In this our Bicentennial Year as a nation, the celebration of the incorporation of the lovely village of Lloyd Harbor is entirely appropriate. It is always a pleasure for me to visit Lloyd Harbor and to partake of its traditions and its beauty.

Surely, Ratiocan Sagamore of Cow Harbor started a magnificent chain of events when he sold the Lloyd Neck area for some clothing and trinkets. I know that the coming generations of Lloyd Harbor residents will insure that succeeding anniversaries will be celebrated in a community as beautiful as this. I am grateful that the citizens of Lloyd Harbor asked me to join them in this celebration and I, as their Congressman, hereby pledge to them to work for a continuation of those Federal policies that will contribute to the preservation of communities like Lloyd Harbor, which tend to strengthen rather than destroy our environment.

RUTH HUTCHINS—NORTH HIGHLANDS' ONLY POSTMASTER RETIRES

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. LEGGETT. Mr. Speaker, retirement after many years of devoted service is a common thing in our society. It is highly uncommon, however, to encounter an individual about to retire who is the first and only person to hold the job in which he or she has served. That unusual distinction is due Ruth Hutchins, the only Postmaster in the history of North Highlands, Calif., who announced her retirement last month.

Postmaster Hutchins inaugurated postal service in the new city of North Highlands in July 1951, more than 25 years ago. That first postal operation handled only 45 families, while the current facility serves over 45,000 people and 600 businesses. She has seen the staff of the North Highlands post office grow from the initial two employees to the current total of 49.

Postmaster Hutchins began her 31 years of Federal service at Mather Air Force Base. She joined the postal service in 1947, serving first in Del Paso Heights. She moved from there to Carmichael, and then to the establishment of North Highlands postal facility.

Postmaster Hutchins has been instrumental in the creation and growth of North Highlands and has been cited for her service to the city. She was named North Highlands' outstanding citizen in 1960. The North Highlands Business and Professional Women's Club named her outstanding career woman in 1961. And just this past January, that same organization conferred on her its Woman in History award.

We congratulate Ruth Hutchins on her many years of devoted effort as North Highlands Postmaster, her dedicated service to the city, and the community's recognition of her role in its growth. I hope her retirement years prove to be as beneficial to herself and the community as have her 31 years of Federal service.

TWO-HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago, on September 6, 1776, the Continental Congress appointed Benjamin Franklin, John Adams, and Edward Rutledge to a committee to meet with Lord Howe and discuss possible peace terms. The committee was instructed to determine, "whether Lord Howe has any authority to treat with persons authorized by Congress for that purpose, in behalf of America, and what that authority is, and to hear such propositions as he shall think fit to make respecting the same * * *." Adams strongly opposed the meeting, believing that—

> The attention of Congress, the army, the states and the people, ought to have been wholly directed to the defense of the country. To have it diverted and relaxed, by such a poor artifice and confused tale, appeared very reprehensible.

SENATE—*Friday, September 10, 1976*

The Senate met at 8:30 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

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

O Lord our God who has brought us to this new day, accept the dedication of our lives to the values that are unseen and eternal. Give us minds open to the truth of Thy Word and wills ready to obey Thy guidance. Grant us wisdom to separate the true from the false, the important from the unimportant. In this dismaying era with its light and its darkness light up our pathway into the future. Give us a refined sense of national purpose and destiny. Inspire the citizens of this land to make her great in spirit as she is mighty in power. And may goodness and mercy follow us all our days that we may abide with Thee eternally. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, September 9, 1976, be dispensed with.

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

ORDER FOR CONSIDERATION OF H.R. 15194

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, pending the disposal of the foreign aid and veterans hospital bills, the Senate then turn to the consideration of Calendar No. 1118, H.R. 15194, an act making appropriations for public works employment for the period ending September 30, 1977, and for other purposes.

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

ORDER TO INDEFINITELY POSTPONE S. 3037

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 827, S. 3037, a bill to extend certain authorizations under the Federal Water Pollution Control Act, as amended, be indefinitely postponed.

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

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the action taken earlier today to indefinitely postpone Calendar No. 827, S. 3037, be vitiated, and that S. 3037 be placed on Subjects on the Table.

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

COMMITTEE MEETINGS

SUBCOMMITTEE ON HEALTH

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Subcommittee on Health of the Committee on Labor and Public Welfare be authorized to meet on September 16, 22, and 23 to hold oversight hearings on childhood immunization programs, implementation of NIGH's recent guidelines governing recombinant DNA research, and problems in NIH and FDA management of cell culture lines critical to the manufacture of one type of polio vaccine.

The ACTING PRESIDENT pro tempore. Without objection, the request is granted.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

COMMITTEE ON ARMED SERVICES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Armed Services be permitted to meet today to consider the national stockpile, military manpower, military medical malpractice protection, and the Soldier's and Airmen's Home legislation.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from Michigan seek recognition?

Mr. GRIFFIN. No, Mr. President.

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

MEDICARE AND MEDICAID ANTI-FRAUD ACT

Mr. TALMADGE. Mr. President, on behalf of myself and Senators LONG, RIBICOFF, DOLE, NELSON, GRAVEL, ROTH, MOSS, PACKWOOD, HARTKE, ALLEN, BEALL, BUCKLEY, DOMENICI, EASTLAND, FONG, HOLLINGS, INOUYE, JAVITS, MANSFIELD, MUSKIE, NUNN, PELL, PERCY, RANDOLPH, HUGH SCOTT, STONE, THURMOND, TOWER, TUNNEY, FANNIN, BROCK, BENTSEN, HARRY F. BYRD, JR., HASKELL, HATHAWAY, CHILES, CHURCH, WILLIAMS, and KENNEDY, I introduce today amendments to the medicare and medicaid programs intended to put more teeth into Federal and State efforts designed to detect and punish fraud and abuse in the medicare and medicaid programs.

Congressional hearings and investigations during the past several years have revealed widespread and deep-rooted fraud in medicare and medicaid. More recently, the hearings held by Senator Moss and the Special Committee on Aging, as well as 5 days of hearings held by the Subcommittee on Health of the Committee on Finance, underlined again how pervasive and how costly fraud is.

Fraud cheats virtually all of us. It cheats the taxpayers of this Nation who see billions of dollars going down the drain. It cheats the poor and elderly who often receive what can best be characterized as marginal care from the fast buck artists. It cheats our State and local governments, many of which are desperately trying to maintain fiscal stability. And, it cheats the large majority of health care practitioners and institutions who are doing an honest professional job.

While the large majority of doctors, hospitals, and others are honest, it should be noted that those who practice fraud and abuse receive a disproportionate amount of payments.

I believe that what we need in this country is an administrative and reimbursement system—including effective law enforcement—under which the detection and punishment of fraud and abuse becomes probability instead of only a possibility, as is the case today. Following up on this, I introduced, along with 18 other Senators, a bill designed to bring about comprehensive medicare and medicaid reform. That proposal, S. 3205, is designed to do everything we can within the existing medicare and medicaid structure to bring about necessary tightening up. Perhaps S. 3205 does not go as far as we should go. Perhaps, in the final analysis, some kind of federalization of medicaid is what will be required to assure an equitable and satisfactory program of health coverage for our low-income population. But, S. 3205 represents what I, along with others, believe to be as far as we can go at this point in time in terms of political and fiscal acceptability.

As I have noted, Mr. President, truly basic reforms are required in medicaid and medicare. Perhaps 90 percent of our problems with medicaid stem from a generally ineffective administrative structure. In my opinion, effective administration would resolve most of these problems, including fraud and abuse.

Given the short time remaining until adjournment, it is unrealistic to expect that comprehensive action to bring about these necessary basic reforms can be completed. During the adjournment period, I have instructed our committee staff to continue extensive discussions with outside groups and individuals, as well as with all other congressional committees whose activities relate directly or indirectly to the medicare and medicaid programs. My purpose is to develop a basis for reintroducing S. 3205 in improved form early in the next Congress.

It might be reasonable to ask—What can we do now? Well, Mr. President, what we can do is give a clear, loud signal to the thieves and the crooks and the abusers by making a start now—no matter how small a beginning. The medicare and medicaid antifraud amendments I am introducing today make that point.

First, the bill establishes a Central Fraud and Abuse Unit in HEW, to coordinate and direct all medicare and medicaid antifraud activities. Medicare and medicaid efforts to curb fraud and abuse have been hampered up until now by a lack of coordination and concentration. The Comptroller General of the United States has also recommended the establishment of a Central Fraud and Abuse Unit.

Federal and State prosecutors have been hampered by a lack of sufficient personnel qualified and expert in the investigation of alleged fraudulent activities. The Central Fraud and Abuse Unit would be specifically required to provide such investigative support, at Federal expense, at the request of Federal and State prosecutors.

Under present law, penalties for fraudulent acts and false reporting under medicare and medicaid are misdemeanors subject to fines up to $10,000 and not more than 1 year imprisonment. My bill defines these crimes as felonies punishable by up to 5 years imprisonment and $10,000 fines.

For a number of reasons, factoring firms have flourished in a number of large medicaid programs. The effect of permitting such firms to operate in medicare and medicaid has often been direct inflation of costs of doing business for practitioners and providers, as well as potential and alleged abuse in the handling of medicare and medicaid claims. The bill bans the assignment, directly or indirectly, of medicaid claims to factors.

Our bill would also require disclosure by organizations such as the so-called medicaid mills, to the Secretary of HEW and the Comptroller General of full and complete information as to the owners of these facilities and allocation and division of payments. Additionally, the Secretary of HEW and the States would be required to have contractual agreements with independent laboratories, independent pharmacies, and independent durable medical equipment companies who are paid directly with Government funds under which those organizations would agree to provide access to their books and records pertaining to the billing and paying for goods and services. This is designed to get at the problems of overcharging, kickbacks, and rebates.

Finally, the Secretary of HEW is directed to activate the authorization under present law under which PSRO's may review ambulatory care. At present, PSRO's are mandated to review care provided by or in institutions. They may review out-of-institution care at their request and with the approval of the Secretary. Under the bill, where an operating PSRO requests authority to review care and services in or ordered by the so-called medicaid mills, the Secretary is required to give high priority to such requests, particularly in areas where a substantial number of mills operate. Where a PSRO has not yet been established, or is unable to assume such responsibility, we expect all other Federal and State resources otherwise authorized under law to be actively utilized in halting any fraudulent and abusive practices.

I should also point out that one of the areas on which we will work during the adjournment period is consideration of approaches to make necessary care available in areas where fraudulent or abusive practitioners are put out of business.

I want to reiterate that what I have described is by no means to be construed as a be-all, end-all effort. It is only a start—but a very necessary start.

Mr. President, it is my intention to offer these amendments next Tuesday when the Finance Committee considers H.R. 12961, a House-passed bill which makes a minor change in present medicaid law. I am confident that the Finance Committee and the Senate will act promptly on these amendments so as to assure the American people that we mean business. It is my hope that the House of Representatives will also recognize the urgency of demonstrating that fact.

Mr. President, I now introduce the medicare and medicaid antifraud bill and ask unanimous consent that a summary and the text of the bill appear in the RECORD immediately following these remarks.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred, and, without objection, the bill and summary will be printed in

the RECORD in accordance with the Senator's request.

The text of the bill is as follows:

S. 3801

A bill to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Medicare-Medicaid Anti-Fraud Act".

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Sec. 2. Office of Central Fraud and Abuse Control.
Sec. 3. Prohibition against assignment by physicians and others of claims for services.
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Sec. 5. Penalty for defrauding medicare and medicaid programs.
Sec. 6. Amendments related to professional standards review organizations.

OFFICE OF CENTRAL FRAUD AND ABUSE CONTROL

SEC. 2. (a) Section 702 of the Social Security Act is amended—

(1) by inserting "(a)" immediately after "Sec. 702", and

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

"(b) There shall be established, within the Department of Health, Education, and Welfare, an Office of Central Fraud and Abuse Control. Such Office shall have the overall responsibility for (i) directing, coordinating, monitoring, and establishing policies with respect to the undertaking of activities which are designed to deal with fraud and abuse, at all Federal organizational levels of the various programs established by or pursuant to titles V, XVIII, and XIX, and the renal disease program established by section 226, (ii) initiating and conducting investigations with respect to alleged, actual, or potential fraud or abuse in any of such programs, and (iii) assisting State agencies, at their request, in the establishment and operation of State anti-fraud and abuse activities. Such Office shall also provide all appropriate investigative support and assistance (including temporary delegation and assignment of personnel) to United States attorneys and State law enforcement authorities, upon their request, in the development of fraud cases arising out of any of such programs.

PROHIBITION AGAINST ASSIGNMENT BY PHYSICIANS AND OTHERS OF CLAIMS FOR SERVICES

SEC. 3. (a) Section 1842 (b)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any payment for a service, which under the provisions of the preceding sentence may be made directly to the physician or other person furnishing such service, may not be made to a person claiming such payment under an assignment, including a power of attorney (other than an assignment to a governmental entity or establishment, or an assignment established by or pursuant to the order of a court of competent jurisdiction from such physician or other person furnishing such service); but nothing in this paragraph shall be construed to preclude an agent, of the physician or other person furnishing the service, from receiving any such payment, if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of any such payment is unrelated (directly or indirectly) to the amount of the billings or payments (or the aggregate of similar billings or payments), and is not dependent upon the actual collection of any such payment (or the aggregate of such payments).".

(b) Section 1815 of such Act is amended by adding at the end thereof the following new subsection:

"(c) Any payment for a service, which under the provisions of this title, may be made directly to a provider of service furnishing such service, may not be made to a person claiming such payment under an assignment, including a power of attorney (other than an assignment to a governmental entity or establishment, or an assignment established by or pursuant to the order of a court of competent jurisdiction from the provider of service furnishing such service); but nothing in this subsection shall be construed to preclude any agent, of the provider of service furnishing such service, from receiving any such payment, if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of any such payment is unrelated (directly or indirectly) to the amount of the billing or payment (or the aggregate of similar billings or payments), and is not dependent upon the actual collection of any such payment (or the aggregate of such payments).".

(c) section 1902(a)(32) of such Act is amended—

(1) by inserting "(A)" immediately after "provide that",

(2) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively, and

(3) by adding immediately before the semicolon at the end thereof the following: ", and (B) any payment for a service, which may be made directly to the physician or other person furnishing such service, may not be made to a person claiming such payment under an assignment, including a power of attorney (other than an assignment to a governmental entity or establishment, or an assignment established by or pursuant to the order of a court of competent jurisdiction from such physician or other person furnishing such service); but nothing in this paragraph shall be construed to preclude any agent, of the physician or other person furnishing the service, from receiving any such payment, if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing and/or collection of any such payment is unrelated (directly or indirectly) to the amount of the payment (or the aggregate of similar billings and/or payments) and is not dependent upon the actual collection of any such payment (or the aggregate of such payments).".

(d) The amendments made by subsections (a) and (b) of this section shall take effect on the first day of the first calendar month which begins not less than sixty days after the date of enactment of this Act, and the amendments made by subsection (c) of this section shall take effect on July 1, 1977.

DISCLOSURE OF OWNERSHIP AND FINANCIAL INFORMATION

SEC. 4. (a) Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"DISCLOSURE OF OWNERSHIP AND FINANCIAL INFORMATION

"SEC. 1132. (a)(1) The Secretary shall by regulations (or by contract provision) provide that any entity (other than a public agency) which is—

"(A) a provider or supplier of items or services (including any 'shared health facility', as defined in section 1132, or any practitioner or supplier affiliated with such a facility), which furnishes, or which arranges for the furnishing of, items or services with respect to which payment is claimed under title XVIII, under any program established pursuant to title V, or under a State plan approved under title XIX;

"(B) (i) a party to an agreement with the Secretary entered into pursuant to section 1816 or 1842 (a), or (ii) a party to an agreement, with a State agency administering or supervising the administration of a State plan approved under title XIX, under which such party serves as a fiscal agent for the State in the operation of such plan;

shall promptly comply with any request, made by the Secretary or the Comptroller General of the United States for any or all of the following:

"(C) full and complete information as to the identity (i) of persons having (directly or indirectly) ownership interests in such entity and the nature and extent thereof or who is the owner (in whole or in part) of any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by such entity or any of the property or assets thereof, (ii) in case such entity is organized as a corporation, of each officer and director of the corporation, and (iii) in case such entity is organized as a partnership, of each partner;

"(D) full and complete information as to any business dealings between such entity and persons referred to in clause (C), and

"(E) a consolidated certified costs report with respect to its costs and charges, including costs and charges of related organizations (as that term is employed for purposes of title XVIII);

except that, in the administration of this paragraph, no such request shall be made of an entity described in paragraph (A) if such entity does not furnish a significant volume (as defined by regulations of the secretary) of the items or services referred to in such paragraph.

"(2) (A) If at the close of the sixty-day period which begins on the date a request (as described in paragraph (1)) is made of an entity described in paragraph (1) (A), or (B), such request has not been fully complied with, then—

"(i) in case such entity is an entity described in paragraph (1) (A), the Secretary may notify such entity that no payment will be made to such entity under title XVIII, and no Federal funds shall be available with respect to any expenditures made under or pursuant to title V or XIX (or a program or plan approved thereunder), for or on account of any services furnished by such entity on or after the first calendar month which begins not less than thirty days after the date such notice is sent,

"(ii) in case such entity is an entity described in paragraph (1)(B)(i), the Secretary may notify such entity that any agreement between such entity and the Secretary entered into pursuant to section 1816 or section 1842 is terminated effective on the first day of the first calendar month which begins not less than thirty days after the date such notice is sent, and

"(iii) in case such entity is an entity described in paragraph (1)(B)(ii), the Secretary may notify the State having an agreement with such entity that no Federal funds shall be available with respect to any expenses incurred to compensate such entity for or on account of services performed by it pursuant to such agreement (or any similar agreement) on or after the first calendar month which begins not less than thirty days after the date such notice is sent.

In case the Comptroller General makes a request (as described in paragraph (1)) which is not fully complied with prior to the sixty-day period described in the preceding sentence, then he shall, at the earliest practicable date after the close of such period, advise the Secretary of the fact that

such request was made by him and was not complied with within such period, so that the Secretary may notify the entity involved as provided in clause (i), (ii), or (iii).

"(B) Notwithstanding any other provision of law—

"(i) payments otherwise authorized to be made under title XVIII, and Federal funds otherwise available with respect to expenditures under or pursuant to title V or XIX (or a program or plan approved thereunder) shall be subject to the limitations referred to in a notice sent by the Secretary pursuant to subparagraph (A)(i),

"(ii) agreements referred to in subparagraph (A)(ii) shall be terminated as indicated by the Secretary in a notice sent by him pursuant to subparagraph (A)(ii), and

"(iii) Federal funds otherwise available with respect to expenditures under a State plan approved under title XIX shall be subject to the limitations referred to in a notice sent by the Secretary pursuant to subparagraph (A)(iii);

except that the Secretary, for good cause shown, may terminate the application of such limitation.

"(b) Notwithstanding any other provision of law—

"(1) no payment shall be made on the basis of an assignment of benefits under title XVIII, and

"(2) no Federal funds shall be available under title V or XIX with respect to expenditures made under a State program or plan approved thereunder,

for goods and services furnished, on or after the first day of the first calendar month which begins not less than ninety days after the date of enactment of this subsection, to a patient (directly or indirectly) by any entity which is an independent pharmacy, independent laboratory, or an independent supplier of durable medical equipment unless such entity agrees to give the Secretary or in the case of title XIX the State agency under which such entity agrees to provide to the Secretary (or any authorized officer or employee of the Department of Health, Education, and Welfare) and to the Comptroller General reasonable access to the books and records thereof which pertain to the provision of billing and payment for goods and services supplied or rendered by such entity.".

(c) Part A of title XI of such Act is amended by adding after section 1132 thereof (as added by subsection (a) of this section) the following new section:

"SHARED HEALTH FACILITY

"SEC. 1133. For purposes of this Act, the term 'shared health facility' means any arrangement whereby two or more health care practitioners, one or more of whom receives payment on a fee for service basis under titles V, XVIII, and XIX of this Act which are substantial in amount (as determined in accordance with regulations of the Secretary)—

"(1) practice their professions at a common physical location; or where a substantial number of the patients of one or more practitioners are referred to such practitioner(s) by other practitioners or persons at a common physical location;

"(2) share (i) common waiting areas, examining rooms, treatment rooms or other space, (ii) the services of supporting staff, or (iii) equipment, and

"(3) a person other than all of such practitioners is in charge of, controls, manages, or supervises, substantial aspects of the arrangement or operation for the delivery of health or medical services at such common physical location, other than the direct furnishing of professional health care services by such practitioners to their patients, or a person makes available to such practitioners the services of supporting staff who are not employees of such practitioners; except that such term does not include a provider of services (as defined in section 1501(u)) or a health maintenance organization (as defined in section 1876). "or an arrangement under which two or more health care practitioners practice their profession as a partnership, professional service corporation, or other legal entity, if members of the supporting staff are employees of such legal entity and in case there is an office manager, or person with similar title, he is an employee of the legal entity whose compensation is customary and not excessive for such services and there is no person described in clause (3).".

(d) The amendments made by this section shall, except as otherwise specified therein, take effect on January 1, 1977.

PENALTY FOR DEFRAUDING MEDICARE AND MEDICAID PROGRAMS

SEC. 5. (a) Section 1877 of the Social Security Act is amended—

(1) in subsection (a) thereof—

(A) by striking out "misdemeanor" and inserting in lieu thereof "felony",

(B) by striking out "one year" and inserting in lieu thereof "five years", and

(2) in subsection (b) thereof—

(A) by inserting "or arranges for the furnishing of" immediately after "Whoever furnishes",

(B) by inserting "(in cash or in kind)" immediately after "kickback or bribe",

(C) by inserting "or arrangement for the furnishing" immediately after "in connection with the furnishing",

(D) by striking out "rebate of any fee or charge" and inserting in lieu thereof "rebate of any fee, charge or portion of any payment, in cash or in kind,",

(E) by inserting "or arrangement for the furnishing" immediately after "another person for the furnishing".

(F) by striking out "misdemeanor" and inserting in lieu thereof "felony", and

(G) by striking out "one year" and inserting in lieu thereof "five years", and

(3) in subsection (c) thereof—

(A) by striking out "misdemeanor" and inserting in lieu thereof "felony",

(B) by striking out "$2,000" and inserting in lieu thereof "$10,000", and

(C) by striking out "6 months" and inserting in lieu thereof "five years".

(b) Section 1909 of such Act is amended—

(1) in subsection (a) thereof—

(A) by striking out "misdemeanor" and inserting in lieu thereof "felony", and

(B) by striking out "one year" and inserting in lieu thereof "five years", and

(2) in subsection (b) thereof—

(A) by inserting "or arranges for the furnishing of" immediately after "Whoever furnishes",

(B) by inserting "in cash or in kind" immediately after "kickback or bribe",

(C) by inserting "or arrangement for the furnishing" immediately after "in connection with the furnishing",

(D) by striking out "rebate of any fee or charge" and inserting in lieu thereof "rebate of any fee, charge, or portion of any payment, in cash or in kind,",

(E) by inserting "or arrangement for the furnishing" immediately after "another person for the furnishing",

(F) by striking out "misdemeanor" and inserting in lieu thereof "felony", and

(G) by striking out "one year" and inserting in lieu thereof "five years", and

(3) in subsection (c) thereof—

(A) by striking out "misdemeanor" and inserting in lieu thereof "felony",

(B) by striking out "$2,000" and inserting in lieu thereof "$10,000", and

(C) by striking out "6 months" and inserting in lieu thereof "five years".

AMENDMENTS RELATED TO PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 6. (a)(2) Section 1155(g) of the Social Security Act is imended by adding at the end thereof the following new sentence: "The Secretary, where a Professional Standards Review Organization (whether conditional or otherwise) requests review responsibility with respect to services furnishd in shared health facilities, shall give priority to such request, with the highest priority being assigned to areas with substantial numbers of shared health facilities.".

(b) Section 1861(w)(2) of such Act is amended by inserting "under part B of this title or under" immediately after "entitled to have payment made for such services under".

(c) Section 1158 of such Act is amended by adding at the end thereof the following new subsection:

"(c) Where a Professional Standards Review Organization (whether conditionally or unconditionally designated) is found competent by the Secretary to assume review responsibility with respect to specified types of health care services or specified providers or practitioners of such services and is performing such reviews, determinations made pursuant to paragraphs (1) and (2) of section 1155(a) in connection with such reviews shall constitute the conclusive determination on those issues for purposes of payment under this Act, and no reviews with respect to such services, providers or practitioners shall be conducted by agencies and organizations which are parties to agreements entered into by the Secretary pursuant to section 1816, carriers which are parties to contracts entered into by the Secretary pursuant to section 1842, or State agencies administering or supervising the administration of State plans approved under title XIX.".

(d) Section 1152 (e) of such Act is amended—

(1) by inserting "(1)" immediately after "(e)", and

(2) by adding at the end thereof the following new paragraph:

"(2) Such a waiver shall not be required where the Secretary finds a Professional Standards Review Organization to be competent to assume review responsibilities with respect to specified providers of health care services. Upon such an assumption of review responsibilities by a Professional Standards Review Organization, the following provisions of this Act (to the extent they involve duplicative review and certification activities) shall (to the extent otherwise applicable) not (except to the extent otherwise specified by the Secretary) be applicable:

"(A) the provisions with respect to physician certifications required under section 1814 (a) (2) through (7), (h), and (i), and section 1835 (a) (2),

"(B) the provisions with respect to utilization review plans required under section 1861 (e) (6) and (j) (8),

"(C) the provisions with respect to medical evaluation and audit procedures required under section 1861(j)(12), and

"(D) the provisions of section 1902(a) (26), (30), (31), and (33), and section 1903 (g) and (i) (4).".

(e) Section 1166 of such Act is amended by redesignating subsection (b) thereof as subsection (c), and by inserting immediately after subsection (a) the following new subsection (b):

"(b) A Professional Standards Review Organization shall: provide data and information to the responsible State and Federal agencies to assist such agencies in identifying or investigating suspected cases or patterns of fraud or abuse.

(f) Section 1155(b)(3) of such Act is amended by inserting "or abstract" after "examine".

(g) Section 1160(b)(1) is amended by striking out "practitioners or providers" wherever it appears and inserting in lieu thereof "health care practitioners or any hospital, or other health care facility, agency or organization".

(h) Section 1168 of such Act is amended by inserting, immediately after the first sentence thereof, the following: "Nothing herein shall be construed to authorize or require any contribution by a State (or any political subdivision thereof) toward, or as a condition of the availability for purposes of the administration of this part, of any of the funds described in clause (c) of the preceding sentence.".

SUMMARY OF PROPOSED TALMADGE MEDICARE AND MEDICAID ANTI-FRAUD AMENDMENTS

The initial section of the bill establishes within the Department of Health, Education and Welfare an Office of Central Fraud and Abuse Control. This unit would have overall responsibility to direct, coordinate and make policy with respect to fraud and abuse monitoring and investigation at all organizational levels in Medicare and Medicaid. Unit personnel could also initiate and conduct investigations of alleged fraud and abuse.

To meet the needs of U.S. Attorneys and State prosecutors, the unit, at the request of prosecutors, would be required to provide all appropriate investigative support and assistance, including temporary assignment of Federal personnel to assist U.S. and State prosecutors in the development of fraud cases arising out of Medicare and Medicaid.

The bill clarifies that the prohibition against assigning Medicare and Medicaid claims to third parties, such as factoring firms, also applies to situations where a hospital or doctor tries to bypass the prohibition by using a power of attorney. This is a problem which has been highlighted in recent hearings with respect to Medicaid mills in New York City, as well as in Medicaid activities in Illinois.

The bill would require disclosure by providers and suppliers of services under Medicare and Medicaid—including so-called Medicaid mills—to the Secretary of HEW and the Comptroller General of full and complete information as to the owners of the facilities; those sharing in the proceeds or fees; business dealings between the facilities and owners, and certified cost reports.

This section would also require the Secretary and the States to have agreements with independent laboratories, independent pharmacies and independent durable medical equipment suppliers, who are paid directly with Government funds, under which such organizations would agree to provide access to their books and records pertaining to billing and paying for goods and services. This is similar to the type of information which hospitals and nursing homes are now required to provide. Additionally, Federal personnel and the Comptroller General would have direct access to provider records under Medicaid on a basis similar to the access which State Medicaid program people now have.

These provisions will facilitate the identification of exploitive and self-dealing arrangements. It will enable Federal and State investigative personnel and prosecutors to secure under law information indicating the presence or absence of a fraudulent or abusive financial arrangement.

Currently the penalties for fraudulent acts and false reporting under Medicare and Medicaid are defined as misdemeanors subject to fines of up to $10,000 and not more than one year imprisonment. A section of the bill changes these penalties to define such crimes as felonies punishable by up to five years' imprisonment and $10,000 fines.

Professional Standards Review Organizations (PSRO's) are required under present law to review hospital care. However, under law, where a PSRO requests responsibility for review of other types of health services under Medicare or Medicaid, the Secretary of HEW is authorized to delegate that responsibility to the PSRO. To date, because of delays in program funding and implementation, operating PSRO's are almost wholly concentrated in reviewing inpatient hospital care. A section of the bill would require the Secretary to give priority to requests from a PSRO which desires to undertake review of care in "shared health care facilities"—the so-called Medicaid mills. The Secretary would give highest priority to requests from PSRO's in areas with substantial concentrations of these "shared health care facilities". The effect of having the PSRO voluntarily assume this responsibility for "shared facility" review might well result in determinations by the physicians of the PSRO that the care or patterns of practice of given practitioners do not meet professional standards or that care and services being provided are not medically necessary. Such findings by the PSRO preclude payment of Federal funds for the care and can also result in PSRO recommendation of suspension of eligibility to participate in Medicare or Medicaid. These latter provisions are sanctions available to the PSRO under present law which would be available in their review of care in "shared health care facilities." The PSRO would also be authorized, in cases where it encounters possible fraud, to refer such cases to appropriate State and Federal law enforcement agencies as well as to the Secretary of HEW.

The provision further clarifies that, where the Secretary has delegated review responsibility to a PSRO, this review is binding for both Medicare and Medicaid; all other duplicative review requirements under other provisions of law terminate; and reiterates the legislative intent that the costs of PSRO operation are to be financed wholly by the Federal Government with respect to Medicare and Medicaid review activities.

Mr. TALMADGE. I also ask unanimous consent that a statement prepared by the Senator from Kansas (Mr. DOLE), who is a cosponsor of this measure, be printed in the RECORD.

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

STATEMENT BY SENATOR DOLE

As Ranking Minority Member of the Finance Committee's Subcommittee on Health, I am especially pleased to join my good friend and distinguished colleague from Georgia—who chairs that panel—in introducing this legislation today. With all the support it is certain to receive, there is every reason to believe it can be the impetus for eventual elimination of the fraud and abuse which has plagued our Medicare and Medicaid programs—and resulted in the waste of billions of tax dollars.

We have been looking at exactly that problem for more than a year now, and view this measure as just a beginning of the type of reform which may be required to get some degree of control in this area. Since the responsibility for what has taken place over the past ten years must be shared by the Congress, the Executive branch, and the States, it would be both unfair and inaccurate for anyone to suggest that our proposal represents a criticism of any particular level of authority.

In that regard, I should point out that credit is certainly due Senator Talmadge and the leaders of other Congressional Committees for their recent work to expose and deal with the abusers of these programs head-on. Moreover, it is significant and reassuring that some meaningful steps have been taken at the state level to reduce the mismanagement and eliminate the dollar-soaking exploitation of Medicare and Medicaid.

I also want to note that the Department of Health, Education, and Welfare and the Administration has identified the elimination of fraud and abuse as one of their highest priorities. In fact, Secretary Mathews held a news conference on March 26 of this year to outline the efforts he had taken, or planned to take, to address the problem.

The first of these was an October 1974 departmental recommendation for 108 new positions in Medicaid fraud and abuse control. These were formally requested in February 1975 and subsequently granted in January 1976. That same month, additional slots were also approved in the Office of Investigations.

In November 1975, HEW established a new independent Office of Investigations—reporting directly to the Undersecretary—with Medicaid fraud and abuse specifically in mind. A division of fraud and abuse control was established in Medicaid this past March, with 119 staff people assigned to it.

The first review team from that office went to the State of Massachusetts just three months later, and has almost completed its examination there. A second team is now in Ohio, and a third will begin a review this October in Georgia.

It is important to note that all these assistance efforts have been at the invitation of the respective governors involved. Moreover, further reviews are planned in the very difficult states of Pennsylvania, Illinois, and New York, as the new examiners gain experience.

In recent New York investigations, HEW supplied 10–20 manyears of investigative support ot U.S. attorneys. This resulted in the indictments of roughly thirty providers, the majority of whom have pleaded guilty.

To ensure better coordination between Medicare and Medicaid in detecting fraudulent or abusive practices, new regulations have been developed and published. An automated Medicaid management information system—which is critical not only to the detection effort, but also to general management—has been put in place in ten states with 20 more taking steps to follow.

Today's legislation will complement these initiatives and substantially strengthen the Administration's hand in solving the fraud and abuse problem. Without expecting too much in the way of overnight progress, it will also provide new encouragement to the medical societies and their related review organizations who have been frustrated over the inability to effectively deal with those who taint their profession through intentional manipulation of the Medicare and Medicaid programs.

I would caution that this is only the beginning, however, for we must further concern ourselves on a comprehensive basis with all administrative and reimbursement aspects of the federal health spectrum. We must find a reliable means of controlling both the quality and the cost of subsidized health care generally.

Medicare and Medicaid will cost taxpayers more than $38 billion in fiscal year 1977—an increase of $7 billion over fiscal 1976. As Senator Talmadge so appropriately pointed out during our July Finance Committee hearings, the expenditures for these programs are outstripping the rate of rise in federal revenues to the point that we must either make Medicare and Medicaid more efficient, or turn to two other unacceptable alternatives—a reduction in benefits or an increase in taxes.

On February 25, 1976, President Ford submitted to Congress the Financial Assistance for Health Care Act, which could resolve a number of the problems affecting the Medicaid program by more clearly defining administrative responsibilities within it. Under that proposal, the federal government would provide financial assistance to each state under a formula arrangement, related to the number of low income people residing within its boundaries.

At the same time, states would have a clear and unmistakable responsibility and authority for designing, implementing, and auditing their own programs. As we have learned from our recent studies on the matter, it has been the duplicative—and in some states, such as New York, the three-way—management or mismanagement which has

invited exploitation and made control next to impossible.

We are including nothing specific in this bill to mandate a stepped-up enforcement effort per se. It would certainly be our hope and expectation, however, that the Justice Department might take some meaningful action on its own to give the problem the attention it deserves.

Presumably, this could be done administratively by creating within its criminal division a prosecutory counterpart to the HEW investigative unit. Initial discussions have already been conducted on this subject, I have been informed, with a view toward developing mutually supportive systems.

Even though being introduced less than a month before we are scheduled to adjourn, I believe this measure has an excellent chance of being enacted. I am going to urge the President to support it, and I have every reason to believe he will view it as a constructive attempt to translate the same concerns he has expressed into a partial solution.

Again, I compliment Senator Talmadge for his devotion to the fraud and abuse problem as well as his close attention to the larger challenge of health care financing. I take pride in the cosponsorship with him of this bill and welcome the opportunity to assist in attaining its final passage during the remaining weeks of the 94th Congress.

Mr. PERCY. Mr. President, as cosponsor of S. 3205, the Medicare and Medicaid Administrative and Reimbursement Reform Act, I would like to commend Senators TALMADGE and DOLE for their introduction of the medicare and medicaid antifraud bill today. The entire Finance Committee deserves full support for its prompt and effective response to the appalling revelations of medicaid fraud, abuse and maladministration that the Subcommittee on Long-Term Care of the Special Committee on Aging unveiled last week. Let the introduction of this bill act as a warning to the unscrupulous that Congress does not intend to allow medicaid fraud and abuse to continue its reprehensible exploitation of the sick and the poor, not to mention the taxpayer who is paying the bill.

For some time I have followed and worked closely with the Finance Committee in its efforts to correct the shortcomings in the medicare and medicaid programs. I am pleased to note that my 1974 request for a Finance Committee investigation of fraud and abuse in the Illinois medicaid program has in part led to this much needed antifraud bill.

As ranking minority member of the Aging Committee's Subcommittee on Long-Term Care, I have been involved in some 30 subcommittee hearings since 1969, as well as numerous investigations on the subject of medicare-medicaid fraud and abuse. The most recent subcommittee hearings have been especially devastating. They have probably stimulated more public interest than any such hearings to date. Senator Moss, chairman of the subcommittee, is to be commended for generating much of this interest by his personal participation in the investigation.

The revelations of the subcommittee hearings on medicaid fraud have shaken public confidence in the medicaid program, the Federal Government and the medical profession. Public confidence, however, may be mended if Congress acts with vigor. Prompt action on the antifraud bill introduced today would go a long way, I think, toward allaying public distrust of the medicaid program and the medical profession. In our actions we must keep in mind that not all medical practitioners nor all health care providers who participate in the medicaid program are "rip-off artists." We should also keep in mind that the medicaid program has in large part provided health care to the poor and indigent who otherwise could not afford any care.

At the recent hearings I stated an emphatic hope that the hearings would act as a catalyst to finally bring about badly needed legislative and administrative reform of the medicaid program so that intended beneficiaries could receive quality health care at a reasonable cost. Furthermore, I pledged to do everything possible to expedite the enactment of the Medicare-Medicaid Administrative and Reimbursement Reform Act so that we could put to rest the need for further hearings on medicaid fraud. Obviously Senators TALMADGE and DOLE responded to my hope with the introduction of the medicaid antifraud bill.

Admittedly, the bill is only the first step toward the elimination of medicare-medicaid fraud, but it provides a foundation upon which subsequent and more comprehensive antifraud legislation can be built. The bill would at least rectify major flaws in the present medicaid law, would close several loopholes that many health care providers have been using to manipulate the medicaid system and, in addition, would make medicaid fraud a felony punishable by up to 5 years' imprisonment and a $10,000 fine.

A legislative solution alone, however, is not enough to eliminate fraud in the medicaid program. In 1972, measures providing criminal penalties for committing fraudulent acts or making false reports under medicare and medicaid were included in the Social Security Act, but only recently has anyone been prosecuted and convicted for defrauding the medicaid program. Prosecution and conviction rates, moreover, have been dismal. Lax enforcement of these laws can no longer be tolerated, particularly in view of the program's escalating costs and increasing fiscal drain on the taxpayer.

The fact that the 10-year medicaid program has seen a tenfold increase, from a $1.5 billion program in fiscal year 1966 to a $15 billion program today, compels immediate action. The time has come for all concerned—Federal and State governments, law enforcement agencies and the medical profession—to coordinate their efforts and work toward implementing an administratively efficient and economically sound medicaid program that can deliver quality health care to its beneficiaries. Only after we have resolved the problems of fraud, abuse and maladministration in the medicaid program can we begin to consider the enactment of much needed national health insurance.

ORDER OF BUSINESS

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Under the previous order, the Senator from Wisconsin (Mr. NELSON) is recognized for not to exceed 15 minutes.

ARMS SALES

Mr. NELSON. Mr. President, 3 days ago, I submitted resolutions of objection calling upon Congress to act to examine a disturbing package of 37 separate reports from the administration informing the public that it intends to offer to sell arms to 11 separate states for a total dollar figure of $6.024 billion. These reports were sent to Congress pursuant to the 1974 law which provides for congressional oversight and veto over the sale of U.S. arms overseas.

The administration is attempting to get Congress to approve its latest arms package, on the basis of flimsy justification that is totally inappropriate to the magnitude of the impact these sales would have on U.S. security and peace in the world.

The administration's desire to make these sales will obligate the United States to sell the equivalent of 13.7 percent of all sales made by this country in the past quarter century. What is most troublesome about the administration's plans is that the record of the past several years yields shocking evidence that the conduct of America's arms sales policy is simply in a shambles. For some time now, but during the past 6 years in particular, we have witnessed an exponential growth in the volume of military equipment sold abroad by the United States. In fiscal year 1975, U.S. military sales orders totaled $9.5 billion. If last week's announcement stands unchallenged, the 1976 fiscal year total will reach $14.4 billion. Only 6 years before, in 1970, the foreign military sales program accounted for less than $1 billion worth of equipment. That means we have increased transfers 14 times in 6 years. The United States has firmly established itself as far and away the world's largest arms merchant. According to figures supplied by the Arms Control and Disarmament Agency, from 1965–74, inclusive, the United States delivered $31,563,000,000 in arms transfers around the globe—more than the rest of the world's major suppliers combined.

Paralleling this rapid growth in the sheer volume and cost of arms sales has been a steady tendency for the United States to sell increasingly destructive and sophisticated military equipment. We are selling some of our most advanced weapons, even before our own Armed Forces are fully supplied—as in the case of the sale of 80 F–14's to Iran and now in the sale that the President proposes to make of 160 F–16 aircraft to Iran with a total dollar value of $3.8 billion.

Additionally, the major recipients of U.S. arms have dramatically changed. A program originally designed to assist major NATO allies has become the chief

means by which many nations of the so-called Third World acquire weapons. More than half of our foreign military sales in recent years have been made to nations of the newly oil-rich Persian Gulf and Mideast. Such sales have major foreign policy implications, but there is little if any evidence that the administration has given adequate thought to the long-range diplomatic or military consequences of such weapons transfers.

Regrettably, last week's handling of the $6 billion new arms sales announcement only serves to provide further evidence that the administration is too busy making sales to bother about making policy. In the statement I made several days ago, I questioned the executive branch's examination of these plans by pointing out the chaotic manner in which it transmitted its $6 billion arms sales packet to the Committee on Foreign Relations. I referred to a number of sudden, unexplained cost changes and a million dollar clerical error in contracts for Saudi Arabia. Since then, further evidence has come to light.

For example, there was a $400 million discrepancy between the initial and final total values of the 160 F-16 aircraft sale to Iran. In addition, the administration had coordinated its work so poorly that there was a difference of three in the total number of transactions that the State Department said would be sent to the Congress and total number of transactions that the Department of Defense had alerted the committee to expect. The two contradictory messages emanating from the executive branch were conveyed to the committee on the same day.

Mr. President, the executive branch is well supplied with manpower in the arms sales field who are working in various offices, bureaus, and divisions of the different services of the Pentagon and in the State Department, National Security Council, Office of Management and Budget, and Arms Control and Disarmament Agency. However, merely observing the manner in which notice of these proposed sales was transmitted to the Congress causes one to question how well the executive branch has conducted its examination of its arms sales plans.

Discovery of the various errors should lead us to probe further the rationale for these sales. And here too, Mr. President, we will find little comfort. The scores and scores of individuals devoting their full time and energy to the arms sales program have come up with the scantiest of reasons for making these sales which have major diplomatic and security consequences for the United States and the rest of the world. The rationales which the administration has voluntarily provided Congress are merely technical explanations of the military requirements of the recipient nations. Those questions beg other, more significant questions—the implications of the sales for the diplomatic relations between the United States and the buying nations.

The Arms Export Control Act under which Congress is beginning to have an oversight capability in the arms sales program lists 12 important questions which any policymaker should have answered before proposing the sale. Congress is entitled by law to have the administration provide answers. The list reads:

"(A) a detailed description of the defense articles or services to be offered, including a brief description of the capabilities of any defense article to be offered;

"(B) an estimate of the number of officers and employees of the United States Government and of United States civilian contract personnel expected to be needed in such country to carry out the proposed sale;

"(C) the name of each contractor expected to provide the defense article or defense service proposed to be sold (if known on the date of transmittal of such statement);

"(D) an analysis of the arms control impact pertinent to such offer to sell, prepared in consultation with the Secretary of Defense;

"(E) the reasons why the foreign country or international organization to which the sale is proposed to be made needs the defense articles or services which are the subject of such sale and a description of how such country or organization intends to use such defense articles or services;

"(F) an analysis by the President of the impact of the proposed sale on the military stocks and the military preparedness of the United States;

"(G) the reasons why the proposed sale is in the national interest of the United States;

"(H) an analysis by the President of the impact of the proposed sale on the military capabilities of the foreign country or international organization to which such sale would be made;

"(I) an analysis by the President of how the proposed sale would affect the relative military strengths of countries in the region to which the defense articles or services which are the subject of such sale would be delivered and whether other countries in the region have comparable kinds and amounts of defense articles or services;

"(J) an estimate of the levels of trained personnel and maintenance facilities of the foreign country or international organization to which the sale would be made which are needed and available to utilize effectively the defense articles or services proposed to be sold;

"(K) an analysis of the extent to which comparable kinds and amounts of defense articles or services are available from other countries;

"(L) an analysis of the impact of the proposed sale on United States relations with the countries in the region to which the defense articles or services which are the subject of such sale would be delivered; and

"(M) a detailed description of any agreement proposed to be entered into by the United States for the purchase or acquisition by the United States of defense articles, services, or equipment, or other articles, services, or equipment of the foreign country or international organization in connection with, or as consideration for, such letter of offer, including an analysis of the impact of such proposad agreement upon United States business concerns which might otherwise have provided such articles, services, or equipment to the United States, an estimate of the costs to be incurred by the United States in connection with such agreement compared with costs which would otherwise have been incurred, an estimate of the economic impact and unemployment which would result from entering into such proposed agreement, and an analysis of whether such costs and such domestic economic impact justify entering into such proposed agreement.

Mr. President, I would hope that the Committee on Foreign Relations would require the administration to respond in some depth to the above questions which are part of the statute.

My purpose in proposing the legislation under which these sales are now to be evaluated was to make Congress an active partner in this vital field of foreign policy. There must be open debate and public understanding of the foreign policy impact of these major arms sales. Do these sales serve the best interest of the United States? Do they promote world peace and stability? Is it doubtful that the administration has made any careful studies of the long- or even short-range impact of these sales?

This is the important challenge thrust upon the Foreign Relations Committee, because of its special expertise, and ultimately upon the Congress itself.

Thirty days is much too short a time for consideration of this massive sale to 11 nations. But I am satisfied the committee will do its best within the time constraints of the statute.

Possibly the most important conclusion the committee may reach is that the law should be modified to give Congress more time to evaluate and consider these military sales. It seemed to me when I introduced the legislation that a longer time was required but the Congress thought it was unnecessary to have a longer period for consideration.

Given the administration's tactic of sending a massive $6 billion proposal hours after the Labor Day recess, it is obvious that this issue of time must be reconsidered. None of us, of course, anticipated that the administration would thrust upon us a sales proposal this huge in so short a time. Therefore, I would suggest that Congress give further consideration to the proposal made in the original legislation—that Congress have 30 days in continuous session to consider major sales. But even in light of what the administration has done, it is doubtful that that would be sufficient.

Requiring answers to these questions under the Arms Export Control Act is not a hollow exercise. We have much too much evidence that the administration has failed in the past to evaluate the consequences of its past actions which have set in motion a juggernaut which it calls its "arms sales policy."

On August 2, 1976, the Committee on Foreign Relations filed an excellent report on U.S. military sales to Iran, which is a damning indictment of the sum total of the administration's past few years of ad hoc decisions based on its open-ended commitment to let Iran buy "virtually any conventional weapons it wanted."

Mr. President, I ask unanimous consent to have printed in the RECORD at the end of my remarks a summary of that report, entitled "Arms Sales to Iran: An Analysis," which appeared in the August 31, 1976, edition of the Washington Post.

An important aspect of this commitment—President Nixon's decision to let Iran purchase F-14 aircraft—was documented by CBS News on August 27 in a report entitled, "The Selling of the F-14." Mr. President, I also ask unanimous consent to have the transcript of that broadcast printed in the RECORD at the end of my remarks.

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

Mr. NELSON. Mr. President, the administration seems to have more manpower than willpower, particularly if

you look at what is happening on the Persian Gulf. Since May of last year, the executive branch has been batting around a NSSM—National Security Staff Memorandum—on arms sales. The study has apparently been abandoned after bogging down in the bureaucratic echelon below the Secretary of State level. It would appear that that will also be the fate of a comprehensive study on the Persian Gulf which has been in the works for months. In any case, the lack of a comprehensive analysis and a lack of coherent planning has not hampered the arms sales momentum which has reached breakneck speed.

The administration was more than willing to stop arms sales to Israel for almost a year during its so-called reassessment last year. However, in marked contrast, the administration has continued feeding the Persian Gulf nation's appetite for arms in spite of the fact that assessments have been in the works over the past year or so. The willy nilly, roller coaster sale of arms throughout the world must be replaced by a cautious controlled and well-coordinated program which has followed an indepth dialog among all branches of the government.

EXHIBITS 1 AND 2

ARMS SALES TO IRAN: AN ANALYSIS

(The Senate Foreign Assistance Subcommittee's staff report on U.S. military sales to Iran appeared on Aug 2, just before Secretary of State Kissinger arrived in Tehran for talks with the Shah. It set off renewed controversy over American arms shipments to the Middle East. These excerpts are taken from the report's findings:)

Iran has purchased large quantities of some of the most sophisticated equipment in the U.S. inventory including the F-14 Tom Cat fighter and the DD993 modified spruance Class destroyer. the F-14 system is so compliated that the United States Navy is having major difficulty keeping it operational; Iran's Spruance Class destroyer will be even more sophisticated than those being procured by the U.S. Navy. Iran is already the dominant military power in the Persian Gulf area. Upon delivery between now and 1981 of equipment ordered to date, Iran, on paper, can be regarded as a regional superpower. Although future purchases of new U.S. equipment and related services are likely to decline in absolute terms from the fiscal year 1974 and 1975 levels, any additional sales will add to an aready sizeable inventory.

Iran is considering the purchase of additional sophisticated equipment such as the F-16 or F-18 and AWACS aircraft;

To pay for new systems and complete its planned purchases of such systems as the Spruance Class destroyer, Iran has proposed barter arrangements (weapons for oil) to compensate for a reduction in normal oil revenues;

The government of Iran is attempting to create an extremely modern military establishment in a country that lacks the technical, educational and industrial base to provide the necessary trained personnel and management capabilities to operate such an establishment effectively. Iran also lacks experience in logistics and support operations and does not have the maintenance capabilities, the infrastructure (port facilities, roads, rail nets, etc.), and the construction capacity to implement its new programs independent of outside support.

Most informed observers feel that Iran will not be able to absorb and operate within the next five to ten years a large proportion of the sophisticated military systems purchased from the U.S. unless increasing numbers of American personnel go to Iran in a support capacity. This support alone may not be sufficient to guarantee success for the Iranian program;

The schedule for virtually every major program except equipment deliveries to the point of entry into Iran has slipped considerably due to the limitations noted above;

In the face of immense obstacles, our investigation indicated that the Iranian armed forces are making a maximum effort to ensure the success of the modernization program; their efforts, however, are hampered because of rapid expansion in the civilian sector as well. The military, for example, has difficulty in matching civilian salary offers to the growing, but still insufficient numbers of trained personnel.

The 1972 decision by President Nixon to sell Iran the F-14 and/or the F-15 aircraft and, in general, to let Iran buy anything it wanted effectively exempted Iran from arms sales review processes in the State and Defense Departments. This lack of policy review on individual sales requests inhibited any inclinations in the embassy, the U.S. military mission in Iran (ARMISH-MAAG), or desk officers in State and DOD to assert control over day-to-day events; it created a bonanza for U.S. weapons manufacturers, the procurement branches of the three U.S. services and the Defense Security Assistance Agency.

Between 1973-75, the activities of U.S. arms salesmen, official and private, were not closely supervised by executive branch officials charged with doing so, or by the Congress;

Each of the U.S. services, particularly the Air Force and Navy, was trying to sell equipment for its own reasons, usually to lower per-unit costs of its own procurements or to recoup part of its prior research and development investment. On occasion, the services fiercely competed with each other for sales to Iran, e.g. the Air Force and Navy to sell the F-15 and F-14 respectively;

The services often did not inform the Iranians of the full extent of the training, logistics, and maintenance implications of the systems they were trying to sell. Thus Iran may have been unaware of the complexities involved in translating its purchases into an effective fighting force. Problems in all of these areas are very serious;

Discussions both in Washington and Iran have confirmed that until recently U.S. appreciation of the management problems of the arms programs in Iran was extremely limited;

Secretary Schlesinger's decision to appoint a senior civilian Defense Representative in Iran in September, 1975, to oversee and coordinate U.S. military programs in Iran is considered by virtually everyone to be a positive and necessary development, given the chaos and problems that had emerged in program management and implementation. Nevertheless, until there is clear policy direction and effective program management in Washington, the problems in the field (Iran) will continue. Deputy Secretary Ellsworth issued a directive in February, 1976, that he hopes will ensure coordination and policy direction within the DOD;

Evidence gathered indicates that the Iranian arms sales program is not yet fully under control. Only with more effective control from Washington and the inherent propensity of civilian contractors and U.S. armed services to sell in an unrestrained manner be curbed.

The presence of large and growing numbers of Americans in Iran has already given rise to socio-economic problems. Although many of these have proven to be manageable, they could become worse should there be a major change in U.S.-Iranian relations.

On the whole, U.S.-Iranian personal relationships are excellent, if somewhat formal;

We were told that some of the early problems were due to the presence of large numbers of young, single American male civilians without adequate recreational outlets. Decisions by some of the private companies to limit the number of unattached male employees have improved social relations, especially in more traditional cities such as Isfahan;

There are many other foreigners in Iran as well as Americans, including British, German, South Korean, French, Filipino, Indian and Pakistani;

Anti-Americanism could become a serious problem in Iran, as it has elsewhere, if there were to be a change in government in Iran. The possibility of a future crisis situation cannot be totally ignored and for this reason contingency plans to deal with such an emergency are necessary.

The U.S. having sold sophisticated arms in large quantities to Iran, has assumed a growing and significant "commitment" in terms of supporting that equipment—an unstated but nevertheless real obligation to train Iranians and to provide logistical support for the lifetime of the equipment. To the extent that the decisions to sell the arms were politically motivated, a failure to provide follow-on support to the satisfaction of Iran would violate the political benefit of having made the sales. The deep involvement of U.S. personnel assisting Iran in program implementation has significant foreign policy implications for the United States in the Persian Gulf.

The U.S. cannot abandon, substantially diminish, or even redirect its arms programs without precipitating a major crisis in U.S.-Iranian relations;

If Iran is not able effectively to use the equipment it has purchased, it may blame the U.S. for the failures;

There is general agreement among U.S. personnel involved with the Iranian programs that it is unlikely that Iran could go to war in the next five to ten years with its current and prospective inventory, i.e. purchases to date of sophisticated weapons (as distinct from some of the less sophisticated ground equipment) without U.S. support on a day-to-day basis.

CBS REPORTS "THE SELLING OF THE F-14" AS BROADCAST OVER THE CBS TELEVISION NETWORK, AUGUST 27, 1976

(With CBS News Producer-Reporter Jay McMullen and Correspondent Bill McLaughlin)

JAY MCMULLEN. This is a report about a controversial two-billion-dollar arms deal, one of the biggest foreign arms sales ever made.

Sold: this war plane and 79 others just like it. It is called the F-14 Tomcat, the world's most sophisticated fighter. In a perfect world it would be totally useless.

In the beginning, the F-14 was produced by the Grumman Corporation for the sole use of the United States Navy. But since additional profits could be made through foreign sales, its capabilities were advertised and promoted abroad.

Narrator in Grumman film: The Grumman F-14, the Navy's new-generation, no-trade-off, no-compromise air superiority fighter. The Tomcat employs both number and variety of weapons, from Phoenix missile to Vulcan cannon; can punch hard at extreme ranges, close in, and anywhere between.

MCMULLEN: As expected, the world's most sophisticated fighter attracted the attention of the military in foreign countries.

(Military commands and martial music.)

MCMULLEN. The buyer in the two-billion-dollar F-14 sale: the Shah of Iran—His Majesty Mohammad Reza Pahlavi—one of the best customers of the international arms market. In February 1976, he inspected the first F-14's delivered to the Iranian Air Force.

In the next hour, we will document our

investigation of the F-14 sale. It began with some routine questions. Why did the United States sell its most sophisticated fighter to the Shah of Iran? Why did he want it? Who did the actual selling—and exactly how was it done? Did this affect the balance of power in the Middle East and the price of oil in the world? And what does this sale reflect of the purposes, methods and ethics of a booming business, in which U.S. sales have increased tenfold in the past six years, the world trade in arms?

Announcer: CBS Reports—"The Selling of the F-14".

(Announcements.)

Announcer: CBS Reports—"The Selling of the F-14" continues, with Producer-Reporter Jay McMullen.

McMULLEN. Last year an estimated record high of twenty billion dollars worth of conventional weapons were sold in the international arms market—nearly half by the United States. In a world concerned about atomic warfare, ironically no steps have been taken to limit the profusion of conventional weapons—the ones that are doing the killing. That is part of the background for this report on the selling of the F-14.

Teheran, Iran—January 29, 1976. The first F-14 fighters delivered to the Iranian Air Force fly in review for his majesty, the Shah of Iran.

(Sounds of planes.)

His Majesty is a pilot and a connoisseur of war planes. He was pleased, but not surprised, by the performance in the sky above Teheran. He had been sold on the F-14 for a long time.

The story of the sale begins in 1972, about four years before this day. We begin here, at the Grumman Corporation in Bethpage, Long Island, New York. For three years Grumman had been building F-14's for the exclusive use of the U.S. Navy. But by 1972, this big defense contractor was in deep financial trouble.

On each F-14 built they were losing about two million dollars. Inflation had spiraled their costs, but under a long-term contract they couldn't raise their prices. The F-14 was already the world's most expensive fighter. The program unit price: about seventeen million dollars per plane. Congress wouldn't appropriate more money to bail out Grumman, and accused the corporation of bad management and reckless underbidding to get the F-14 contract.

In the words of a Grumman Spokesman: We were at the edge of bankruptcy.

McMULLEN. If Grumman went bankrupt 23,000 employees would lose their jobs. But in addition, there were national defense implications. By early 1972, the Navy had received only a few of the F-14's it had ordered from Grumman. The then-Chief of Naval Operations, Admiral Elmo Zumwalt, had a problem.

Admiral ZUMWALT. The problem was that we desperately needed the aircraft. The F-14 is the world's best fighter aircraft, without a question of a doubt. We had to have it to make up for the rapid reduction in the number of our ships and other kinds of capability. And therefore it was very important to insure that Grumman could survive to build those airplanes.

McMULLEN. The question was "How could Grumman survive?" L. M. Satterfield, then a Grumman Vice President, knew that a big sale of F-14's in the foreign market would help.

SATTERFIELD. Well, there's always the—the profit you hope to make on any kind of a sale. There also is a significant benefit to the U.S. Government, in that with larger production quantity and production rates, the price of the article decreases. So there's significant savings to the U.S. Government, as well as a profit benefit to the company.

McMULLEN. The foreign arms market where Grumman hoped to sell F-14's is visible at international trade fairs where vendors display their wares.

(Music of trade fair.)

In this market, salesmen frequently refer to the merchandise as *deterrents*. Each new deterrent usually is more costly and lethal than last year's model—and because there are so many varieties to choose from, competition in the market is keen. The biggest sellers (after the U.S.) are Russia (believed to be overtaking us), France and great Britain. Most of the buyers are representatives of developing countries lacking the capability to create and maintain their own arms industry.

No vendor may sell to a buyer without his government's permission and permission is granted only if the sale is in accordance with government objectives and policy. This was Grumman's problem in early 1972. It didn't have U.S. permission to sell the F-14 in the foreign arms market. Reason?

SATTERFIELD. The main reason was the classification of the airplane, the security classification.

McMULLEN. It has a security classification because the F-14 with its Phoenix missile is unique. Its radar—operated by a control officer in the plane's back seat—can find and track 24 targets simultaneously. Its Phoenix missiles can hone in on and destroy enemy aircraft or missiles one hundred miles away. No other fighter in the world has this capability. According to Admiral Zumwalt, it had been the Navy's policy, up to this time, not to sell its first line equipment until more advanced models were in the wings. There would be risks in selling the F-14.

ZUMWALT. From the standpoint of military considerations alone I would have preferred that the F-14 not go into the hands of any other nation because it is so far superior to the technology of any other nation. And one, I think, has to worry more about the likelihood of that technology falling into enemy hands if it's in the control of a third nation than you do if it's under your own control.

McMULLEN. But even though a U.S. weapon is restricted from foreign sale, no law prohibits its manufacturer from attracting foreign interest in it. One method is to advertise in trade journals with international circulation. Promotion is permitted—providing no classified information is released. Once a foreign buyer is attracted, pressure may be applied to withdraw U.S. Government sales restrictions.

By 1972, the biggest buyer in the market and the ultimate purchaser of the F-14 was the Persian Gulf country of Iran—a nation of thirty-three million people sharing borders with Turkey, Iraq, the Soviet Union, Afghanistan and Pakistan. Iran is a Moslem country, but its people are Aryan, not Arab. The majority of the people are uneducated and earn less than a thousand dollars a year. Most probably are loyal to their absolute monarch, the Shahanshah. By 1972, their Shah had initiated land reforms, educational programs, and was buidling up the nation's economy with profits resulting from the soaring price of Iranian oil.

With his profits from oil, the Shah also was spending billions of dollars to build up his armed forces. His purchases included: batteries of 175-millimeter guns from the U.S. and 130's from Russia. From Britain, he purchased eight hundred Chieftain tanks—considered the best in the world; also a fleet of Hovercraft and some SAAM Class frigates, equipped with missiles. From the United States, he bought an Air Force. His squadrons included Northrop F-5 fighters and McDonnell Douglas F-4 Phantoms—then the first line fighter of the U.S. Air Force. Also purchased from the U.S. the largest fleet of Helicopter gun ships in the Near East. But for what purpose? According to the Shah, his purpose is to fill a power vacuum created by the withdrawal of British troops from the Near East in 1971.

SHAH OF IRAN. We have no aggressive designs. We are for stability of the region. Our only interest is to see things stable.

(Martial music)

McMULLEN. Keeping stability means to the Shah keeping the Shah in power, putting down subversive rebellions in the area, protecting Iran's five borders, guarding her oil fields and refineries and preventing any interference with shipments of Iranian oil through the Persian Gulf and beyond to the Indian Ocean, and keeping stability means keeping up the morale of the military through purchases of new weapons.

CBS News Correspondent Bill McLaughlin asked his Majesty—

McLAUGHLIN. To what extent, if any, your Majesty, do you personally make decisions in—involved in arms purchases?

SHAH. All of them.

McLAUGHLIN. The final decision is with you?

SHAH. I am the real Commander-in-Chief.

McLAUGHLIN. Yes. How aggressively have these arms-producing countries been competing to sell you arms? Have they been tripping over themselves to—to—?

SHAH. No. No, I wouldn't say that. I am shopping.

McLAUGHLIN. Oh, I see. You—

SHAH. I am doing the shopping.

McLAUGLIN. You're doing the shopping.

McMULLEN. In the eyes of the Grumman Corporation, the most desired foreign buyer was the Shah of Iran.

SATTERFIELD. A policy of the—of His Majesty, the Shah, says "We only buy the best." So if the Iranians—in their survey of what's available to them to buy—pick an F-14, there's certainly an enhancement of reputation, if you wish, that he, not being constrained by some of the dollar problems that some of the rest of us have, has in fact picked the best aircraft. And that certainly is a plus in the international marketplace.

McMULLEN. In shopping, the Shah has heard and read a great deal about the capabilities of the F-14. He was interested in it, in part, because he was having problems with Russian spy planes.

McLAUGHLIN. Your Majesty, it's said that in 1972, when you visited Moscow, you complained to Premier Kosygin about overflights over your country, spy flights. And it's said that Premier Kosygin said, "What overflight? Whose overflights?" And you reportedly said, "well, if you don't know whose planes they are, then I'm sure you won't mind if I shoot them down?" Is—Is that a true story?

SHAH. I think it's a little romantic—romanticized.

McMULLEN. But Russian Foxbats had in fact been overflying Iran. The Foxbat—or MIG 25—can operate at 80,000 feet—too high to be hit by any then-operational aircraft, other than the F-14 with its Phoenix missile. Was the Shah primarily interested in the F-14 because of the capabilities of itsPhoenix missile?

SHAH. Precisely, yes! Because of its Phoenix missile.

McMULLEN. Step one in an arms deal: Attract the buyer. Step two: The prospective buyer gets permission to buy from the proper authorities.

In Teheran, on May 30, 1972, the Shah of Iran received a visit from the highest authority in the United States, President Richard Nixon. Before coming here, Mr. Nixon had been in Moscow to sign an atomic weapons limitation treaty with Premier Brezhnev. Now he was asked by the Shah of Iran for permission to buy a weapon that could shoot down Russian spy planes.

SHAH. The question was just the principle. Is Iran going to get what she needs? Yes or no?

McLAUGHLIN. And the answer was——?

SHAH. Was yes. And why not?

McMULLEN. The President had the authority to say yes. But why did he agree to sell our newest and most sophisticated fighter to a Near East country? Who had he consulted? Who, if anyone, had advised the President to give the Shah what he wanted?

Announcer. "The Selling of the F-14" will continue.

(Announcements.)

Announcer. "The Selling of the F-14" continues.

McMULLEN. In approving the sale of the F-14 to Iran, President Nixon was acting at the time within the prerogatives of the Presidency. But before making his decision that would have wide-ranging consequences, who had the President consulted? Not the Congress! Congressional approval of foreign military sales exceeding twenty-five million dollars was not required, as it is today.

Also not consulted: the Joint Chiefs of Staff, including the Chief of Naval Operations, Admiral Elmo Zumwalt.

ZUMWALT. My recollection was that this was a kind of spur-of-the-moment commitment that Mr. Nixon had made in response to a question received from the Shah.

McMULLEN. The then-Director of International Arms Sales for the Pentagon—Leonard Alne. Not consulted.

LEONARD ALNE. We did in fact learn of the decision *after* the decision was made.

McMULLEN. The then-Assistant Secretary of Defense for International Security Affairs, G. Warren Nutter. As head of ISA, he was in charge of Pentagon policy concerning foreign arms sales. Not consulted.

G. WARREN NUTTER. Well, there was a decision memorandum issued—and it was signed by the President—that said this: If the Shah wants this plane—(I don't recall the precise words)—he's to be sold this plane.

McMULLEN. Was it unusual that the President apparently made a decision to sell that plane without consulting you or your group?

NUTTER. It was an unusual procedure. Normally there would have been a study of the question and I—I'm certain in my own mind we did not study the question.

McMULLEN. They didn't make a formal study of the question because they thought the answer was obvious. According to Nutter, he and Secretary of Defense Melvin Laird had met with the Shah of Iran on several occasions before President Nixon's Teheran decision. This was their response to the Shah's expressed interest in buying F-14's.

NUTTER. Our general response was that this was a highly sophisticated aircraft, it was very expensive, and that we felt would be beyond the needs of—of his country and beyond their capability of operating and maintaining properly at this time and that he should think about less sophisticated weapons.

McMULLEN. So, in a polite way, you were really saying no, weren't you?

NUTTER. Well, we—we were not in favor of—of considering the transfer of that aircraft at that time.

McMULLEN. Their concern, in part, was that the Iranian Air Force was not ready or able to handle the F-14's. Iranians were still learning, from hundreds of U.S. technicians, how to maintain aircraft less complex. Acquiring F-14's would add to the training burden and require the importation of many more Americans. The growing presence in Iran of U.S. military and civilian weapons technicians and their families (about 12,000 of them) was another concern of the Pentagon.

NUTTER. We didn't feel that we should create a greater involvement for—for us in that area of the world—with actual physical presence.

McMULLEN. But their greatest concern, unstated to the Shah, was this.

NUTTER. We felt that, by selling something of the order of the F-14 in that area of the world, that we would have escalated the level of sophistication of arms, and perhaps stimulated an arms race, and destabilized the military balance in the area.

(Music.)

McMULLEN. At a celebration of the 2500-year anniversary of the Persian Empire, the Shah of Iran had proclaimed in 1971 his intention to rebuild Persia to its former glory—and to make Iran one of the most powerful nations in the world. The grand intentions of the Iranians were causing some uneasiness and concern in neighboring countries, fearful that the Shah's legions might someday advance on their territories. An F-14 sale could add to the tensions and induce Arab neighbors to demand F-14's. But the Pentagon had more to worry about than the decision to sell the F-14.

At their Teheran meeting the President also had agreed to sell the Shah another brand new U.S. fighter. This plane (called the F-15) was at the time of the President's decision still being developed by McDonnell Douglas for the U.S. Air Force, which had yet to receive its first delivery. The F-15 can engage Russian Foxbats at high altitudes and shoot them down in dogfights. This plane was to be Grumman's chief competitor in a sales campaign that would ensue. But like Grumman's F-14, the F-15 is a very complex and expensive weapons system. And the decision to sell it also concerned the Pentagon.

NUTTER. We were not asked about the F-15 any more than about the F-14. So whatever I've said about the F-14 applies to the F-15 as well.

McMULLEN. Considering the Pentagon's concerns about selling either plane to Iran, why did the President decide to sell them?

NUTTER. As far as we could tell, the decision must have been made on some political or diplomatic grounds that we weren't aware of. We had not supplied any military reason for it.

McMULLEN. At the State Department, those in charge of arms sales policy at the time told us they too were surprised by the President's decision—and that within the Department there were the same concerns held by the Pentagon. The Department had made no study specifically analyzing the pros and cons of selling Iran either the F-14 or the F-15.

Former President Richard Nixon has not responded to our registered letters and telegrams requesting an explanation of his decision. Secretary of State Henry Kissinger, who was at the time the President's National Security Advisor, told us he was too busy to explain. But more than a dozen other high officials—including some former Nixon Cabinet members did talk to us, some off the record. There was general agreement on two key points.

First, prior to the Teheran decision it was U.S. policy to encourage the Iranian military build-up, with the objective that Iran would fill the power vacuum in the Near East caused by the withdrawal of the British in 1971.

Second, keeping the Shah's friendship was deemed all-important. Better that we sell him some weapons we thought he didn't need and couldn't handle without our help, than offend a friend.

In the words of a former Nixon Cabinet member: "The President didn't want to offend the Shah by refusing to sell him what he wanted. The President just didn't want to say no." And what would have happened if the President *had* said no?

SHAH. If the answer was no, I would not have stopped at that. I would have gotten it from somewhere else. Maybe not that good, but something.

Announcer: "The Selling of the F-14" will continue.

(Announcements.)

Announcer: "The Selling of the F-14" continues, with Producer-Reporter Jay McMullen.

McMULLEN. It was now up to the Shah of Iran to decide whether he would purchase the Grumman F-14 or its rival, the McDonnell-Douglas F-15. A sales campaign dogfight began. It was to be Grumman and the U.S. Navy versus McDonnell Douglas and the U.S. Air Force.

Before presenting some of the highlights of the campaign, you should know about the ground rules. As Director of Pentagon Arms Sales, Leonard Alne was in a sense the referee. He was called into the game because the Shah had decided that, no matter which plane he bought, the sale would be handled (as most of our foreign arms sales are handled) through a government-to-government transaction. Mr. Alne will tell you what that means.

ALNE. When the Shah of Iran elects to come in through the government-to-government transaction, all he does is sign a Letter of Offer-and-Acceptance, which is the contract involved. That IOA—so to speak—has a provision on the back that says: "We, the U.S. Government, undertake to buy on your behalf the cited equipment and we will buy this for you with the same care and prudence that we buy for ourselves."

McMULLEN. In effect, the U.S. Government acted for a two percent service charge as Iran's procurement agent. The Shah was briefed on both planes by the U.S. Navy and Air Force. But the rules of the game permit the vendors to help a customer decide. In fact, their presence is needed. Here is why, in the case of the F-14.

ALNE. You cannot imagine people within the Department of Defense, government officials, being totally knowledgeable about how that airplane should be absorbed into Iranian forces. Where should it be deployed? How should you train for it? How should you set up logistic support systems for it? And I'm not saying just the airplane. There are very sophisticated equipments that go with the airplane. So it is unavoidable that, in this case, Grumman have many technicians, if not in the foreground during the decision-making stages, closely associated therewith—in backroom, so to speak—even during policy negotiations.

McMULLEN. The concern of a defense contractor facing bankruptcy and in desperate need of a foreign sale to survive. How impartial would the U.S. Government be in helping Iran decide which plane to buy?

Grumman feared political favoritism. According to the Corporation, it had been asked to make an illegal corporate contribution to the Nixon campaign—and had refused. It knew that officers of its competitor, McDonnell Douglas, had made personal contributions to the President's campaign. Also the appointment of William Clements as Undersecretary of Defense was a Grumman concern—since Mr. Clements had been one of the principal Nixon fund raisers in Texas.

Another concern was opposition in Congress. Senators Stuart Symington and Thomas Eagleton were suggesting that F-14 production was too expensive and should be terminated. Both Senators represent Missouri—the home state of McDonnell Douglas. In Iran, previously-sold McDonnell Douglas F-4's were already in service. Douglas technicians had good connections with the Iranian Air Force and maintained an office in Teheran. According to Grumman's Satterfield—

SATTERFIELD. They were certainly with a leg up by virtue of having been on the scene for a number of years. In our position we'd never even been to the country and much less have any contact or knowledge of their military requirements and what the needs were. We decided to send some people, of which I was one, along with a Mr. Kane, who was Director of our Marketing, and the two of us made an initial visit to Iran.

McMULLEN. They came to Iran in Septem-

ber, 1972. They stayed in Teheran, the capital.

(Traffic sounds.)

Teheran is a city of nearly four million people, one million motor vehicles and the world's worst traffic jams.

The Grumman trip to Teheran—in the words of Vice President Satterfield—had this purpose.

SATTERFIELD. Exploratory—to develop acquaintances—to get a personal understanding, personal in the sense of what was needed to be done to market our airplane.

MCMULLEN. At the headquarters of the Iranian Air Force, they visited the offices of the U.S. Military Advisory Group. The U.S. Air Force is the advisor of the Iranian Air Force. There is an American counterpart for each Iranian command branch. How much help and cooperation did the Grumman representatives receive from the U.S. advisors to Iran?

SATTERFIELD. It was somewhat passive, I would say. The U.S. air advisors are, of course, U.S. Air Force—and they were very proud of their F-15 McDonnell airplane. And they would be inclined to want to see the Air Force airplane used by the Iranian Air Force. I think that's natural.

MCMULLEN. Well, did they say that to you?

SATTERFIELD. They intimated it, shall we say.

MCMULLEN. Were they upset at all by your presence over there?

SATTERFIELD. They did not seem to be too enthusiastic.

MCMULLEN. But was the U.S. Air Force actually encouraging Iran to buy the McDonnell Douglas F-15 instead of Grumman's F-14?

SATTERFIELD. I can't say what they were either encouraging or discouraging; I know that they were advising the—(At least, the Iranian officials told us that they were advising) that the F-15 McDonnell Douglas airplane was a very suitable airplane for the Iranian requirements.

MCMULLEN. I see. But they weren't saying that about the F-14 apparently.

SATTERFIELD. I did not encounter that.

MCMULLEN. At the time, Lieutenant-General Howard Fish was Budget Director of the Air Force. He is now a Deputy Assistant Secretary of Defense in charge of foreign arms transfers.

FISH. The U.S. Air Force (and I was a member of the air staff at the time) did not participate in the—in the competition. Our task—the Air Force—was to provide information to the government of Iran on the capabilities of the F-15 and its limitations.

MCMULLEN. Would you have preferred that the Iranian government buy the F-15 rather than the F-14?

FISH. No, I don't think so.

MCMULLEN. Weren't you having a unit cost problem at the time with the F-15?

FISH. Oh, we always—You could say that about every—every piece of equipment that we develop in recent years, because of the inflation. Why of course we did! And every other piece of equipment that you could mention has had unit cost problems during the last four of five years.

MCMULLEN. Weren't you interested, then, in making a foreign sale to help lower that unit cost?

FISH. Absolutely not.

ALNE. The U.S. Air Force was not very happy about the sale of the F-14 to Iran. Now, each department perceives that it would be very advantageous, very reinforcing, to have a major ally abroad clearly support an aircraft by virtue of its desire to purchase it and thereby possibly persuade the Congress that indeed this program is as important and as effective and as significant an addition to our forces as we say it is.

MCMULLEN. The U.S. Embassy in Teheran—not the U.S. Air Force—helped Grumman get an appointment with an Iranian Air Force general.

SATTERFIELD. From his comments, we became quite aware that the negative aspects had been—he was much more informed of than he was the positive aspects.

MCMULLEN. Informed by someone?

SATTERFIELD. By someone.

MCMULLEN. You don't know who?

SATTERFIELD. I don't know who.

MCMULLEN. Before leaving Teheran, Satterfield considered the competitive picture and came to a conclusion about the sale of F-14's to Iran.

SATTERFIELD. It was in my opinon very definite that if we did not get some help that we either would not be able to sell or we'd be able to sell only a very small quantity.

MCMULLEN. And you felt if you didn't get some help there, the—the U.S. Government may not—might not be selling your plane, right?

SATTERFIELD. We felt that we had to help ourselves in pushing our product.

MCMULLEN. What Grumman thought it needed to push its product was an Iranian sales agent. Finally selected: Houshang Lavi's Eastern International Company. Previously, Mr. Lavi had represented, he says, more than twenty-five U.S. arms firms, and had succeeded in getting all of them business in Iran.

That's quite a successful record.

LAVI. You could say that.

MCMULLEN. You didn't bomb out on any of those?

LAVI. Uh-uh. Never happen.

MCMULLEN. Well, how do you account for that? Why? Why are you so good at it?

LAVI. Hard work.

MCMULLEN. Is that all it takes to—to make these sales?

LAVI. Hard work and knowing what to do.

MCMULLEN. Is it also having contacts within the Iranian government? Is that how——?

LAVI. I wouldn't say contacts, sir. I would—I would just say knowing them.

MCMULLEN. Knowing them personally?

LAVI. Yes.

MCMULLEN. Being friendly with them or friends of theirs?

LAVI. That's right.

MCMULLEN. Friendship means a fair amount, does it, in the business?

LAVI. It does.

MCMULLEN. Houshang Lavi and his three brothers worked as a team. They all had houses in Long Island, New York, and maintained an office in Teheran. In February 1973, they went to work here from Grumman—and Grumman representatives returned to Teheran. Their headquarters was the Intercontinental Hotel—catering primarily to American businessmen.

(Song excerpt: "I left my heart in San Francisco . . .".)

MCMULLEN. Most of the guests here hope to obtain lucrative contracts from the Iranian government, according to the hotel's assistant manager.

Assistant Manager: Everybody is here to get the money—everybody.

MCMULLEN. And what was to be your commission?

LAVI. If we would have sold eighty F-14's, we—I would have received forty, forty-five million dollars.

MCMULLEN. Forty-five million dollars if you had—could sell eighty F-14's? Well, that's quite a bit of money, isn't it?

LAVI. Sure is!

MCMULLEN. Once he came aboard, then did you find it much easier going in—in Iran? Was it——?

SATTERFIELD. It was certainly much quicker. Because we would say "Who handles requirements?" And he would say, "Well, that would be under General So-and-So and his office is so-and-so and his staff assistant is Colonel Somebody."

MCMULLEN. But if the Shah makes the final decision on arms purchases, then of what use are an agent's contacts with his generals?

LAVI. He's a very busy person. He goes based on what his generals tell him.

MCMULLEN. According to Houshang Lavi, his principal contact was the Chief of the Iranian Air Force and also the brother-in-law of the Shah—General Mohammad Khatami—now deceased.

You had asked his help in setting up meetings. Correct?

LAVI. Yes. That's true.

MCMULLEN. So you really had the top man on your side, didn't you?

LAVI. If you wish to put it that way, yes, sir.

MCMULLEN. Under the U.S. foreign sales rules, a contractor cannot give a complete briefing of his product unless the customer specifically asks for it. Mr. Lavi says he was influential in getting General Khatami to ask for it. According to L. M. Satterfield, three Iranian generals and about twenty-five colonels attended the Grumman briefing, which featured a movie of the F-14.

SATTERFIELD. We had a movie which recorded some of the test work. And I remember one Iranian general said to me, "Well, why hasn't the U.S. Air Force bought any of these airplanes?" And I think I said, "I suggest you inquire of the U.S. Air Force as to that." [Laughing.] That made me feel pretty good. It indicated to me that we'd been successful in projecting the capabilities of the airplane.

MCMULLEN. But it was at the Paris Air Show in June 1973 that Grumman scored its greatest promotional triumph. It had received permission to display the F-14 here from Undersecretary of Defense William Clements—dispelling Grumman's concern that Clements would be partial to the F-15, still being tested. This was the first public exhibition of the F-14. Iranian observers were among the spectators impressed by a display of the plane's capabilities. The F-14 was hailed as the star of the Paris Air Show. It was flown here by Navy pilots provided at Navy expense. In its eagerness to help Grumman sell the F-14 and avert bankruptcy, the Navy also authorized pilot testimonials to be included in Grumman promotional films.

CMDR. TOM CASSIDY [testimonial in promotional film]: The F-14 can take the fight to the enemy and, as a dogfighter, can outperform any threat airplane flying today or postulated for years to come.

Announcer. "The Selling of the F-14" will continue.

[Announcements.]

Announcer: "The Selling of the F-14" continues.

MCMULLEN. Whether the Shah of Iran would buy F-14's, F-15's or both was unknown until after his visit at the White House in July 1973. After meeting with the President, His Majesty flew to Andrews Air Force Base for an inspection and demonstration of the competing planes. The Shah's ultimate decision, of course, was to purchase only F-14's—eighty of them.

SHAH. Both planes were looking absolutely thrilling obviously. But because of the Phoenix missile and the limited number of planes that we could possess and the very long-range capabilities of the F-14, I had to opt for that.

MCMULLEN. Grumman's Satterfield warned the Iranian Air Force that the F-14 might cost more than expected.

SATTERFIELD. I did make a comment that the prices the U.S. Government was paying today, at that time in 1973, that upon delivery of the airplane some three years later, that I could not predict what inflation might do to the prices. One Iranian general with a smile said, "Well, we don't worry about

that. If inflation comes, we just raise the price of oil."

McMULLEN. And they did, right?

SATTERFIELD. And they did, shortly thereafter.

McMULLEN. At the OPEC meeting late in 1973, the price of oil was doubled at the insistence of the Iranian representative. In part, did Iran insist on a price boost that would have worldwide consequences, in order to pay the huge bills for its arms purchases—including two billion dollars for F-14's?

SHAH. No. I have no relations. I don't want to put any relation between these two things.

McMULLEN. However, recently when his oil profits began to decline, His Majesty announced that he would have to reduce his expenditures for weapons. He told us the soaring cost of weapons is a problem.

SHAH. It is a problem because what we used to buy, say, for one dollar two years ago, now we are buying it for three or four dollars.

McMULLEN. The Shah's most costly purchase, F-14's, went into production for Iran in early 1974—at an increased price—up from about seventeen to twenty million dollars per plane. Increased production for Iran reduced Grumman's costs by eighty-one million dollars. Also a renegotiated contract with the U.S. Navy and a seventy-five-million-dollar loan from Iran helped the corporation survive. Due to renegotiated contracts resulting from a complex set of circumstances, including complaints from the Iranian Government, the Lavi brothers so far have received only about three-and-a-half million of the forty-five million in commissions they originally anticipated. Iran has demanded that it be reimbursed for all money paid agents, saying: "If Grumman can afford to pay millions in agents' fees out of profits, it must be overcharging us." Both Grumman and the Pentagon deny that Iran was overcharged. A Senate Committee says it is going to investigate the mysterious activities of Grumman's agents, including allegations of bribes.

LAVI. We were not going to bribe or pay money to give anything to General—to General Khatami at the time.

McMULLEN. Did you give anything to him?

LAVI. No, sir.

McMULLEN. Did you give any money to anyone else in the government?

LAVI. No, sir.

McMULLEN. Were you asked to?

LAVI. No, sir.

McMULLEN. Is it commonplace that money is kicked back?

LAVI. It certainly is, sir, but we haven't done it.

(Music.)

McMULLEN. A ceremony at the Grumman Corporation—January 8, 1976. The purpose: acceptance of the first F-14 fighter built for Iran.

(Music.)

Representing the United States Navy—Admiral John Alvis.

Admiral ALVIS. Two years is not very long to build that airplane, but two years later Grumman has done it and I'm delighted to see in the audience here today the people that made it happen. [Applause.]

McMULLEN. Accepting the plane for Iran, the Iranian Ambassador to the United States, Ardeshir Zahedi.

ZAHEDI. I have been told that Grumman have more than 2400 different companies which is working for them in order to make this beautiful, wonderful airplane. And I think this is another step of the friendship between the two friendly nations.

Grumman spokesman [in receiving line]: Ambassador, I hope you enjoy that airplane. We think it's great.

ZAHEDI. Thank you. I'm sure we will.

McMULLEN. But the plane was only one item in the sale. As usual in the sale of sophisticated U.S. weapons, the customer also requires spare parts and the technical services of military and civilian personnel. They are included in the sales price. Purchasing a new technologically complex fighter is not like buying a car. You just don't drive it out of the salesroom. You have to learn how to operate it and maintain it. More than a year before this delivery day, training in the United States began. Pilot training began at the U.S. Naval Air Station at Miramar, California.

Instructor: We have two back-up systems. We have the back-up flight control module.

McMULLEN. A small cadre of Iranian pilots and weapons officers, called back-seat men, were sent here to be trained as instructors. Eventually they would be in charge of F-14 pilot training in Iran.

Pilot instructor: Basically, what we'll do is we'll go down about thirteen-fifteen, man up, go ahead, get out to the warm-up area; we'll check in at three-forty-one-point-two.

(Indistinct radio exchange: "Okay, go ahead and call him over the UHF, Rog.")

Iranian pilot: Okay, visual contact is at my northern scape about, oh, three miles.

American pilot: Starboard three-four-zero.

Iranian pilot: Number two is easy to follow.

McMULLEN. At Grumman Headquarters in Bethpage, Long Island, Iranian technicians—also in training to be instructors—would learn what it takes to maintain and service F-14's.

Instructor: Okay, Abraham, let's go ahead and move the wing sweep.

(Sounds of plane.)

McMULLEN. What it takes to maintain this complex aircraft is knowledge of nine elecpertise in more than a hundred different skills.

Instructor: You're maintenance people. How would you tell if it's operative or inoperative?

McMULLEN. They were among two thousand Iranian military personnel being trained in the U.S. Many had attended American colleges. Their technical training eventually would have far-ranging consequences, according to their Shah.

SHAH. All these people will enter civilian life and will be a tremendous asset to our industries and to the raising of the I.Q. of our people and the raising of their sophistication.

Missile class instructor: All right, gentlemen, for today's lesson we're going to discuss the loading of a Phoenix missile.

McMULLEN. But of what use is this to the United States? Deputy Assistant Secretary of Defense, General Howard Fish.

General FISH. The military tends to be an elite in the—in the society. And when we are interchanging with them on a close basis, training them, they go back and we're influencing a very influential elite in—in these countries that are becoming political leaders and have overtime.

McMULLEN. Of course, there is always the risk that the friendly countries we train and supply with weapons may not be friendly or controllable in the future. But in the present because they are dependent on us for spare parts and technical assistance, we do have some control over our customers, according to the Pentagon.

Well, do you have control to the extent that you can tell them that if they don't do—don't conform to what you think they ought to do, that perhaps you'd cut off their arms supplies? Is that a leverage?

General FISH. No, I'd say that that—that's like capital punishment, the most drastic remedy.

McMULLEN. You wouldn't go that far?

General FISH. Well, yes, you would. Just like you know, drastic remedies are sometime required.

McMULLEN. In the view of the Pentagon, being the arms supplier of two opposing sides gives you double control in keeping them in check. But in case of a short war, don't count on your control.

General FISH. You don't want to overplay the fact of being able to control a situation—for that small short war that can happen and can be very, very devastating. It certainly is true in preventing long, drawn-out wars.

McMULLEN. In other words, the war could be over in such a short time that you would have no control, in essence.

General FISH. That's right. That's right. That—In other words, the existing stocks and supplies of equipment could be sufficient to be—present the world with a *fait accompli*.

McMULLEN. Under the F-14 sales contract, every Grumman engineer or technician in this office—and many more—would be required to maintain F-14's and train Iranians in Iran.

VINCE MILANO [addressing class]: I'd like to first of all welcome all of you to this, our 36th, transcultural session for our people that'll be going to Iran. At the peak of the program, probably sometime around mid- to late 1977, we'll have somewhat over a thousand people—a thousand Grumman people—in country. And this means that we'll have about four thousand individuals, because the average family has come out to be a wife and two children.

McMULLEN. To these Grumman technicians and their families, the sale of the F-14 would mean an uprooting and a new way of life. Many hours would be spent preparing them for a culture shock.

Orientation film speaker: First of all, my best expression to give to you, as far as getting along in Iran, is cool it. Be independent, have tons of patience, an excellent sense of humor and also do your very, very best to adapt.

Language class teacher: What *jomae* means?

Class response: Friday.

McMULLEN. The language of Iran is Farsi. They would receive forty hours of language instruction—and get a taste of the local food provided by a Long Island Iranian restaurant.

Restaurant hostess: It's a marinated beef kabob.

Man: Hey, Bruce? Taste it.

Bruce: I did.

Hostess: This is the *doughk*, which is a yogurt, and traditional Iranian drink—a whole new adventure in eating.

DON SPETTA. Any questions?

ED WESTON. Yes, sir. How do the Iranians feel about us coming over to their country?

DON SPETTA. Initially, while you're still a novelty over there, you'll be copied and looked at as the epitome of the right way to do things.

McMULLEN. Because of an arms sale, some would find themselves in the cities of Teheran or Shiraz, but most were sent to the central Iranian town of Isfahan—the capital of Iran 300 years ago—a fabled city of turquoise mosques and well-preserved masterpieces of Persian architecture. Because of an arms sale, forty square miles of land outside of Isfahan is being fashioned into a base for F-14's. This base—and another being built in Shiraz—will have the most modern training and operational facilities the U.S. can supply. Outside the base—an army of Iranian laborers is at work—building miles of housing. All of this will be needed to accommodate ten thousand American technicians and their families, including the families of Grumman employees and other U.S. corporations involved in work for the military around Isfahan.

Because of the influx of weapons, there is an increasing need for non-military imports that also favorably affect the U.S. balance of payments. About five billion dollars in non-military services and products were imported from the U.S. last year, in-

cluding the furniture and household appliances Iran is providing to furnish homes for Americans. But so far, only a few of the houses near Isfahan have been completed. Meantime, hotels are home for most of the Grumman families.

On school days, the Grumman children are bused to schools staffed by Americans. Their education is paid for by Iran. Their classmates are the children of fathers who work for Raytheon Missile, Bell Helicopter, Hughes Aircraft and about twenty-five other corporations involved in the arms industry.

Other buses take Grumman employees to work at the F-14 base. They all signed up for two year hitches in Iran, with options to stay longer if they wished.

Grumman is contracting to train Iranians for five years. But Iranian self-sufficiency in operating F-14's may take much longer—judging by the experience of other U.S. corporations. Bell Helicopter, for example.

Bell Representative: Good morning, gentlemen.

McMULLEN. Bell's four year contract to train at this base, also on the outskirts of Isfahan, is about to be renewed. The problem is the background of the students according to Bell Instructor, Wade Brown.

WADE BROWN. These people here, they come from the villages, they come from mud huts, and all of a sudden we throw 'em into something as advanced as this; it's very shocking to 'em, I know. And it's very difficult, especially with the language barrier.

Bell Instructor: Inside here is a defuser whiner. Okay?

Iranian Students: Inside of the turbine? Inside?

INSTRUCTOR. It's right here. We have centrifugal compressors back here. Back here we have an axio compressor.

Iranian Student. Axio? Centrifugal back in the compressor?

Instructor. No. Axio in the compressor. Centrifugal here. Bob, wait a minute!

McMULLEN. As their Shah orders more and more sophisticated weapons, the training periods stretch further and further into the future, and the number of American instructors increases. If war should come in the future, they and their families would be vulnerable. American casualties could create strong pressure in the U.S. for retaliation. In any case, under our weapons sales contracts with Iran, could these technicians—on whom Iran is so dependent—leave the country if there was war?

SHAH. I think that there is nothing in the contract that will ask them to continue their job if we are in a state of war. On a voluntary basis, I don't know; but nothing has been discussed.

McMULLEN. According to the Defense Department, our foreign sales agreements provide for the termination of training and supplies of equipment at the sole discretion of the U.S. Government.

General FISH. We have no legal commitment at all.

McMULLEN. But is there a moral commitment to continue helping a friendly customer involved in a war?

General FISH. You know, you've got to take each case, look at it and see what is in our national interest at that particular moment and how will it work out national interest from that point forward. And these are some difficult choices to be made.

McMULLEN. Isfahan, Iran—the night of January 23rd, 1976. For Grumman families, whiling away the hours in the lobby of their hotel, it was just another evening of corporate togetherness.

(Family playing cards: "It goes around this way"—"Does it? Okay, okay.")

McMULLEN. Six thousand miles from here—the same night January 23. At Grumman's Peconic, Long Island airport, some Navy pilots were being briefed by Commander Edward Donnis.

Commander DONNIS. We'll be manning up in about an hour and starting engines in about twenty minutes after that.

McMULLEN. Their mission was to deliver to Iran the first three F-14's ready for export. They would cross the Atlantic and then, after a stop-over in Spain, proceed to Teheran—overflying en route Sicily, Egypt and Saudi Arabia.

Air Traffic Controller. Mitchell five-one, this is Peconic Tower. Current altimeter two-nine, nine-zero. Your wind: zero-eight-zero at five to ten knots. Clear for take-off.

McMULLEN. Take-off time from Peconic, Long Island—4:00 AM, January 24, 1976.

Time of arrival at Teheran Airport—4:00 PM, January 27th. And so, about three and a half years after a U.S. President said yes, the Shah of Iran got what he wanted.

In review, it would seem that these planes are here not because we perceived a real need for them to be here, but because the United States did not want to offend a friendly country by saying no. And they are here because Grumman, with the help of sales agents, overcame a competitor—and survived to produce them and to profit from the sale of the F-14. Concern that the sale would heighten the arms race in the volatile Middle East appears justified. Iran's neighbors are increasing their purchases of sophisticated weapons—and Saudi Arabia has expressed interest in buying some F-14's. The huge costs of the military build-up in the Near East may be a factor in the devastating rise of the price we pay for oil.

Iranian military: It was a long flight, right?

Commander DONNIS. Yes, about eight hours from Spain.

Iranian military: How do you feel now?

Commander DONNIS. A little sore.

McMULLEN. If we don't sell the expensive weapons friendly buyers want, there is always the threat that the Russians or someone else will move in. If the buyers—with their money and purchase options are now in control of the conventional arms market, it would appear that the arms race is out of control.

Finally, through our contractual commitments to buyers, increasing thousands of U.S. technicians are becoming involved in the arms race and exposed to its possible sudden and deadly consequences. The question for all those involved—especially the superpowers—is whether the game is worth the risks. The growing proliferation of increasingly expensive conventional weapons continues.

At the Imperial Palace of his Majesty, the Shah of Iran, CBS News Correspondent Bill McLaughlin asked about the future.

McLAUGHLIN. You've just bought the F-14, hugely expensive, and a whole weapons system and technicians, too, to train your armed forces in using them. But inevitably someone will come along and say, "Ah, well, we've got something much better than the F-14. And if you don't buy it, your neighbors might."

SHAH OF IRAN. Well, our reaction will be the reaction of every other country in the world. If others react to this and try to have better things, we'll have to do the same. That's why I said, until we do have world disarmament, there's no other choice. We are left with no other choice.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Iowa (Mr. CLARK) is recognized for not to exceed 10 minutes.

MERCHANTS OF DEATH—1976 EDITION

Mr. CLARK. Mr. President, in recent weeks we have again seen vivid evidence of the extent to which U.S. arms transfer policies and practices have gotten completely out of hand. Last Wednesday, just as we were going into recess, the President told Congress of plans to sell arms to 11 different countries, for a total of over $6 billion, I repeat, $6 billion. It was a mind-boggling experience paging through the list—from missiles to Korea, to torpedos for Pakistan, to aircraft for Morocco, and helicopters for Israel. And it was distressing that Congress was given such a short time—24 days—in which to consider the proposals.

Even more distressing, in my view, is the extent to which these proposed sales illustrate the total lack of an overall concept, a policy, within which the United States gives or sells billions of dollars worth of arms around the world every year. The action by my esteemed colleague, Senator NELSON, in submitting a resolution of disapproval on all 37 of the offers, emphasizes dramatically, in my view, the conviction in the Congress that it is not only unwise, but potentially dangerous to our Nation, to continue the distribution of weapons—at this high rate—around the world. Such sales stimulate arms races and, I am convinced contribute to the likelihood of the outbreak of wars.

Like some of you, perhaps, my earliest concern for how international arms sales stimulate wars dates to that classic muck-raking report, "The Merchants of Death." I cannot recall all the details of this work, but its two principal ideas remain vivid: First, how greedily private entrepreneurs sold weapons with no thought except to make money, and, second, how mindlessly the nations of the world permitted this to take place.

We now know, of course, that these early "merchants" were mere amateurs compared with what was to come. During the past decade the annual arms traffic has doubled to where it is now estimated that some $20 billion worth of arms were sold or given away worldwide last year.

And, I am afraid we have to concede that the United States led the way. According to a report by the Senate Foreign Relations Committee, in three decades the United States transferred to foreign nations weapons and services totaling some $110 billion, or somewhat over half the world total.

That fact alone makes it difficult to argue that our arms transfers are a response to Soviet sales or grants. Since 1967, our foreign military sales and military assistance grants alone climbed from $1 billion to a 1975 level of over $10 billion, a figure which dropped somewhat in 1976 to about $8.6 billion. Even so, we have increased transfers eight times in 8 years.

At the same time, commercial sales by U.S. companies to foreign governments, which have the same policy ramifications as government-to-government sales, held steady in the $600 million range,

although upward tendencies are detectable in recent years.

AID CATEGORIES AND TRENDS

Quite probably all of you are familiar with the various categories of U.S. arms transfers, but just to review let me mention them briefly:

The military assistance program—MAP—the granddaddy of our whole program. This involves the grant—or sometimes loan—to foreign countries of equipment or other services.

The foriegn military sales—FMS—program. Sales by the Defense Department to foreing governments—for cash or credit—with procurements from private industry.

Commercial sales by U.S. firms directly to foreign governments, under license by the Department of State.

Transfer of excess defense articles and ships. Once a major consideration, but no longer very significant.

An understanding of these categories is essential to grasping the trends which are occurring in U.S. arms transfers. There are three readily identifiable trends, each of which has a specific policy impact:

First. The most distinctive trend is the decline of grant aid and the phenomenal increase in military sales. The military assistance program has been reduced from some $5.7 billion in 1952 to a few hundred million dollars in recent years. This year's Security Assistance Act provided for a phaseout of all MAP aid next year, except on a country-by-country basis as specifically authorized by Congress. In practice, MAP aid will probably only be given as a quid pro quo for the use of bases—for example, in Spain. Parallel to the decline of MAP aid, however, U.S. Government arms sales, as we have seen, skyrocketed to a $10 billion level. This year, military sales by our Government and by our commercial firms constitutes 97 percent of our total arms transfers. For purposes of general discussion, our sales program is our method of transfer. It is the hope of Congress that grants will be replaced by credits and ultimately by cash sales.

Second. A second fundamental trend is in the increasing sophistication of the weapons being transferred. For many years we were giving, or selling, relatively conventional equipment, often older models. Now the transfers involve some of the most sophisticated weapons in a modern inventory. Iran is buying F-14 fighters, a plane our own Navy has not yet mastered, and *Spruance*-class destroyers more modern than our own. Recently there was confirmation that the administration proposes selling the so-called "smart" bombs to Saudi Arabia. These are laser-guided bombs which represent quite literally "state of the art." At a recent conference on this subject at the Fletcher School of Law and Diplomacy, the fear was raised that some nations are now acquiring such sophisticated equipment that if used against us they could be a threat to our own military operations.

Third. The final basic trend worth noting is the geographic switch. Until 1973, most of the transfers were to Europe or East Asia, that is, to countries around the periphery of the Soviet Union and China. In recent years, there has been a noteworthy surge in transfers to the Middle East, which—if you include the Persian Gulf—now represents about 80 percent of all our sales. Further shifts may be in the offing, for there appears to be a renewed interest for arms in Africa.

THE PROS AND CONS OF ARMS SALES

The arguments for and against arms transfers are many and varied. But let me run through some of the more prominent claims, with perhaps a shorthand comment or two to focus our discussion:

First. Arms transfers are useful in enabling our allies to contribute to our mutual defense. In the case of our close allies, such as NATO, this makes a lot of sense, and certainly supports efforts at standardization.

Second. The transfers give us influence over the recipient governments. Certainly that is generally true. But no country is apt to be swayed far from its own interests, as we saw in Thailand—a SEATO treaty ally—which has ordered our military forces out after $1.3 billion of military aid. The Russians' experience in Egypt, Indonesia, Ghana, and elsewhere are equally well known.

Third. The transfers are helpful in preserving regional balances of power. That may be so, but it might also be argued that in some cases—for example, the Persian Gulf, where Saudi Arabia struggles to keep up with Iran—our transfers contributed to the disturbance of that balance. If these two countries are in an arms race, we are contributing most heavily to it.

Fourth. The transfers help to maintain internal security. I cannot argue with that. Korea's President Park and President Marcos of the Philippines demonstrate this quite well. Where the maintenance of internal security becomes repression of basic human rights, however, such a justification becomes much more complex. In these cases, an argument can certainly be made that we are supporting not stability but institutionalized violence. At the very least, support for such repressive regimes undermines the credibility of the argument that has been put forward that our major goal in the world is to promote our best traditions and values—those principles spelled out in the Declaration of Independence and the Constitution. Rather, it would seem to me that we have—rightly or wrongly—set ourselves a very different goal; namely, to balance Soviet military power. If that is our higher goal, we should honestly admit that we are prepared to participate in, and promote, great injustices in the name of anticommunism.

Fifth. The transfers reduce research and development costs, increase employment in the United States and help the U.S. balance of payments. On balance, this is probably true. But a congressional study found the savings in research and development are limited to a "few selected weapons systems"—primarily the most sophisticated ones—and another congressional study determined that even with a total ban on FMS by 1981, the unemployment rate would be approximately 0.3 percentage points higher than otherwise projected. Given the policy ramifications and ethical questions raised by arms transfers, the economic argument, it seems to me, is open to serious challenge. It is my belief that the economic argument weighs heaviest with our decisionmakers—particularly with regard to sales in the Middle East—although they would never dare to say so publicly, for that matter, if balance of payments is a problem, something like grain sales may be both more humane and more profitable than selling arms.

Sixth. Perhaps the most vexing argument advanced in support of U.S. arms transfers is the claim that if we do not make the sale, somebody else—either the Soviets or some of our Western weapon producers—will.

In some instances, this must be a consideration. But the fact that other suppliers may make the sales should not by itself be the determining consideration. As George Kennan once remarked, when told that the Soviets would sell in a certain area if we did not, "that's their business." And whether we sell should be our business—our decision based on all the considerations involved.

On the other hand, the negative side of the ledger is as follows:

First. Arms transfers may lead to commitments and involvements not originally intended. This seems to have been true in Vietnam.

Second. The United States, despite end-use restrictions, actually loses effective control over the equipment. It is virtually impossible to keep a country from using what they purchased from us if they think it is vital to their interests. We learned that during the Turkish intervention in Cyprus.

Third. The transfers represent a diversion of much-needed resources which could far better be used for other purposes. This is particularly true if such sales retard economic development, as they almost invariably must.

NEW TRENDS IN U.S. ARMS POLICY

Congress was slow in recognizing the international ramifications of arms transfers. It was not until the mid-1960's that we began to move toward oversight of the grant programs. It was only a couple of years ago that we began to take a close look at Government sales.

In 1974, we passed the Nelson amendment, which requires that Congress be notified of any proposed Government sale over $25 million—this year lowered to $7 million, and then gives Congress 30 days to veto the sale with a concurrent resolution of disapproval. This is a major, if incomplete, step forward. Even 30 calendar days—raised this year from 20—is precious little time for Congress to act. Furthermore, there has not yet been a resolution of disapproval passed by either House—though some sources claim that the threat of such a resolution produced major changes in the Hawk missile proposal for Jordan. Similarly, the administration has now proposed only 850 Sidewinder missiles for Saudi Arabia instead of the 2,000 originally foreseen, because of rumblings of congressional disapproval. In fact, there are some indications that this figure may be reduced even more. In any case,

the threat of congressional rejection has become a genuine constraint to unrestrained arms sales.

Congress took another step this year in passage of the Security Assistance and Arms Export Control Act of 1976–77, by separating for the first time the development aid and security assistance into two authorization bills so that each could be considered on its own merits. This makes it much easier to take an independent look at military programs.

THE AFRICA CONTEXT

Examples of the problems we are trying to deal with are many. You have all seen references to the Foreign Relations Committee report—released recently—about how President Nixon in 1972 gave Iran such an open-ended commitment, as the committee report put it, of "virtually any conventional weapons it wanted." That commitment seems to have been reaffirmed by the Secretary of State during his recent visit to Iran. I do not challenge the President's right to make this personal commitment, but I do question the wisdom of such personal, long-term commitments for this and future administrations without these sales being carefully considered by the institutional bureaucratic structure which has been established for such a purpose, and without any consultation with the people's representatives in Congress.

Similarly, in his negotiation of the Middle East crisis, Secretary of State Kissinger has followed much the same pattern in making arms commitments linked in such a fashion to the settlements that it is all but impossible for the Congress to say "No."

I am concerned that we may be slipping into similar new commitments in the continent of Africa, where the administration is proposing the sale of F–5E's to Kenya, as well as $56 million in weapons to Zaire. Ethiopia is also programed to receive $26.6 million in military aid again this year.

One cannot help but wonder if the new African policy announced in Lusaka, Zambia, last April does not include a component of arming anti-Soviet governments in Africa—a continent in which we have shown great restraint on arms sales in the past.

It seems to me we have to better understand the implications of identifying ourselves with the regimes we are supporting in Africa. Several weeks ago, the Assistant Secretary of State for African Affairs, Mr. Schaufele, testified—I believe quite accurately—that the Ethiopian derg is a Marxist, radical socialist, anti-American, and very unstable regime.

It is deeply involved in a civil war with Eritrea and very unpopular with its own people. One cannot help but ask if it is the kind of government we wish to support in our long-term interests. Or, in the case of Zaire, one cannot help but ask if Mobuto is the kind of leader we wish to promote and identify as our closest African friend and adviser. These are the countries to which we now propose to transfer arms.

As someone interested in African economic development, I am also bothered by the extent to which military transfers divert from economic growth in the recipient countries. Zaire has foreign debts totaling $3 billion at present. Debt service alone on this amount is an unmanageable burden for Zaire. Why then is it essential to buy $56 million worth of additional arms on credit? Ethiopia, with what the Department of State describes as a "continuing request" for arms, cannot afford to feed thousands of its own people. Kenya is in particularly difficult economic straits, all three countries will have to pay in human lives and suffering for every dollar paid the United States for these weapons, and they cannot be quickly dismissed by a nation that proclaims the value of human life. And finally, as everyone knows, these three nations also openly violate basic human rights.

At the very least, I urge that before becoming further involved in these deliveries in Africa, the United States should at least go to the Soviets and determine whether they really want to get more deeply involved in an arms race in Africa. Strange as it may sound, administration sources say:

We've never seriously broached the idea with the Soviets.

It just might be possible to find some common interests particularly in view of a number of past Soviet failures on that continent.

It may also be possible to stimulate renewed efforts by the Organization of African Unity to achieve a regional arms control agreement. We should certainly go on record with our strongest support for such an initiative.

In conclusion, neither I nor anybody else would suggest that there are easy answers to the problem of arms transfers. We would not be gathered here today in this body to discuss this subject if there were. For that matter, I understand that the National Security Council has wrestled with formulating an arms transfer policy since May of last year, and is still unable to present an acceptable paper.

I think first of all, then, that it is essential that we have a policy, which has not been the case and is not the case. Presidents and Secretaries of State and Defense, as well as Government and commercial arms salesmen— assisted by agents and indeed by bribery—have often set the policies by their ad hoc decisions. It is high time we operate on the assumption that arms transfers are a critical feature of our foreign policy and must be treated as such.

Mr. President, recently the distinguished Senator from Minnesota (Mr. MONDALE) the Democratic nominee, of course, for the office of Vice President, addressed himself in considerable detail to the issue of arms control and American security in a speech before the Commonwealth Club of San Francisco. I think it is an excellent analysis and very pertinent to what we are talking about in this colloquy this morning. So I ask unanimous consent that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

EXHIBIT 1

ARMS CONTROL AND AMERICAN SECURITY

(By Senator WALTER F. MONDALE)

It is a pleasure to be in the Bay Area again, and I'm honored to be invited to speak to the Commonwealth Club of San Francisco.

All America takes pride in this city. Much that is best about our country can be seen here—the blending of nationalities, the open-minded positive attitude towards the future, the reaching out to the world through commerce and trade, and the determination to provide excellence in education and in the arts. The Commonwealth Club and its members can take pride in the contribution they have made to the culture and civilization that is San Francisco.

Recently, I've spent a good deal of time in a very nice but different town.

A tiny town of 600 souls in Southern Georgia. Plains has been a good setting for Governor Carter and me to discuss with leading experts some of the most serious issues facing our country.

I'm not sure the experts who traveled 6 hours round-trip on a bus from Atlanta, all found Plains as rewarding as I did. In fact, one of them said his visit to Plains was "an interesting experience but not habit forming."

For me, the most worthwhile aspect was the opportunity, so rare in politics, for Governor Carter and I to spend time talking personally and privately about the issues—about our concerns and our hopes for America's future.

We agreed that both of us should speak out on the important subject of American security, and the role of arms control in preserving and protecting our nation's security.

Governor Carter has done so already. At the United Nations in March he proposed a five year ban on all nuclear testing and a program to curb the spread of nuclear weapons. Last week in Seattle, he outlined in detail how we can achieve a strong, lean and effective defense.

There is legitimate debate over the effectiveness of our current military posture. And there also has been a dangerously over-simplified argument over who is ahead, who is behind, and who is supposedly "winning" the arms race.

We are committed to maintaining the most modern cost-effective forces fully capable of deterring and, if necessary, dealing with the military threats to the security of the United States, its allies, and friends. We will protect our security. That is a given * * *. There should be no doubt about this in the minds of our adversaries or anyone else. We will not permit ourselves to be exposed to danger. We will do whatever is necessary to assure American security and safety.

But today I want to talk about a no less serious concern: the whole world is losing the race to control the instruments of war.

Despite a treaty banning nuclear tests in the atmosphere, a treaty curbing antiballistic missile systems, a five-year agreement on offensive arms, a treaty to prevent the spread of nuclear weapons, and a convention to ban biological weapons, the arms race goes on.

The destructive potential of nuclear forces of the United States and the Soviet Union is climbing beyond comprehension. In 1968, both sides together had about 2,600 nuclear strategic missile warheads. Today, the Soviet Union alone has more than that. And together both nations have about 12,000 plus thousands more of tactical nuclear weapons and bombs on each side.

Almost everywhere, the arsenals of conventional arms are growing at increasing rates. The world trade in arms has soared to $18 billion annually. World military spending is now $300 billion a year, while in a world of disease and suffering, public expenditures on health care are only half that.

There is an alarming danger that the number of nuclear powers will increase to the point that the possibility of nuclear war changes from whether to when.

The unrestrained competition among nations to build more arms, to sell more weapons, to deploy more forces is senseless, wasteful but, above all, dangerous to our security. I would like to briefly outline the efforts

that are needed to begin to catch up in the race to control strategic arms, conventional arms sales, and nuclear proliferation.

STRATEGIC ARMS CONTROL

Now that the primary season is over, the Administration reportedly is trying once again to turn the Vladivostok Agreement—in-Principle into a concrete strategic arms treaty. Despite some reservations, I have supported this effort as a first step toward more effective limitations and reductions.

This step is long overdue. So, I wish our negotiators well. Governor Carter has made clear that we do not want the campaign to intrude on the negotiations in any way.

There are two things, however, that trouble me.

First, I am worried that a last minute effort to clinch a deal before the election will not properly protect our security interests. The originial 1972 SALT Agreement on Offensive Arms was negotiated under the intense pressure of Presidential politics. As a result, important ambiguities were written into the agreement at the eleventh hour in Moscow. These have been the source of arguments about Soviet compliance ever since.

I am concerned that this not happen again. When we negotiate with the Soviet Union we must have no illusions. We must be very precise. We must anticipate all the ways they might technically comply yet go forward with programs that vitiate the spirit of agreement.

It is certainly my hope that a good agreement can be reached. We would be the first to welcome it. At the same time, there are apparently some difficult issues to overcome. We obviously must see the specifics of any agreement before making a final judgment.

So, while we all pray for a successful agreement, I hope President Ford would not rush into a hasty agreement.

My second concern is this: while there are real risks in a bad agreement, the irony is that in all probability even a good agreement based on Vladivostok will not put much of a dent in the arms race, because those guidelines are inherently limited. They would leave forces on both sides at an extraordinarily high level; and worse, permit and even encourage continued growth in their destructive power.

Vladivostok would set a ceiling of 2,400 strategic ballistic missiles and heavy bombers and a subceiling of 1,320 strategic ballistic missiles with multiple independent warheads—MIRVs. Now, this overall ceiling is above our level, and the MIRV missile ceiling is above the existing level for both the Soviet Union and the United States.

For the most part, it looks like both sides took their weapons programs, stapled them together and called the result a breakthrough. In fact, when the President came back from Vladivostok, he insisted that America would have an obligation to build up to the Vladivostok ceilings.

Now that is not our idea of arms control.

But what is worse, under any agreement based on Vladivostok, the Soviet Union can continue to deploy its new massive ICBMs. The threat to our fixed Minutemen ICBMs will continue to grow. The Soviets can continue to turn out new, and even more capable strategic ballistic missile submarines. The new agreement is expected to do little or nothing to curb threats against our heavy bombers.

Under such an agreement, half-a-dozen major strategic programs, involving tens-of-billions of dollars can go forward on both sides. Within the Vladivostok limits, both sides can greatly increase its deliverable weapons payload, and soon, each will be able to rain upon the other more than 10,000 nuclear warheads.

If this strategic arms race goes on, anxiety, disappointment, and even anger, will increasingly dominate our relationship with the Soviet Union. In short, our goal of strategic stability will still elude us. Our hope for curbing the competition in new arms will fade. Defense budgets will soar. International tension and risks of nuclear war will dramatically heighten.

That is why Vladivostok, even if it is turned into a Treaty, can only be a first step. The most important strategic problems will remain.

We propose a two-track approach to these problems.

On one track we will press for reductions and controls on new developments and deployments. We believe it is essential to press for mutual agreement to reduce the stockpiles of strategic nuclear arms—in particular, so-called first-strike weapons that undermine deterrence.

Equally important, we will try to gain control over the introduction of new, destabilizing and needless technological developments. We will explore the feasibility of retarding the strategic arms competition through mutual limits on the frequency and kinds of missile flight tests, and on the rate at which new weapons systems can be introduced and old ones improved.

These objectives will not be easy to achieve. The kinds of forces, the geography, the types of technology are very different on each side. Nonetheless, we will make every effort to develop a schedule of reductions and a program of other limits that provides strategic stability and enhances rough equivalence.

To do this, we will put our best scientific brains back to work on the strategic arms control problem. In the Bay area alone, there are a number of distinguished scientists and arms control experts at Stanford, Berkeley, and elsewhere, who used to play a leading role. They must be given a chance to do so again.

The Arms Control and Disarmament Agency was proposed by Hubert Humphrey and established by John Kennedy in order to be the cutting edge of our nuclear arms control efforts. It has been gutted by the Nixon-Ford Administration. It needs a thorough and complete revitalization.

But we can't control strategic arms all by ourselves. The Soviet Union bears a major responsibility, too. They deprive their people with every new missile that is developed and deployed. They would suffer catastrophically, as would we, should the strategic arms race end in war.

While I was in Moscow, a little less than two years ago, I told an audience of Soviet Defense and foreign policy experts that "I must say, frankly, there are aspects of the new Soviet strategic program that are profoundly disturbing. There should be no doubt that if Soviet Strategic deployments threaten to make major parts of our deterrent vulnerable, we will respond."

So, while we seek arms control, we will not permit ourselves to be exposed to danger. We will have a second track to protect our security through our own efforts if we cannot get Soviet Agreement.

Our arms program must be integrated with our arms control programs. The current Administration has been unable to do this. Instead, we get foolish "bargaining chips" like the $6 billion we spent on a useless and now inoperative ABM site in Grand Forks, North Dakota. We cannot have the Secretary of State pushing the Department of Defense to go forward with an arms program one year and then, the next year, criticizing the Pentagon for having done so.

With a truly integrated approach, before we go ahead with a new strategic system, we will ask:

If we acquire this weapon, and our adversaries follow suit, will our security be enhanced or undermined?

If we show restraint, can we expect matching restraint on the other side?

If we acquire this new weapon, is it likely to be countered by our adversary at lower cost? Will we be closing the door to negotiations which might eliminate the need for it?

By the same token, we will carefully measure the worth of any arms control proposals:

Will the measure really contribute to strategic stability?

Will it truly provide rough equivalence, or only its appearance?

Will it be a safe and verifiable agreement? Or will we have to develop and deploy more weapons than if we had no agreement at all?

In brief, will the Agreement provide substantive control of arms, or only atmospherics?

These are the standards that we will use to measure both our arms control efforts and our strategic programs. They will help insure that we protect our security and gain ground in the race to control strategic nuclear arms.

CONVENTIONAL ARMS

The sheer terror engendered by strategic nuclear arms often causes us to neglect the fact that the world is also falling behind in the race to control conventional weapons. Yet, this is a far more intractable and, in a practicable sense, more dangerous problem. Every war in the last 30 years has been fought with conventional weapons. And we know from experience in Europe, in the Middle East, and elsewhere, that confrontation and war involving conventional arms can lead to the brink of nuclear holocaust.

There are a great many aspects to controlling conventional arms that deserve the most serious attention. But today, I want to focus on the increasingly dangerous and urgent problem of the international traffic in conventional arms.

Unfortunately, this problem is a particular responsibility of the United States. Many industrialized countries are in the arms sales business, but in the last eight years we have become the world's largest arms salesman. In 1968, our sales were $1.4 billion. For the last three years, they've been running at about $10 billion.

In recent years, we've made $10 billion worth of military sales to Iran alone. Kissinger and Ford are now asking the Congress to accept a major commitment to sell $5 billion more to the Middle East and Persian Gulf—including over $3 billion more to Iran and a half-a-billion to Saudi Arabia.

But that is not the end of it. Secretary Kissinger has suggested another $10 billion deal may be in the works for Iran. To give you an idea of the total sums involved, they more than equal this year's major weapons procurement budget for all the United States Armed Forces.

Now, I have no quarrel with arms sales as part of our legitimate mutual security programs with allies and friends, such as NATO and Israel. But I'm concerned about the extraordinary trade in arms to the Third World which has been encouraged, yet left largely uncontrolled by the Nixon-Ford Administration.

Richard Nixon gave a blank check to Iran for the purchase of the most sophisticated arms in the U.S. arsenal. Unfortunately, it's a check that President Ford has fully endorsed.

Major new arms sales commitments are being pushed in a last minute effort to saddle America's future with the mistaken arms sales policies of the past. I would seriously question proceeding with these deals without the most searching examination of their consequences. Many of these sales are not aimed at enhancing American security. On the contrary, our overall security is often undermined in several important ways.

First, we are putting ourselves in the position of being drawn into potential local conflicts. We are making major security commitments through the back door.

Only yesterday we were all shocked and saddened by the brutal and senseless murder of three American technical advisors in Iran. When all the current deals with Iran have been consummated, experts in the Congress

estimate that there could be in that country up to 60,000 Americans—advisors, technicians, and their families—all hostage to the same unspeakable acts of political savagery. That approximates the number of military personnel we had in Vietnam in mid-1965.

Second, we're aggravating local conflicts. The Administration's desire to pump arms into East Africa is adding to the growing and complex rivalries that involve Kenya, Uganda, the Sudan, Ethiopia, Somalia, Eritrea and the Afars and Issas. Our sales to Persian Gulf nations have gone far beyond offsetting Soviet arms deliveries to Iraq. They are now adding to the tensions in that explosive region.

And it's so self-defeating. These arms sales are supposed to buy us influence and good will. Well, we and the Russians both know how temporary that kind of influence can be. Despite supplying arms to both sides, we could not prevent the Indo-Pakistan War, nor the conflict in Cyprus. And as for good will, we only have to look at the consequences of the bribery and corruption that have too often been the handmaiden of our military sales efforts abroad.

These sales are also supposed to benefit our economy. The fact is that the American taxpayer get stuck with part of the bill. You see, we are committed, and rightly so, to the security of Israel. If we sell a half-million dollars in arms to Saudi Arabia—including 1,000 Sidewinders and over 1,000 of our most sophisticated weapons like the Maverick "smart bomb" plus the precision-guided tow anti-tank weapon—we then will need to give more economic and military aid to Israel to preserve the balance.

And why is it that when the Administration moves to establish a deeper relationship with the poorer nations of the world—most of whom are desperate to improve the lives of their people—they talk first about selling arms. In opening up a new dialogue with the nations of Africa after years of neglect, why is it the Administration seems principally to speak the language of war?

And what of American values? America yearns for a foreign policy that reflects our ideals—freedom, democracy, human development and peace. It is not only what these sales do to other countries; it is what they do to us.

This profligate policy of selling arms to all comers, no matter how repressive or tyrannical the government, has had a terrible impact on our world position and reputation. America was once proud to call itself the arsenal of democracy. But the Nixon and Ford Administrations have tried to turn us into just an arsenal.

I believe their record in pushing arms sales is scandalous. It has been a practical failure and a moral failure. We must and we will make greater efforts to gain control over this process.

Now this does not mean that we underestimate the difficulty and complexity of this problem. Countries want arms. Many need arms. Supplier countries are eager for sales.

Our problems are no excuse for indifference. Nor do they justify a cynical disregard for the fact that the arms we sow abroad today we may harvest in war tomorrow.

The first step must be greater American self-restraint. It is regrettable, but typical, that Gerald Ford vetoed the efforts of the Congress to provide for greater self-control.

Improving our balance of payments is not a reason to sell weapons to another country. I believe there should be a presumption against arms sales which should be overcome only if the sale advances American security, foreign policy or world peace. No country, no matter how rich should be given a blank check to obtain weapons from the United States.

I believe the American people will support such a policy. They know that the arms trade is not the way we want to solve our unemployment and economic problems. There are many other things we can do that will strengthen our own economy and our relations with other nations as well. And I would much prefer to see the face of America reflected in trade policies directed at human development, and to see food and peaceful goods not guns at the heart of U.S. foreign policy.

But self-restraint on our part alone will not be enough. Other supplying countries and the buyer countries must also show restraint.

Thus, the second step must be to place the international control of arms transfers at the front rank of the world's agenda. The issue deserves the same attention as other pressing world needs such as population, food, and the environment. As an initial step, we might convene a special session of the United Nations Disarmament Commission to begin to raise the world's consciousness on the need for international action.

Of course, we all know the shortcomings of the United Nations. So, a third step must be to work directly with the supplier countries, many of whom are our allies, to dampen down the promotion of arms.

I believe our allies will be more ready to help us in this effort as we make progress toward a program of arms standardization in NATO that permits all the major arms-producing countries in the alliance to have a fair share of our common defense market.

We also intend to press the Soviet Union hard to help end this particularly destructive form of East-West competition. As we work toward greater East-West peaceful trade, restraining communist arms sales to the less developed world should be a legitimate subject for negotiation.

Fourth, we would work with regional groups that may wish to show self-restraint in the purchase of arms. For example, several of our Latin American neighbors have sought to establish a restraint agreement among themselves. We should encourage and respect such efforts in Latin America and elsewhere in the world.

We have no illusions as to the difficulty to curbing the transfer of conventional arms. But we are also painfully aware of our own responsibilities. We recognize that controlling conventional arms requires broad and sustained effort. The leadership of the United States is essential. We intend to provide it.

NUCLEAR PROLIFERATION

There is one final point I would like to make. It is a subject Governor Carter has addressed forcefully. And it is one which this Administration has all but ignored.

Our entire effort to control the strategic arms race and to limit the potential for nuclear confrontation growing out of regional conflicts fought with conventional arms, could be completely undercut by the proliferation of nuclear weapons nations.

Yet in the past year we have seen alarming new developments that if unchecked could result in the spread of nuclear weapons capability to dozens of countries that are actively involved in local rivalries, rivalries that have often given way to armed conflict in the past.

That danger stems from the transfers of nuclear enrichment and reprocessing plants to countries like Brazil, Pakistan, Argentina and many others, that have no practical use for such technology other than the option of building nuclear bombs.

To meet this problem Governor Carter and I have both proposed that the United States take the lead in calling upon all nations to adopt a voluntary moratorium on the purchase or sale of enrichment and reprocessing plants. This cannot be done without the active and personal commitment of the President of the United States. In my judgment there is no more urgent or compelling a task than to reinforce the world's steadily weakening grasp upon the spread of nuclear weapons technology.

CONCLUSION

The race to control nuclear and conventional arms must be won. Governor Carter plans to make arms control a major focus of his Administration for two reasons: It makes sense for American security, and for peace in the world.

We believe that arms control programs, in the long run, are just as important to our military security as our weapons programs. Arms control is not a luxury we can afford only after both sides are armed to the teeth. And arms control is not a charade to be exploited for domestic political purposes.

We recognize that many of the problems I have discussed today will take patience and determination. We are realistic. We may not succeed in every area.

But our determination to protect our security through our own arms efforts has not been matched by an equivalent determination in the field of arms control. For example, when we build a tank, like the MBT-70, and it turns out to be a failure, we don't give up on tanks. In the same way, despite the frustrations and disappointments of trying to reach truly effective arms control agreements, we must keep trying.

I don't usually find myself quoting your former Governor, but Ronald Reagan spoke eloquently at the Republican Convention about the risks of war. He suggested that if Americans celebrate the tricentennial it will be because we succeed in controlling the forces of war.

We know that arms control is a serious, tough, long-term business. John Kennedy spoke to this same issue. He said:

Peace takes more than words. It takes hard work and large-scale efforts. Above all, it takes a government which is organized for the pursuit of peace as well as the possibility of war, a government which has a program for disarmament as well as a program for arms.

This is the kind of government we want to restore for the American people.

Mr. CLARK. Mr. President, lastly, I would like to mention that hearings begin today in the Subcommittee on Multinational Corporations of the Committee on Foreign Relations on Grumman's sales of the F-14's to Iran, and that the hearings are going to be dealing principally with the questions that are being discussed here today.

I ask unanimous consent that a brief summary or synopsis of the purpose of those hearings be printed in the RECORD.

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

GRUMMAN HEARINGS—SYNOPSIS

The Grumman hearings dissect the sale of the F-14 to Iran and show (a) the process of U.S. Government oil and arms policy-making, characterized by a series of ad hoc responses instead of a coherent plan; (b) the absence of U.S. Government management control of our arms sales program; (c) the role of the arms company in promoting the sale of weapons (with the aid of our armed services)—and changing the focus from national defense considerations to marketing ones; and (d) the role the agents play in funneling money and information in foreign military sales. An understanding of the F-14 sale should encourage the development of a coherent oil, arms, and development financial policy and avoid similar mistakes with respect to future arms sales, particularly in the Persian Gulf.

MAJOR POINTS

(1) Contrary to the prevailing impression, there were briefing papers on the Shah's re-

quest for the F-14 and F-15 prepared by the Pentagon and the State Department for former President Nixon prior to his May 1972 visit with the Shah.

(2) There were extensive efforts of Grumman to promote the F-14 with both U.S. and Iranian government officials prior to the 1972 Nixon-Shah meeting (and prior to any USG decision to permit the plane to be sold).

(3) 1-4% additional profit generally allowed for extraordinary sales efforts in foreign sales and charged to the purchasing country was specifically not permitted for sales to Iran, through a decision of the Executive Branch.

(4) The Secretary of Defense assumed a low production run of F-14s, thus loading R&D costs on the Shah to partially compensate the dramatic oil price increase of 1973.

(5) There was an absence of any effective U.S. Government monitoring of company sales promotion efforts prior to the decision to permit Iran to purchase the advanced aircraft.

(6) Grumman used agents to ensure direct access to the Shah and high military officers, despite the fact that the Iranians specifically informed Grumman and the Pentagon that there were to be no agents in the deal and this was to be a government to government sale, thus raising an issue as to the effectiveness of Pentagon supervision of company promotion of arms sales.

ORDER OF BUSINESS

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

PLAYING POLITICS WITH DEFENSE

Mr. CULVER. Mr. President, before making some comments on this administration's nonpolicy on foreign arms sales, I would like to discuss briefly some recent statements on defense policy by the two Presidential candidates.

Yesterday, President Ford claimed that Governor Carter's proposed improvements in our defense posture would make it "impossible to have a defense adequate to maintain our freedom and the freedom of our friends."

That is simply absurd. Such a remark does an injustice to Governor Carter's carefully considered suggestions and also an injustice to the facts.

We are strong today—second to none in military power. President Ford told us that himself, when he was campaigning against Governor Reagan.

No one wants to weaken America's defenses—not Governor Carter, not the Democratic Party, and not this Senator or any other member of the Senate Armed Services Committee.

The question is, can we stay strong if we continue the waste and mismanagement that now exists in the Pentagon?

Governor Carter favors a defense posture that is "lean and muscular and flexible." President Ford seems to believe that indiscriminate spending can buy us national security, regardless of cost overruns for exotic weapon systems and excessive outlays for surplus personnel who do not add to our combat capability.

Governor Carter wants to reduce our reliance on nuclear weapons in case of conflict. President Ford wants new missiles which are based on the dangerous assumption that so-called limited nuclear war can be tolerable.

It is ironic that President Ford opposes a $5 to $7 billion cut in military spending, for his own budget contained nearly $3 billion added after Secretary Schlesinger was fired, though the President had earlier agreed to cut the money, and $3 billion more in padding which his own Budget Office labeled "cut insurance." That is $6 billion which even he did not consider vital to our national security last November.

This administration has been throwing money at defense problems rather than thinking them through and solving them.

In the past year alone, we have had the Schlesinger addon, the Texas primary supplemental, and then the Kansas City supplemental.

It is hard to escape the conclusion that this administration has been playing politics with defense.

If there is an urgent problem with our forces, it is readiness.

Our troops in Europe are critically short of tanks and other weapons, which this administration has been shipping to foreign nations.

About half of our airplanes are not operationally ready at any given time, but this administration is pushing to build the costly and unnecessary B-1 bomber at $90 million a plane.

Our Navy is the smallest in decades, but the lion's share of our shipbuilding budget is slated to go for a handful of mutibillion dollar supercarriers.

To keep our country strong, we should buy only what we need, and then get what we pay for. That requires careful planning and tough management, rather than blind adherence to the open-end spending of the past.

Mr. President, in order that everyone may read Governor Carter's most comprehensive statement on defense issues, I ask unanimous consent that the text of his American Legion address in Seattle be printed in the RECORD.

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

REMARKS BY JIMMY CARTER TO THE AMERICAN LEGION, SEATTLE, WASHINGTON—AUGUST 24, 1976

It is a pleasure to appear here today before my fellow Legionnaires and to have this opportunity to discuss matters of common concern to us as veterans and as Americans.

I am, as you know, a member of the Legion Post #2 in Americus, Georgia, as was my father before me.

A tradition of military service runs deep in our family. My first ancestor to live in Georgia, James Carter, fought in the Revolutionary War. Almost a hundred years later, others fought in the War between the States, and my father, Earl Carter, served as a first lieutenant in the Army during the First World War.

Including by time at the U.S. Naval Academy, I spent 11 years in the Navy, most of my sea duty in submarines. I had the good fortune to serve under Admiral Rickover on the development of one of the first atomic submarines, and I have tried to carry over into my business career and my political life the high standards of dedication and competence that I learned from that remarkable military leader.

My son Jack continued our family's tradition in the military, but his service came in an era quite different from my own. Jack left college several years ago and volunteered to serve in Vietnam. He did so because he didn't think it was right for him to escape service simply because he had the money and the educational background to stay in college.

During the Second World War, and even during the Korean War, I always wore my uniform with immense pride, and it was a badge of honor among my civilian friends and neighbors.

That was not the case when Jack came home from Danang in 1969. He and the uniform he wore were all too often greeted with scorn and derision. Many of his friends told him he was a fool to risk his life in a meaningless war that couldn't be won.

Hundreds of thousands of Vietnam veterans were meeting that same bitter reception all over America, and I believe very strongly that those scenes, and the national mood they reflected, amount to nothing less than an American tragedy.

I believe in patriotism. I believe that people should love our country, and be proud of our country, and be willing to fight to defend our country. That is how you and I grew up—never doubting that ours was the greatest nation on earth, and getting, as Senator John Glenn once put it, a warm feeling inside us whenever the American flag passed by.

I know that your patriotism has been demonstrated not only in your military service, but in your work in community and national affairs, such as your outstanding "War on Cancer" fund drive. But we must recognize that for millions of our fellow Americans, patriotism is out of fashion, or is an object of scorn and jokes. That fact is part of the bitter heritage of an unpopular war.

I do not seek a blind or uncritical patriotism. Obviously a government's policies must be deserving of public support. But in recent years, disagreement with our nation's policies too often became rejection of our nation itself. There is a great need for the next President to do everything in his power, by word and deed, to restore national pride and patriotism in our country—and if I am elected, that is what I intend to do.

I also believe in tradition. I was Governor of Georgia when Congress passed the law that changed the observation of Armistice Day away from the traditional date of November 11. I thought that action was unnecessary, insensitive, and offensive, and we kept November 11 as Armistice Day in Georgia.

I did not come here just to get your vote or endorsement, nor just to make a good impression on you. I come here as a nominee for President who has spent full-time the last 20 months learning about this country—what it is and what it ought to be.

I want to talk to you about some tough decisions—as veterans, yes, but also as Americans who are farmers and truckdrivers, doctors and lawyers, fathers and grandfathers, school teachers and civil servants, employed and unemployed, rich and poor.

We must maintain adequate military strength compared to that of our potential adversaries. This relative strength can be assured:

by a commitment to necessary military expenditures;

by elimination of waste, duplication among forces, excessive personnel costs, unnecessary new weapons systems, inefficient contracting procedures;

and by a mutual search for peace so that armament levels can be reduced among nations, because the most important single factor in avoiding nuclear war is the mutual desire for peace among the superpowers.

I would never again see our country become militarily involved in the internal affairs of another country unless our own security was directly threatened. But it is imperative that the world know that we will meet obligations and commitments to our allies and that we will keep our nation strong.

We seek friendship with the unaligned and developing nations of the world. Many of them are weak and vulnerable and they need allies who can contribute to their peace, security and prosperity. Yet we must remember that excessive foreign commitments can overtax our national ability. We must therefore be cautions in making commitments, but firm in honoring them.

I have spoken recently with many experts in national defense matters, and I believe we have, overall, adequate ability to defend ourselves, to meet obligations to our allies, and to carry out a legitimate foreign policy. But we must be constantly vigilant to recognize and correct adverse trends.

Our total American ground combat forces are less than half those of the Soviet Union, and the number of men under arms in that country has increased by a million while ours have decreased by 1½ million since 1968. During the same period the number of U.S. ships has been cut in half. For every tank we have, the Soviets have at least eight. Because of our greatly improved anti-tank weapons, this heavy Soviet investment in tanks may prove to have been an unwise investment.

Of course there are counterbalancing factors of strength such as superior quality of our weapons, the relative security of our own borders, our more ready access to the sea, and the trustworthiness and military capability of our allies.

There is now, in my opinion, an overall rough equivalency in direct military strength. This balance must be maintained.

Yet, as we seek an adequate defense, we must face the fact that the very words "national security" have fallen into disrepute. I want to hear those words spoken with respect once again. Too often, those words are now viewed with scorn, because they have been misused by political leaders to hide a multitude of sins, and because they have been used to justify inefficiency and waste in our defense establishment.

Whatever the price and whatever the pressures, the President must insist on a national defense posture that is lean and muscular and flexible.

It is sometimes said that the threat of war has receded. But in Europe, the Middle East, in northeast Asia, potential for conflict still exists, powerful armed forces are deployed and Americans have recently been brutally killed. To deny that these situations pose a potential danger to peace is to turn away from reality.

Our military power must be continually reviewed. In Europe, NATO must increase its combat readiness and adapt its forces to new military technology, if it is to offset steady improvements in Warsaw Pact forces. In the eastern Mediterranean, strong U.S. naval power must be maintained. We must also assure a close and confident defense relationship with South Korea and Japan.

We must maintain rough equivalency with the Soviet Union in strategic nuclear forces. Equally important, we and our allies must have conventional military capability adequate to reduce dependence on nuclear striking power. In a world where massive mutual devastation is the likely result of any use of nuclear weapons, such strategic forces cannot solely be relied upon to deter a vast range of threats to our interests and the interests of our allies.

We must always recognize that the best way to meet ideological threats around the world is to make our own democratic system work here at home.

The strongest defense grows out of a strong home front—out of patriotism. Our defense must come not only from our fighting forces, but from our people's trust in their leaders, from adequate transportation, energy, agriculture, science, employment, and most of all from the willingness of our people to make personal sacrifices for the sake of our nation. Not until we restore national unity can we have a truly adequate national defense.

Only then can we, in Theodore Roosevelt's phrase, speak softly but carry a big stick.

I recognize, of course, as you do, that it is not enough for the president to talk about patriotism and national security. He must take positive, aggressive action to ensure that our defense establishment is worthy of national respect. That calls for leadership, and it calls for management.

In any given annual budget, now or in the future, there is a limited amount of money available for national defense. When any resources are wasted, our nation's security is weakened. We now have an excessive drain on defense funding from waste and unnecessary expenditures.

We must better coordinate long-range planning and budgeting among departments responsible for military, foreign, fiscal, economic, transportation and social affairs of our government. A spirit of cooperation must be restored.

Foreign aid must be consistent with our national purposes, and designed to strengthen our allies and friends and to fulfill humanitarian purposes. I'm tired of our taxing the poor people in our rich country and sending the money to the rich people in poor countries.

We must frankly and constantly assess the effectiveness of our present voluntary recruitment program. As unemployment drops and civilian jobs become more plentiful, it will be much more difficult to maintain our present military strength.

We must ensure that an oversized support establishment does not prevent us from maintaining needed combat force levels.

We must recognize that our military personnel are transferred too much. At any given moment, about one out of seven of those personnel is in the process of moving, or away from their family on temporary training duty. This year $2.5 billion will go simply to move service personnel, their families, television sets and furniture from one base to another. Such frequent moves not only eat up money, they undermine morale. If we extend the average tour of duty by just two months, we could save $400 million per year.

We need to reexamine our military training programs. Recent congressional hearings, by the way, revealed that we now have an average of one and a half military students for each instructor. By moving to a ratio of only three students to each instructor, we could save an estimated $1 billion per year.

Cost overruns have become chronic. The Pentagon itself estimates that the total current cost of overruns on the 45 weapons systems now in the process of development in the three services—exclusive of inflation—is $10.7 billion. Over the next five years that would approximate the cost of the proposed B-1 bomber program over the same period.

We need sound, tough management of the Pentagon not only to eliminate waste, but to ensure that force structures are correlated with foreign policy objectives. Tough management will mean that overlaps are eliminated between Pentagon programs and similar programs of civilian agencies. It will mean that we cooperate closely with our allies in our mutual defense, that our weapons systems are integrated with each other, technically and strategically, and that we put a stop to the dubious practice of arms giveaway programs for potential adversaries.

Ever since I was Governor of Georgia, when I attended National Guard training sessions every summer, I have been concerned that our reserve forces, both the regular reserve and the National Guard, do not play a strong enough role in our military preparedness. We need to shift toward a highly trained, combat-worthy reserve, well equipped and closely coordinated with regular forces—always capable of playing a crucial role in the nation's defense.

If we can get the flab out of the Pentagon's budget, I believe that the public will evaluate questions about weapons systems and force levels on their merits in a calm and rational manner. Our people will support an adequate defense establishment without complaint, so long as they know that their tax dollars are not being wasted.

The threat to our security comes not only from states that might be hostile. International terrorism knows no boundaries, recognizes no law of warfare, accepts no standards of conduct. It is brutality at its worst, the law of the jungle in its most primitive form.

Recently at Entebbe the Israelis reaffirmed courageously the old principle that every state has the right to defend its citizens against brutal and arbitrary violence—violence that in this case was even based on collusion between the terrorists and a government.

The issue of international terrorism must be a priority item for the entire international community. If I become President, I intend to recommend strong multinational sanctions against guilty nations as a necessary and productive means for crushing this intolerable threat to international law and peace. International terrorism must be stopped once and for all!

In our own country, we must recognize that, in far too many cases, the Vietnam veteran has been a victim of governmental insensitivity and neglect. Large bureaucracies of the federal government have often been incompetent, inefficient, and unresponsive in their fulfillment of responsibilities to veterans. Each month, thousands of veterans are plagued with late delivery of badly needed benefit checks. Hundreds of millions of dollars of benefit payments have been improperly computed. The average VA hospital has only half the doctors and supporting personnel found in the average community hospital.

The poor record of the government bureaucracy has been especially bad in programs intended to help recent veterans to find jobs. In 1973 and 1974 Congress passed legislation requiring special consideration for veterans in public service jobs, in training programs, for jobs with federal contractors, and for jobs in the federal government. None of these requirements has been fully or effectively carried out.

For example, despite the mandates of the law many federal departments and agencies have few disabled veterans or Vietnam veterans serving within them. It took the Labor Department 18 months to establish administrative guidelines to ensure the hiring of veterans. In 1975, 16 federal agencies failed even to submit required plans for hiring disabled veterans until congressional inquiries were begun.

The record of placement in private sector jobs and training has been no better. In 1975 more than two-thirds of the 153,000 job training slots went unfilled, largely due to inadequate administrative procedures.

Yet last month there were still 531,000 Vietnam veterans who had no jobs.

The reason for this dismal record is clear: It is a failure of leadership.

Sympathetic leadership would not submit—as did the present administration—a budget recommending cuts of ten percent or more to veterans' programs and denying full cost of living protection to disabled veterans.

Concerned leadership would not have vetoed a bill overwhelmingly voted by Congress for higher education allowances, better work-study programs, more educational loans, and employment and training preferences for more than two million veterans.

Only because the Congress overrode this veto do Vietnam veterans enjoy some of the educational benefits they deserve.

I believe we need to address the needs of

veterans, especially of Vietnam veterans, with sympathetic and active leadership rather than with vetoes and passive resistance. Men who have endured so much suffering, so bravely, fighting in a far-off land, should not now suffer anew in their own country at the hands of insensitive bureaucrats and indifferent politicians.

If I become President, the American veteran, of all ages, of all wars, is going to have a friend, a comrade and a firm ally in the White House. My administration will act to strengthen the competence, the responsiveness, and the independence of the Veterans' Administration. I will appoint the most capable administrators available and I will insist on fair and sensitive treatment for veterans by every employee of the executive branch of government from top to bottom.

I would like to speak for a moment about the single hardest decision I have had to make during the campaign. That was on the issue of amnesty. Where I come from, most of the men who went off to fight in Vietnam were poor. They didn't know where Canada was, they didn't know where Sweden was, they didn't have the money to hide from the draft in college. Many of them thought it was a bad war, but they went anyway. A lot of them came back with scarred minds or bodies, or with missing limbs. Some didn't come back at all. They suffered under the threat of death, and they still suffer from the indifference of many of their fellow Americans. The Vietnam veterans are our nation's greatest unsung heroes.

I could never equate what they have done with those who left this country to avoid the draft.

But I think it is time for the damage, hatred and divisiveness of the Vietnam war to be over.

I do not favor a blanket amnesty, but for those who violated Selective Service laws, I intend to grant a blanket pardon.

To me, there is a difference. Amnesty means that what you did is right. A pardon means that what you did—right or wrong—is forgiven. So, pardon—yes; amnesty—no.

For deserters, each case should be handled on an individual basis in accordance with our nation's system of military justice.

We may not all be able to agree about what was the right course for the nation to take in 1966. But we can now agree to respect those differences and to forget them. We can come together and seek a rebirth of patriotism in which all our citizens can join.

We must bind up our wounds. We simply cannot afford to let them fester any longer. The world is too dangerous. We cannot remain distracted from what must be our overriding aim. Our attention must turn to rebuilding the military, economic and spiritual foundations of a peaceful world order.

Those who most want peace, and who best understand the need for strength as a prerequisite for peace, are our past and present servicemen and their families. As a former submarine officer, I know that fact from experience.

I can still remember hearing President Truman explain to the world that the atomic bomb had been dropped in Hiroshima. I was at sea in an old battleship in the North Atlantic. None of us had ever heard even a rumor of this quantum leap in destructive power. We had no way of comprehending the meaning of this new weapon which had been dropped on Japan. We were mainly relieved at the prospect that the need for invading Japan might be averted, thus saving what would surely have been the loss of hundreds of thousands of American and Japanese lives.

After we saw the destruction in Japan, for a while we understood the terrible havoc and devastation which would follow any use of nuclear weapons. But now we have a tendency to forget. Even if a strategic nuclear war could remain "limited in nature," it would still involve the death of approximately ten million Americans. A so-called "limited nuclear war" in Europe could produce an even greater number of deaths. In an all-out nuclear war, 200 million Americans could die—virtually the entire population.

Obviously, such a holocaust is beyond our capacity even to imagine. Numbers like 10 million dead or 200 million dead seem unbelievable. But they are true.

The Duke of Wellington said in 1838: "A great country cannot wage a little war." In our time that doctrine has acquired new meaning. In a nuclear world, we cannot rely on little wars to prevent big wars. We must maintain our strength and use it to prevent all wars.

Our people have been shocked and hurt over and over again. Things which we used to take for granted are now subject to widespread doubt. Things like trust in our leaders, confidence in our institutions—even love and respect for the flag and support and appreciation for the men and women who defend the flag. But I believe there is no one in this country—certainly there is no one in this room—who does not want to heal our wounds and restore the precious qualities and the national strengths we seem to have lost.

I hope to play a role in that noble enterprise.

I hope you will help.

Thank you.

CONGRESS AND ARMS SALES

Mr. CULVER. Mr. President, I am pleased to join in this discussion of foreign military sales policy. This is a subject on which the Congress has acted boldly to fill a vacuum in executive branch policymaking.

Until just a few years ago, these weapons sales were low in volume and in visibility. But the Middle East situation after 1973 and the vastly increased revenues of the oil cartel countries created a demand for weapons which the arms merchants are still rushing to fill. For example, the United States sold more weapons to other nations in 1974—valued at $10.8 billion—than in the previous 4 years combined. And for the two subsequent years, annual sales have approached $10 billion.

The executive branch resisted congressional efforts to seize an oversight role on these mushrooming sales.

The executive branch preferred a laissez-faire attitude of selling whatever the market would bear.

Little thought was given to the impact of these sales on regional arms balances, on our foreign policy objectives, or on the readiness and requirements of our own forces. If the check was good, we jumped at the opportunity.

In short, we had a program—sell—without a carefully considered policy.

The Congress has now imposed a set of policy guidelines and has assumed an oversight role. We can be justly proud of our efforts, despite a Presidential veto and the special interest pleadings of arms manufacturers.

Nearly a year ago, more than 100 Members of Congress joined me in signing a letter to the Secretary of State, expressing our concern about "the anarchic and escalating nature of the worldwide rush to acquire new weapons" and urging U.S. efforts "to convene an international conference of major arms-producing nations to seek some rational control and coordination of what now seems to be pathological competition in foreign military sales."

Secretary Kissinger responded on November 28, promising "a full scale review of possible limitations on the traffic in conventional arms."

Mr. President, although I am informed that such a review was undertaken, I have not yet received any further communication regarding this proposal. Nor am I aware of any initiatives by the present administration pursuant to that policy review.

Not content with a letter, the distinguished Senator from Minnesota (Mr. MONDALE) and I introduced legislation calling for an international conference on arms sales, which was incorporated into section 202 of Public Law 94-329. That provision reads as follows:

> It is the sense of the Congress that the President should seek to initiate multilateral discussions for the purpose of reaching agreements among the principal arms suppliers and arms purchasers and other countries with respect to the control of the international trade in armaments. It is further the sense of Congress that the President should work actively with all nations to check and control the international sale and distribution of conventional weapons of death and destruction and to encourage regional arms control arrangements. In furtherance of this policy, the President should undertake a concerted effort to convene an international conference of major arms-supplying and arms-purchasing nations which shall consider measures to limit conventional arms transfers in the interest of international peace and stability.

Mr. President, Congress has spoken. Where is the executive branch's reply?

We recognize the difficulties of achieving agreements on these matters, but we deplore the inactivity and seeming indifference on this urgent problem.

Few people realize, Mr. President, the consequences for the United States of unchecked arms sales. As a member of the Senate Armed Services Committee, I have been particularly concerned about the impact on our own defense programs and force posture.

Consider the facts.

Over 14,000 man-years of effort, civilian and military, will be devoted next year simply to the administration of foreign military sales. The estimated cost is $237 million. Although these sums are supposed to be reimbursed by recipient nations, the fact remains that nearly a division's worth of people are working on foreign sales rather than contributing directly to our own combat capability.

I might add, Mr. President, that the Armed Services Committee has requested the GAO to review the accounting and reimbursement for these personnel in order to determine what changes might be necessary.

One would hope that these massive sales to supposedly friendly countries would permit some reduction in the requirements for U.S. forces, but the Secretary of Defense has given no examples where that has actually occurred.

Not only do we sell vast quantities of equipment, but often the latest and best equipment, incorporating the advanced technology which until now has enabled our forces to maintain a qualitative superiority despite numerical disparity in some areas. We may relish the defection

of a Soviet pilot in a Mig 25, but we cannot prevent the defection of, say, an Iranian pilot with an F-14 and Phoenix missiles.

Transfers of weapons in recent years have depleted our own stockpiles and have mortgaged huge segments of our production lines for many major weapons. It is no secret, for example, that our forces in Europe have suffered serious shortages in many items because of sales and grants of equipment.

The Army claims an overall worldwide shortage of 61 percent in tanks, yet we have shipped over 2,000 tanks abroad in the past 3 years.

The Army says that we have only about half the armored personnel carriers we need, but over 2,500 have been sent abroad in the same period.

And although our own forces are still far from filling their required inventories of Tow antitank missiles, we have sent about 3,000 launchers and over 100,000 missiles to foreign customers.

How can we justify, Mr. President, making our own soldiers wait at the end of the line while the oil potentates go on their spending spree?

Once again, Mr. President, the Congress had to take action. Last year, the Armed Services Committee approved my recommendation for restrictions on foreign sales which reduced our own readiness. And belatedly, the President announced a policy requiring other nations to take their proper place in line. In this instance, I believe that we gave the Pentagon backbone to resist the open-order-blank policy of the State Department and the President.

I am not opposed to all arms sales, but I believe that any sales must be measured against a clear policy yardstick which calibrates our overall national interest, and not simply short-term benefits. We need foresight and calculation if we are to avoid causing more problems than we solve by agreeing to these sales.

Over the long run, the greatest danger is that our own production lines—and those of other nations—may become hostage to a new international military-industrial complex which feeds on national rivalry and then becomes a fortress against global arms control and reduction.

We have recognized this threat to our society, but we have not yet come to grips with the potential power of the worldwide weapons industry. In recent years, about one-third of American defense production has gone to foreign sales. About one-third of the British aerospace industry depends on overseas markets, and six of every seven French tanks, missiles, and Mirage fighters produced in recent years have gone to other nations.

If these trends continue, it will be politically impossible to check this pathological competition in the means of destruction.

It is therefore urgent to act, and act quickly, to harness these forces before they drag us into unwanted and unforeseen conflicts.

Mr. President, our distinguished colleague from Minnesota (Mr. MONDALE) has discussed these issues in a recent address in San Franciso. As a contribution to our national debate on this topic, and as a glimpse at what a coordinated, cooperative policy between the Congress and a new administration might be, I ask unanimous consent that the text of Senator MONDALE's address be printed in the RECORD.

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

(See exhibit 1 on page 29633.)

Mr. CULVER. I also ask unanimous consent that an excellent editorial on this subject from the Des Moines Tribune be printed in the RECORD.

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

[From the Des Moines Tribune, Sept 3, 1976]

ARMS FOR SALE

"Can we be both the world's leading champion of peace and the world's leading supplier of the weapons of war? We cannot have it both ways,"—Democratic presidential candidate Jimmy Carter in his Foreign Policy Association speech in June.

The facts are grim. The world arms trade has shot up from $300 million in 1952 to $20 billion last year. The U.S. is the biggest arms exporter, doing 45 per cent of the exporting. The Soviet Union did 30 per cent, France and Britain were third and fourth.

In the 1950s and '60s, U.S. arms exports were mostly gifts or near-gifts, so Congress and presidents tended to hold them down. In the 1970s, when 90 per cent of the arms exports are commercial sales, they went up from $1 billion a year to $10 billion. Arab oil money is one reason. We arm Arabs.

All arms sales were under government licensing and many were government-to-government sales, but theoretical controls by Defense Department, State Department and White House were governed by a conviction that more is better. Defense employes became salesmen and pushed arms on foreign governments, in competition with rival salesmen from the Soviet Union, France and others.

The Senate Foreign Relations Committee warned recently that U.S. military sales abroad are "out of control." Congress this year gave itself 30 days to veto arms sales abroad of over $25 million.

But Robert Mantel of the Senate committee staff told Newsweek, "We do not have the time or the staff to set U.S. arms policy. About all we can do is hope to force the administration to face the issues."

The administration continues to believe that massive arms sales are necessary to enable friendly countries to defend themselves, to counter Soviet sales to rival countries, to reduce by mass production the unit cost of arms to the U.S. armed services, and to keep foreign arms suppliers from getting the sales. If the U.S. doesn't sell, someone else will, defenders of the arms policy say.

Some efforts were made by U.S. administrations in the past to get international agreement to limit arms sales to factions in the wars and civil wars in Angola, Vietnam, the Middle East. It would make sense to greatly intensify efforts at arms sales limitation. To keep this effort from being a drive for superpower monopoly, it should be combined with arms limitation talks for superpowers also.

Meanwhile (and that may be a long while), the United States should rethink its own arms export policy. Unilateral reduction to more modest levels would in all probability reduce the danger of war instead of increasing it.

The Pentagon told Newsweek it expected to reduce arms exports over the next few years to around $6.5 billion a year and level off there. Before 1971 the level was $1 billion or $2 billion for years. Why not now?

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

FOREIGN MILITARY ARMS SALES

Mr. GARY HART. Mr. President, earlier this year the Congress, recognizing the need to exert a measure of restraint over the uncontrolled upward spiral in U.S. weapons sales abroad, enacted the Arms Export Control Act. Congressional concern and action was stimulated by a number of disturbing trends in the burgeoning U.S. trade in conventional weapons. The first problem was simply the massive growth in American arms exports. In 1970 U.S. foreign military sales amounted to only $900 million. By 1975 this total had increased tenfold to $9.5 billion, and the United States now enjoys the dubious distinction of being the largest weapons merchant in the world.

Disturbing as these totals are, concealed within them are two even more significant shifts. The traditional focus of our arms sales has shifted from our NATO allies and Israel to the volatile Persian Gulf, Saudi Arabia and Iran alone account for over one-half of our recent sales. President Ford has said we must continue our commitment to our traditional allies. I ask the President if he considers Saudi Arabia as one of our traditional allies. Moreover, we are no longer selling merely older equipment, but rather the most modern conventional weapons in our arsenal. A list of recent weapons sales contains such sophisticated hardware as F-4E and F-14 fighter aircraft, more modern helicopter gunships than are currently supplied to the U.S. Armed Forces, Phoenix, Hawk, Lance, Tow, Sidewinder, and Harpoon missiles, and the brandnew Spruance class destroyers to Iran.

Testimony on these three trends clearly established the need to inject a measure of government control over the burgeoning U.S. arms trade. The result was the Arms Export Control Act that was passed earlier this year, establishing a measure of congressional review. It was hoped that the bill would provide the administration with an incentive to carefully review its policy, or more correctly its nonpolicy, of encouraging indiscriminate sales, and that this would result in a more careful consideration of the issues involved, and hopefully a reduction in the total volume of our weapons deals abroad. Unfortunately for the American people and the people of the world, this has not happened.

Mr. President, just 9 days ago, on September 1, the Congress received notification from the President of proposed arms sales totaling nearly $6 billion. I repeat that figure—$6 billion. This is a staggering amount. This submission is all the more troubling because of its timing. September 1 was the first day that the administration could submit this notification without adding to the fiscal year 1976 and transition quarter total of $8.9 billion in military transfers. If we ignore the administration's calendar juggling and combine the two figures we arrive at an almost unimaginable total of $14.8 billion in arms sales. This is almost twice our total sales for 1974, over

4 times our sales for 1972 and over 15 times our sales for 1970.

To my colleagues, I say that this is not a reassuring picture of a calm, and limited arms policy. This is a highly unsettling view of an administration and a policy running out of control and still accelerating.

Despite the clear need for an over-all policy review, this administration continues to press for and encourage increasing conventional arms sales, even though the National Security Council has not yet completed its comprehensive study of the question. The prevailing attitude seems to be that if we do not sell these weapons, then others will.

The President has recently said that we cannot allow the Soviet Union to have a monopoly in arms sales. I think a lot of people would ask the question, in those cases where these weapons sales add nothing to our own national security and where they threaten the stability and security of the world, why not?

Moreover this administration has made no serious effort to attempt to negotiate a reduction with the other major arms suppliers, despite repeated congressional urgings.

The record is clear. The Ford administration has consistently advocated almost indiscriminate increases in arms sales with very little consideration of the possible detrimental effects of such a short-sighted policy. While we may not sell military equipment with quite the same eclecticism of George Bernard Shaw's Mr. Undershaft, who would have sold all arms to all men, the administration does seem to feel that we should base the volume and structure of our foreign military sales on little more than the sum total of requests received. Apparently we have been so free with our arms in the past that to refuse a single request now would be seen as a radical departure, and a severe insult to the prospective buyer. Gentlemen, this is not a policy, this is anarchy.

While I deplore our present position as the world's leading arms merchant, I recognize that weapons sales can be a legitimate instrument of our foreign policy. However, as the world's major supplier, we have a responsibility to carefully examine our policies to make sure that they are not destabilizing. Serious questions need to be asked about each prospective weapons transfer:

First. Will the sale promote regional stability, or will it provoke and exacerbate regional arms races?

Second. Will the sale lead to unseen down-the-road commitments to the recipient country? Many of our more sophisticated weapons call for a large American contingent to provide training and logistics support. Could these Americans be held as hostages to guarantee a future commitment?

Third. Can the buyer afford the proposed system, or is he merely succumbing to the fatal attraction of modern technology that sometimes seems to affect even this body?

Fourth. Will these weapons aid totalitarian regimes to further suppress civil liberties, or are they needed as a response to some real external threat?

Fifth. Will the worldwide distribution of modern American weapons increase the risks of spreading knowledge of classified American technology? I think that is a legitimate question to ask. The recent Soviet experience of a pilot defecting to Japan with a Mig-25 should make us stop and think. Although I am certain that no American pilot would defect to the Russians, can we be as certain that we can retain control over our new military technology when we are selling modern weapons on a worldwide basis?

Sixth. What effect will proposed sales have on U.S. reserves and readiness?

Seventh. As the Senator from Iowa has already commented, how stable is the government of the recipient country? Certainly we have no wish to repeat our experience in Vietnam where we provided the North Vietnamese with enough military hardware to make them one of the most powerful nations in Asia.

Eighth. What is the relationship between the price of oil, and the level of military sales in the Persian Gulf? Certainly Iran has been our primary customer, and has also been in the forefront of those OPEC states pushing for higher oil prices. Are we unwittingly fueling pressures for higher oil prices by the large volume of military sales?

All of these and more questions need to be given careful attention. Arms sales cannot be allowed to continue to spiral on the vague assurances that they help the balance of payments, that they further our influence abroad, and that we might as well sell, since if we do not someone else will anyway. Careful consideration needs to be given to the relationship between arms sales, and our short-term and long-term policy objectives. Certainly not all arms sales are bad. Indeed they can be constructive when they are used to support and supply our allies, to increase weapons standardization, or to strengthen independent local powers in order to stabilize areas of the world where a military imbalance, or even a power vacuum becomes a threat to world peace.

The point is that we have a responsibility to carefully analyze our arms sale policy. Since this administration has shown no inclination to undertake this responsibility it is now up to the Congress to exert a measure of control. This issue is simply too important to allow our policy to continue to be dictated by little more than unbridled commercial competition.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 10 minutes.

AMERICA—THE ARSENAL OF THE "FREE" WORLD

Mr. PROXMIRE. Mr. President, at one time the United States was known as the arsenal of the free world. America's industrial power was tested and passed with flying colors. Indeed we were a major supplier of military goods to our allies in World War II. And we carried almost the entire burden of the Korean conflict.

Under the conditions that prevailed then, it was absolutely necessary for the United States to play that role. The cause was just. The cause was publicly accepted. There was little question about the rightness, the necessity of the cause.

How different it is today. We still are the arsenal of the world. But it is no longer the "free" world. Our former allies have vibrant arms industries of their own. It is true that we still support our NATO allies. That is proper.

But a new element has been introduced in the last 5 years under two Republican administrations. We are no longer the arsenal of the free world—we are the world's arsenal. Along the way, we dropped the concept of freedom. The cause is no longer just. It is no longer publicly accepted. It is no longer a question of rightness or necessity. Our assistance no longer goes to democratic countries facing immediate peril.

We have become an unprincipled arms pusher. I say unprincipled because no one can define or justify our current policy of transferring massive amounts of high technology weapons throughout the world. There is not one public statement that fully explains the U.S. policy behind the $5 billion in arms sales to Iran, the $613 million to Saudi Arabia or the $80 million to Pakistan—to mention only those sales pending. Or the explosion in arms sales from $1.4 billion in fiscal year 1970 to $10 billion now. Seven fold in 5 years or the $24 billion in cumulative undelivered sales. Or the $9.1 billion that went to Iran from 1972–75 or the $4.8 billion to Saudi Arabia in the same period.

What spokesman for this administration has stood up and justified the transfer of 21,000 TOW missiles, 1,900 Hawk missiles, 1,388 tanks, 4,700 armored personnel carriers, 61 destroyers, 31 submarines, 248 F-5 aircraft and 193 A-4 aircraft delivered abroad from 1973–75.

Let us face facts. We sell to anyone for any reason at any time. We arm neighbors. We arm enemies. We arm the wealthy, the destitute. We arm the despots, the dictatorships, the military juntas, the aristocracies—we arm them all.

What happened to the principles behind the policy? I will tell you that it does not serve the purposes of this democracy to supply arms that are used for domestic repression as in Chile or Uruguay. It does not serve our purposes to arm parties that then use these weapons against each other as in India and Pakistan on two occasions and in many South American wars. It does not serve our policy of encouraging regional stability and development to push arms acquisitions.

We run the risk of losing our identification as the greatest democracy in the history of the world. How can the peoples of Asia, Africa, or the Middle East look to our Nation for leadership, for moral guidance, for just and reasoned policies if by our own actions we give every appearance of acting the arms pusher? Merchant of death may sound dramatic but it is no exaggeration. It is true. What do the Chilean people think when they see U.S. military equipment roll down the streets? What do the people of Uruguay, previously the oldest democracy

in South America, think when the United States props up a military regime with new offers of U.S. military assistance?

Three times in Latin America, U.S. arms have met U.S. arms on local battlefields. What impression does that leave?

And what of the Middle East? The United States is firmly committed to the survival and defense of the State of Israel. We are the Israeli guarantee that no matter how strong her combined neighbors become, the United States will redress the balance.

So what policy does the United States pursue? We deliberately set out to make Iran the major military power in the Middle East. We greatly increase the striking power and reserve capabilities of the Saudi Arabians. We continue to arm Jordan with modern weapons. And we sweeten political negotiations with Egypt and Syria with promises of millions in economic aid. Lest any believe in the pure distinction of military and economic aid, let it be pointed out that with a fixed national budget, these are interchangeable.

So we build up the Arab States who pose a greater threat to Israel. Then we provide more assistance to Israel to redress the balance.

How shortsighted, how oblivious to reality can this policy be? We are the forcing function. There is no security at even higher levels of armaments. There is no peace in an arms spiral. There is no solution in saturation.

If we stand for any principles in the world, we should show them in our policy. Otherwise our words ring hollow and we are measured by what we do rather than what we say.

Mr. President, the warnings of this trend toward unbridled arms races are not new. It was apparent when I chaired hearings before the Joint Economic Committee in the late 1960's. It was even more obvious when as chairman of the Foreign Operations Appropriations Subcommittee we uncovered the true extent of all U.S. foreign military and economic aid.

It is even more true today. Sadly, as the problem grows, the willingness of this administration to take corrective action varies inversely. They do less. They care less.

It is an attitude that could one day lead to a succession of military disasters, of death and destruction without parallel in world history. For conventional arms are but the precursor of nuclear arms.

Finally, Mr. President, I would like to read from a law we passed earlier this year. This is enacted into law. This is what that law of the United States now says:

REDUCTION IN INTERNATIONAL ARMS TRADE

Section 202. Section 1 of the Foreign Military Sales Act is amended by adding at the end thereof the following new paragraphs:

It shall be the policy of the United States to exert leadership in the world community to bring about arrangements for reducing the international trade in implements of war and to lessen the danger of outbreak of regional conflict and the burdens of armaments. United States programs for or procedures governing the export, sale, and grant of arms and munitions to foreign countries and international organizations shall be administered in a manner which will carry out this policy.

The law goes on to state—and I have one more short paragraph—as follows:

It is the sense of the Congress that the President should seek to initiate multilateral discussions among the principal arms suppliers and other countries with respect to the control of the worldwide trade in armaments. It is further the sense of Congress that the President should work actively with all nations to check and control the international sales and distribution of conventional weapons of death and destruction.

This is the expressed policy of this country that we passed into law this year. What are we doing to implement that? As I have pointed out, we have exploded the sales of arms all over the world. It is an action which seems to me certainly in the clearest way to be a complete reversal of the solemn action of the House and the Senate in passing a law, signed by the President of the United States, to say that we will do precisely the opposite, that we will act to create arms-free zones, act to hold down the arms race throughout the world, and we have failed in doing that.

Mr. President, I reserve the remainder of my time.

Mr. President, I am happy to yield to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I ask unanimous consent that 10 minutes of the time not used by Senators CLARK, NELSON, and HART be allocated to me.

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

PROPOSED ARMS SALES

Mr. BUMPERS. Mr. President, I share my colleagues' reservations over the administration's proposed arms sales. If we, by our silence, approve this mammoth package totaling over $6 billion to 11 countries, we make a mockery of the rationale behind section 36(b) of the just recently enacted Arms Control Export Act, which I championed and supported. These offers alone would total almost 40 percent of our 1976 arms sales. The sheer volume of these sales is an argument for closer scrutiny by the Congress. It is no secret that these transactions are rife with global implications. As GAO recently concluded, arms sales have become "a useful and highly effective instrument of foreign policy."

For these and other reasons, I join with my colleague (Mr. NELSON) in invoking section 36(b) of the act and calling for hearings before the Foreign Relations Committee to explore every aspect of these sales. Like my colleague, I do not expect or wish to see all the sales stopped. But I cannot passively accept the dispersing of such a heavy dosage of military might without knowing the reasons behind the prescriptions.

Waiting until so late in the legislative session—to deluge the Congress with this gargantuan commitment—tells us one of two things: Either arms sales are indeed out of control as most critics believe, or the administration is utilizing the tactic of swamping the Congress with proposed sales all at one time in hopes that we will find the task of careful examination within the required 30 days impossible.

We have the mechanism for congressional oversight of these transactions, and we ought to avail ourselves of it. Let us inquire as to whether Iran needs 160 F-16's when we ourselves do not yet have that many. Perhaps the less sophisticated F-5 would be more appropriate for Iran's purposes and for our own. Let us ask whether we are jeopardizing our own stock by such large commitments. What demands will this place on our trainers and engineers? Some estimates are that 150,000 Americans will be in Iran by 1980 performing defense-related roles. Are we sacrificing our own training needs and consequently our preparedness by making these sales?

Finally, like King Lear, are we being precipitous in these transactions in a way that may come back to haunt us? How do these sales fit into our foreign policy and our military strategy?

The administration would obviously prefer to hide behind the rationale that arms sales are good business and have a salutary effect on our balance of payments, unemployment rate, and economy in general. To some extent, this is true. But to kid ourselves that these are simply business transactions outside the realm of Congress legitimate foreign policy concerns is the rankest form of cynicism.

In the last decade we learned a painful and bloody lesson—that we can no longer be the policeman for the world. We also learned that we could no longer afford to give away arms to our friends and allies by means of military grants and "forgotten" credits. But the military sale has stepped in to fill the void. Rather than guarantee our direct intervention in case of armed conflict, we determined to do the next best thing. We would sell these countries whatever they needed to arm themselves. There can be little doubt that at least some of these sales are militarily or politically destabilizing.

Newsweek magazine published a disturbing statistic this week: in the last 30 years, there have been 119 armed conflicts involving 69 nations. In light of this depressing record, can we seriously believe that arming our allies, whether in Europe, Africa, or the Persian Gulf, will avert war? If we are the harbingers of peace, as we like to think of ourselves, why are we knee deep in the business of promoting instruments of war? Last year global arms sales totaled $20 billion. We alone accounted for about 50 percent of that total.

Let us not rush pellmell into these sales. Let us put the brakes on these transactions—at least for a brief period of time—so that we, we in Congress, can know what our Government is doing. We must not forget that the formula of arms and military advisers overseas led us down the road to catastrophe all too recently. This would in no wise deprecate some of our friends who propose these purchases; rather it would serve notice on the world that we recognize the inherent dangers of arms proliferation, and have chosen a more judicious course.

Mr. President, I have often maintained that restraint is not incompatible with strength. That true power is not derived

from the number of missiles, bombers, or submarines a nation has, but its confidence in itself, its spirit, and high sense of purpose. We are a strong nation. We are big and we are rich. We have been a great nation in the past, but our greatness will not continue unless and until we exercise leadership in controlling the flow of arms. In recent years, this leadership has been lacking. It seems that we have opted for the opposite course and with our arms shipments deliberately decided to fuel the fires of international instability.

Mr. President, I urge restraint and caution in these proposed sales. I urge my colleagues to support Senator NELSON in requiring the administration to justify each and every item in its request.

ORDER OF BUSINESS

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

PANAMA CANAL NEGOTIATIONS

Mr. BARTLETT. Mr. President, in 1903 the people of the United States accepted one of the great challenges of our history when we entered into an agreement with the Republic of Panama to construct a shipping passageway connecting the Atlantic and the Pacific Oceans. This had been a dream of all people of our hemisphere for decades, and it was to the United States that the world turned for help in realizing this dream.

This construction of the canal would take U.S. Army engineers 10 years to complete, at a cost of 4,000 lives and $310 million. Because of this tremendous cost in terms of human and financial resources, America did not accept this challenge lightly. We committed ourselves to the task not solely as a benefactor to the lesser nations who would share in the rewards of our adventure, but primarily because we knew that such a passageway could be immensely valuable to America's economic and national defense interests.

We also knew that some firm and everlasting assurances would be required to provide for those interests after the completion of the canal. We did not undertake this project with the understanding that we might have access to the canal for a few years or a few decades, subject to the discretion of other nations. America accepted the challenge only under a set of conditions which would guarantee that this unparalleled commitment of our Nation's resources would be for a project that was inalienable and forever worthwhile.

We undertook construction of a canal across the Isthmus of Panama only after these conditions were set forth and agreed upon by the United States and the Republic of Panama in the signing of the Hay-Bunau-Varilla Treaty in December 1903.

This treaty granted to the United States "in perpetuity the use, occupation, and control" of a specified zone of land through Panamanian territory for the construction, operation, and defense of a ship canal; the treaty afforded the United States "all the rights, power, and authority within the zone * * * which the United States would possess and exercise if it were the sovereign of the territory * * * to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority"; provided for payment of U.S. compensation to Panama in the amount of an initial $10 million and an annual annuity of $250,000.

For some time now the Republic of Panama has expressed an interest in renegotiating the Canal Treaty with the United States. Our country has acted in good faith in attempting to comply with the wishes of Panama while still protecting the interests of the United States.

Beginning in 1964, under President Johnson, the attitude of each succeeding administration has been that the United States should negotiate a new treaty with Panama which would abrogate the 1903 treaty. Negotiations continued from 1965 until 1967 at which time it was announced that three draft treaties had been agreed upon by the two countries. However, no action was ever taken on these treaties by either country apparently because of premature publication of the terms of the treaties in the press, as well as the fact that both countries were in the midst of major election campaigns at that time. In 1968, Gen. Omar Torrijos took power in Panama through a coup and in 1970 flatly rejected the draft treaties previously agreed to, but did indicate a willingness to pursue further negotiations on the subject.

Talks resumed in 1971 and have continued to the present. Progress in these negotiations has been slow because the principal objections of the Panamanians concern provisions of the treaty which were recognized in 1903 and are still recognized today as being vital to the protection of American economic and strategic interests.

Panama objects to:

First. The fact that the treaty affords the United States rights, control, and governmental jurisdiction over a portion of Panamanian territory for a limitless duration;

Second. The size of the U.S. military presence and U.S. military training facilities located in the Canal Zone;

Third. The amount of the annual annuity paid to Panama and the fact that there is an allegedly inequitable sharing of the economic benefits derived from the canal operations;

Fourth. The size of the Canal Zone itself; that is, the amount of land area within the zone unused by the United States, but not available for Panamanian use.

Mr. President, I do consider it proper to review America's treaties with other nations and, when necessary, modify them in order to bring them up to date with the realities of a changing world.

Perhaps the time has come for changes in our operations of and treaty governing the Panama Canal, and I favor discussions and negotiations of some of the points of Panama's objections, specifically:

First. Panamanian use of some of the Canal Zone;

Second. The hiring of more Panamanians to work on the canal;

Third. The percentage of Panama's profits from canal revenues; and

Fourth. The United States annual annuity to Panama.

However, there are provisions of the treaty which cannot be subject to negotiation, if the U.S. commercial and strategic interests are to be safeguarded. The world has not changed so much as to alter the fundamental principles of the original Panama Canal Treaty, which legally vested sovereignty and control of the canal and Canal Zone in the United States permanently. America has faithfully honored that treaty.

We constructed, maintain, operated, and defended the canal to the benefit of all nations and at a U.S. taxpayer's net investment of almost $6 billion over the past 60 years. The continued efficient U.S. operation of the canal has resulted in major economic benefits for Panama including a major contribution to that country's economy thereby affording it the highest per capita income in Central America.

Furthermore, Panama's history of political instability, her inadequate military defense capability, and lack of technical and managerial skills demonstrate that Panama does not possess the capacity to manage, operate, and defend effectively the canal.

As we continue to discuss and negotiate changes in the operation of the canal with the Republic of Panama, I believe the United States must insist on retaining the provisions in the treaty which guarantee our rights "in perpetuity" rather than agreeing to surrender these rights at a specified date in the future. We must retain our jurisdiction over the Canal Zone in order to provide for the defense of the canal. We must retain the authority to maintain within the Canal Zone the level of military personnel and equipment necessary to defend the canal. As stated more generally in the political platform of the Republican Party, the United States must not surrender any jurisdiction, territory, or property which is necessary for the protection of the United States and the Western Hemisphere.

Mr. President, I do not recognize as a valid reason for negotiating a new Panama Canal Treaty the argument that the 1903 treaty is an anachronism, a vestige of American colonialism, and that it provides a rallying point for Panamanian and other Latin American countries against the United States, or that the treaty provides a visible target for elements hostile to the United States outside the region.

Such an argument smacks of the kind of international blackmail which has become treacherously common in the world today. America will not demand the respect of other nations by yielding to such coercion. Capitulation does not work, it merely whets the insidious appetites of other nations.

Let us continue our negotiation with the Republic of Panama in the spirit with which we have negotiated from the beginning, a spirit of good faith and determination to provide for the best interests of both nations without com-

promising the vital interests of either nation or the rest of the world.

ORDER OF BUSINESS

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

TELEVISED DEBATES

Mr. WEICKER. Mr. President, on September 23, the American people will have the opportunity to see what our system of free elections is supposed to be all about. For the first time in 16 years, major candidates for the Presidency will meet, face to face, in televised debate.

The occasion has been heralded from all corners as a meaningful example of democracy at work—a long-awaited return to openness and candor between candidates for the highest honor Americans can bestow upon one of their own. For the first time in four elections, both the Republican and the Democratic nominees have decided to take the opposition seriously enough to tangle in open debate. The winner, we are told, will surely be the American voter.

Well, Mr. President, I would like to offer an alternate opinion: I think our major political parties are about to put one over on the voters. And the real significance of their act goes far beyond a single election day in November.

True, the up-coming debates may show the differences between President Ford and Jimmy Carter. But what they will also show are the Republican Party and the Democratic Party as the only alternatives for the American electorate. Through the magic of television, these two political organizations though increasingly irrelevant will take another giant step toward locking themselves in as America's only political parties. What neither the Constitution nor any law provides will now de facto be legislated into being by network television and the Democratic and Republican Parties. What makes their action particularly ironic is that it is a minority imposing its will on the majority.

More Americans today identify themselves as independents than as either Democrat or Republican. I find it a sad commentary on the state of our political system that independent candidates for President are not afforded the same opportunity to present their views to the Nation as are President Ford and Mr. Carter. Yes, I know how inconvenient such a theory is. But the Constitution of the United States is not an exercise in convenience, expediency or ease. It is a document meant for individuals, not "them" or "society' or the "greater good." When article 1 states that "Congress shall make no law abridging the freedom of speech," I assume that means what it says both in content and intent. There is no exception made for non-Republicans or Democrats.

Our former colleague, Senator Eugene McCarthy, deserves to be heard, right along with the Republican and Democratic nominees. Actually I believe, though it has no bearing on my argument, that Gene McCarthy is living proof that you do not have to be a party big-wig to have ideas worth listening to. And, yes, for the chance to listen to Gene McCarthy, hearing Lester Maddox is the price we have to pay in a free society.

Mr. President, as party registrations dwindle party labels grow more meaningless and party activity more irrelevant. I find it frightening that our two major parties have stepped up their efforts to legislate themselves into perpetuity. The biggest step was the Federal Elections bill which this Congress passed. Its major feature was to assure the Republican and Democratic parties exclusive jurisdiction in picking the taxpayers' pockets for their campaigns. Independent candidates receive no matching funds to run their races.

Now it is television debates, and a not-so-subtle understanding between the participants, and network television that they will play only if the game is closed to everyone else.

What we have here is a severe case of political insecurity by two aging giants. That does not bother me, but using the Constitution of the United States as a bailing can for their sinking boats surely does.

Despite the television picture we will be offered on September 23, we on both sides of the aisle will do well to remember that our first obligation is to uphold the Constitution not our parties. And nowhere in that document are Democrats or Republicans granted special rights and privileges. In fact, the way both parties continue to feather their own nests while dodging the tough problems that face this country, they will be lucky to be around 8 or 12 years from now—which seems to be the same fate we prescribe for anyone else's nonperformance in our society.

If the two parties continue to be irrelevant, self-serving legislation to cover up that deficiency is the last thing this Nation needs.

As William V. Shannon said Monday in his perceptive New York Times column entitled, "The Third Man":

> It is an unfavorable judgement on our federal and state laws that Eugene McCarthy should have to expend so much effort getting his name on the ballot and trying to get television coverage for his opinions. State electoral laws ought not to be a maze designed to baffle independent candidates. If he is not permitted to participate in the Ford-Carter debates, television ought to afford him adequate time to present his views.
>
> If independent voices and dissenting critics are to be heard in our ever bigger, more bureaucratized society, then these procedural issues of political access have to be resolved in favor of fairness and openness.

Mr. President, the strength of America comes from her many voices. Closing off America's voters to all but two voices and calling it a positive step is gutting the laws and spirits that made us great. If the Republican and Democratic parties want to retire and rest on their laurels, America should not. The future deserves better than the exclusive showing we will see 2 weeks from now.

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

The PRESIDING OFFICER (Mr. GARY HART). Under the previous order, the Senator from South Dakota (Mr. ABOUREZK) is recognized for not to exceed 5 minutes.

Mr. PASTORE. Mr. President, inasmuch as the Senator from South Dakota is not here, I ask unanimous consent that the time not used be given to me for a 10-minute statement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE PROLIFERATION OF NUCLEAR TECHNOLOGY

Mr. PASTORE. Mr. President, the lead editorial in the September 7, 1976, edition of the New York Times entitled, "Taiwan's A-Bomb * * * American Guarantee," brings into sharp focus the complex issues which face us in attempting to achieve an effective international solution to the problem of nuclear proliferation. The editorial refers to recent intelligence reports which indicate that the Republic of China may have built a reprocessing facility to extract weapons-grade plutonium from spent nuclear fuel rods. The editorial goes on to say that these reports, together with the failure of U.S. diplomatic efforts "to obtain the agreement of West Germany and France to an embargo on the export of reprocessing plants to Brazil and Pakistan last year * * *," reinforce the need for legislation which would "call on the President to deny American nuclear materials ultimately to—nuclear—supplier as well as recipient nations that could not be prevailed upon to cooperate in halting the spread of plutonium reprocessing."

Let me say at the outset that I fully support the objectives of the Times editorial: Strengthening the safeguards system of the International Atomic Energy Agency and instituting more effective international control over the transfer of sensitive nuclear technology, including reprocessing technology, to prevent the proliferation of nuclear explosives. As chairman of the Joint Committee on Atomic Energy, I stand second to no one in my concern for halting the spread of nuclear explosives in the world.

I authorized a Senate resolution in 1966 that called on the President to make "serious and urgent efforts to negotiate international agreements limiting the spread of nuclear weapons." That resolution passed the Senate by a vote of 84 to 0. I worked increasingly to develop the framework for what ultimately became the Treaty on the Non-Proliferation of Nuclear Weapons. Together with my colleague and Vice-Presidential candidate, WALTER MONDALE, I introduced Senate Resolution 221 in July 1975 which called on the President to—

> Seek through consultation with suppliers of nuclear equipment and technology, their restraint in the transfer of nuclear technology and their cooperation in assuring that such equipment and technology only is transferred to other nations under the most rigorous, prudent, and safeguarded conditions designed to assure that the technology itself is not employed for the production of nuclear explosives. . . .

In June of 1975 when West Germany first announced its decision to export a reprocessing facility to Brazil, I took the floor of the Senate and denounced it. I

urged the Secretary of State and the President to use and exhaust every available diplomatic avenue to assure that the proposed arrangement—and any similar arrangement which may be proposed by any other nation—be held in abeyance until the principal supplier countries have had a reasonable opportunity to consider and agree on the practical steps which can and must urgently be taken toward a system of effective international safeguards against the proliferation of nuclear explosives.

As for the Taiwan situation, I, of course, was disturbed by these reports and on September 1, I met with the President together with my ranking colleagues on the Joint Committee on Atomic Energy, Vice Chairman MELVIN PRICE, Senator HOWARD BAKER and Congressman JOHN ANDERSON. We expressed our concerns in a responsible and deliberate way and stressed the implications of any nation becoming the seventh nation to detonate a nuclear explosive device. The President assured us that he was familiar with this matter, that he would take our expressions of concern with utmost seriousness and that he intended to take appropriate action.

The possibility that the Republic of China may be preparing to become a nuclear weapon state is a matter of the gravest international concern which calls for swift and effective action on the part of this Government. If the facts disclose that Taiwan has violated its commitments under either the Non-Proliferation Treaty or its agreement for cooperation with this country, our response must be immediate and unequivocal. We must demonstrate not only to Taiwan but also to our nuclear trading partners and to the world community that the United States will not tolerate such violations and that we will not condone the further proliferation of nuclear explosives regardless of what reasons are offered by the country developing such an explosive for doing so. In that regard, I would note that there is no need for additional legislation to deal effectively with the Taiwan situation.

I want to repeat that, because the Times editorial has a strong implication that it is up to the Congress of the United States ultimately to resolve this problem. We should not be ignoring it, of course, but I repeat again, I would note that there is no need for additional legislation.

The President already possesses broad authority, particularly in his power to control further peaceful nuclear assistance to such a country, to respond to proven violations. Should these reports demonstrate that there have been violations by the Republic of China, I call upon the President to invoke that authority and to take stern measures in order to insure that Taiwan complies with its responsibilities as a party to the treaty and under its agreement with the United States.

But the Times editorial goes far beyond the Taiwan situation. Based upon what it perceives as failures in our diplomatic initiatives, the editorial calls upon Congress to put aside these diplomatic efforts and instead to urge the President to take direct action to coerce both the nuclear supplier and the nuclear importing nations into accepting additional nonproliferation controls on the transfer of reprocessing facilities.

I believe we must be pragmatic in formulating our approach to the long-term solution of the problem of nuclear proliferation. I, for one, have not been entirely satisfied with the progress of our diplomatic efforts. As the President noted in his message of July 29, 1976, transmitting to Congress the Arms Control and Disarmament Agency's 15th Annual Report, a common understanding has been reached with the other nuclear supplier nations on certain principles and standards which would govern all future nuclear exports by those countries. It is also true, however, that certain of these countries—now this is important—most notably France and West Germany, have refused to agree to any absolute prohibition on the transfer of reprocessing facilities. In our direct negotiations, the United States was successful in persuading South Korea not to import a reprocessing facility from France, but similar efforts by the Secretary of State to prevent the exports of reprocessing equipment to Brazil and Pakistan have so far been unsuccessful as far as I can determine. Before discarding these efforts for direct coercion of the other suppliers, however, we must consider the practicalities of the situation. We must determine whether direct coercion will advance or retard the achievement of our objective.

We must realize that the United States no longer has effective control over this technology. As Secretary Kissinger noted in his testimony on the problem of nuclear proliferation on March 9, 1976, the technology for reprocessing nuclear fuel is now commonly known. In fact, no fewer than 16 countries now have or are planning to develop some sort of fuel reprocessing capability.

The fact of the matter is that the kind of coercion advocated in the Times editorial would, in all likelihood, accelerate the spread of this sensitive nuclear equipment. This approach is really no different than that suggested to the Secretary of State during his testimony last March. There it was suggested that the United States work with the Soviet Union—mind you—to cut off all nuclear supplies to France and West Germany in order to coerce those countries into agreeing to an embargo on fuutre transfers of reprocessing equipment.

As Secretary Kissinger noted, such action would encourage other nations, including the nuclear suppliers, to become entirely self-sufficient in the nuclear area, would, in all likelihood, jeopardize the progress which had already been made in achieving cooperation with the other suppliers and could damage our relations with our allies. The suggestion was even made to the Secretary of State that we use our NATO commitments as leverage to obtain concessions from our allies. The answer, of course, is that we must work in cooperation with other nations who have the wherewithal to supply nuclear technology. It is unrealistic to expect that the United States acting on its own can halt the spread of nuclear technology. It would be foolhardy to unilaterally withdraw from exporting nuclear technology under the mistaken impression that we would bring the Russians, the West Germans, and the French along with us because of our sterling example.

We must also recognize, without in any way condoning these as justifications, that there are strong inducements for countries such as the Republic of China to acquire nuclear explosives. As the Times editorial correctly notes, the fear that United States normalization of relations with Communist China may weaken our resolve to guarantee Taiwan's autonomy could well induce Taiwan to attempt to develop a nuclear explosive. Encouraging that country to forego the development of nuclear explosives or the equipment to make an explosive involves sensitive aspects of American foreign policy and international diplomacy.

For nations which are not interested in obtaining a nuclear explosive but which need nuclear power because they do not have the luxury as we have of tremendous coal supplies and other sources of energy, we must ask what incentives those countries now have for foregoing the development of reprocessing facilities. I question whether those countries can look to the United States now as an alternative source of supply for fuel services for their reactors. First, for more than 2 years, the United States has been unable to sign additional contracts for enriching uranium because we do not have enough production capacity. Second, although this country has two reprocessing plants—mind you this, Mr. President—neither of those is presently in operation. In short, any long-term solution to the problem of the proliferation of nuclear explosives must include not only measures to control further transfers of this sensitive equipment but also the commitment by this country and the other supplier nations to provide these essential services.

We now have an opportunity to continue to lead the nations of the world in controlling nuclear power and in preventing the proliferation of nuclear explosives. As chairman of the Joint Committee on Atomic Energy, I have been working diligently to develop workable legislation which would lead to effective international control over nuclear commerce by the nuclear supplier nations and which provide incentives to the nuclear importing nations to forego the development or acquisition of the sensitive nuclear equipment which could lead to further proliferation of nuclear explosives. If we were to go along the lines proposed by some within the administration, we would produce legislation without teeth. If, on the other hand, we impose excessive restrictions and conditions on the nuclear trading activities of the other supplier nations, the consequence could be the opposite of what we all strive for, namely to force nations to create their own full fuel cycles, and the danger of additional nations building nuclear explosives would be greatly increased.

The Joint Committee on Atomic Energy has taken the difficult course and is looking very carefully at legislation to

assure that we have a bill that is workable. In that regard, I have reached what I consider an acceptable compromise. Nevertheless, the President has requested that we wait until his experts have had the opportunity to report to him on this matter. I assure the President that I intend to comply with that request, provided that something can be worked out before we adjourn sine die.

Mr. President, I ask unanimous consent to have printed in the RECORD the New York Times editorial, the resolution Senate Resolution 179, the resolution Senate Resolution 221, and the statement that I made on the floor of the Senate on June 3, 1975, when I learned of the granting of the full fuel cycle to Brazil by the West German Republic.

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

[From the New York Times, Sept. 7, 1976]

TAIWAN'S A-BOMB—AMERICAN GUARANTEE

The American intelligence report that Taiwan clandestinely has built a reprocessing facility that is extracting weapons-grade plutonium explosive from spent nuclear reactor fuel rods demands immediate investigation by the appropriate Congressional committees. Taiwan's denials have not impressed Washington insiders.

If the Chinese Nationalists have set out to make atomic bombs in the first known violation of the Nuclear Nonproliferation Treaty (NPT)—and have succeeded in deceiving the inspection system of the International Atomic Energy Agency—a profound reappraisal will be needed for Washington's China policy, its nonproliferation strategy and its nuclear export controls.

Under the 100-nation NPT, Taiwan and other non-nuclear weapons states renounced atomic explosives and committed themselves to place all their nuclear facilities and materials under I.A.E.A. "safeguards"—a system of international inspection. The main supplier countries, in addition, later agreed that the export of fissionable materials or key nuclear facility components would be indicated to the I.A.E.A. to trigger safeguards.

If this system has been circumvented by Taiwan or ignored by some supplier countries, may not other NPT parties be evading controls as well? Speedy action to beef up and improve I.A.E.A. inspection and supplier controls clearly is vital.

The effort to avoid nuclear spread has focused recently on tightened up export controls by the main supplier countries, but the United States has failed in the most important task: to obtain the agreement of West Germany and France to an embargo on export of reprocessing plants in the wake of their sales of such plants to Brazil and Pakistan last year, claiming that I.A.E.A. safeguards make such sales "safe."

The Taiwan fiasco blows up that French-German thesis. It reinforces Congressional arguments for legislation that would call on the President to deny American nuclear materials ultimately to supplier as well as recipient nations that could not be prevailed upon to cooperate in halting the spread of plutonium reprocessing.

That vital legislation is currently bogged down in the Joint Atomic Energy Committee. A belated White House study of the problem, due for release this week, will be an exercise in futility unless it helps break this log-jam.

Meanwhile, the Congress ought to find out why the Administration, after refusing since 1969 to sell Taiwan a reprocessing plant, did not react more vigorously against Taiwan's open importation and assembly of the components for a "hot cell" for small-scale plutonium reprocessing. That so-called "laboratory project," which Taipei put under I.A.E.A. inspection, may simply have been a cover for the assembly of a clandestine facility.

Taiwan's presumed nuclear violation brings into question the American security guarantee. That guarantee, as in the case of Japan and South Korea, is designed to provide an American nuclear umbrella in place of national acquisition of atomic weapons.

The United States unfortunately has undermined its security guarantee by talk in Washington and among China experts of "normalization" of relations with Peking—without first solving the problem of the security of Taiwan. Normalization, Peking insists, requires the United States to terminate its security treaty as well as its diplomatic relations with Taiwan.

But normalization of relations with Peking is inconceivable without stabilization of the Taiwan situation by, at least, a replacement of the mutual security treaty with a unilateral American guarantee of Taiwan's autonomy and continued supply of arms for Taiwan's defense forces. Renunciation of nuclear weapons is the irreducible condition for that guarantee.

This Taiwan-American transaction is in Peking's interest. Although Communist China has denounced the Nonproliferation Treaty as an imperialist device, Peking's interest in a nonnuclear Taiwan is great.

Taiwan has continued to remain a legal party to the Nonproliferation Treaty and to accept I.A.E.A. inspection, despite its unfortunate expulsion by third world vendetta from the I.A.E.A. in 1972. That expulsion does not justify Taiwan's clandestine evasion of its commitments—to the I.A.E.A., to the United States and to 98 other NPT countries—to refrain from nuclear explosives. But the partial responsibility of Peking and the third world for the present situation should give Washington some moral leverage in working out a reasonable solution, one that makes the security of an autonomous non-nuclear Taiwan the inescapable condition for normalization of relations with Peking.

[S. Res. 179, 89th Cong., 2d sess.]

RESOLUTION

Whereas the spread of nuclear weapons constitutes a grave threat to the security and peace of all nations; and

Whereas the knowledge and ability to design and manufacture nuclear weapons is becoming more universally known; and

Whereas the danger of nuclear war becomes greater as additional nations achieve independent nuclear weapon capability; and

Whereas it is the policy of the United States, as stated by President Johnson, "to seek agreements that will limit the perilous spread of nuclear weapons, and make it possible for all countries to refrain without fear from entering the nuclear arms race": Therefore be it

Resolved, That the Senate commends the President's serious and urgent efforts to negotiate international agreements limiting the spread of nuclear weapons and supports the principle of additional efforts by the President which are appropriate and necessary in the interest of peace for the solution of nuclear proliferation problems.

S. RES. 221

Urging the President of the United States to take the leadership in seeking international cooperation in strengthening safeguards of nuclear materials.

Whereas the Senate of the United States ratified the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) in recognition of the devastation associated with a nuclear war and of the need to make every effort to avert the danger of such a war;

Whereas the parties to the treaty expressed a common belief that the proliferation of nuclear weapons would seriously increase the danger of nuclear war;

Whereas the United States and other parties to the treaty pledged to accept specified safeguards regarding the transfer to non-nuclear-weapon states of special nuclear materials and facilities for the processing, use, or production of such materials:

Whereas recent events, including the explosion of nuclear devices, the development of uranium enrichment facilities, and the proposed transfer of nuclear enrichment and reprocessing facilities to non-nuclear-weapon states, emphasize the imperative need to increase the scope, comprehensiveness, and effectiveness of international safeguards on peaceful nuclear activities so that there will be no further proliferation of nuclear weapons capability;

Whereas the Senate of the United States is particularly concerned about the consequences of transactions without effective safeguards that could lead to the production of plutonium and other special nuclear materials by non-nuclear-weapon states throughout the world; and

Whereas the Senate is particularly concerned about the proliferation threat posed by the possibility of the development in the near future of a large number of independent national enrichment and reprocessing facilities and therefore believes that the United States should take the lead in securing agreement for the development of regional multinational, rather than national, centers to undertake enrichment and reprocessing activities in order to minimize the spread of technology which could be used to develop nuclear explosives: Now, therefore, be it

Resolved, That the President seek the immediate international consideration of strengthening the effectiveness of the International Atomic Energy Agency's safeguards on peaceful nuclear activities and seek intensified cooperation with other nuclear suppliers to insure that the most stringent safeguard conditions are applied to the transfer of nuclear equipment and technology to prevent the proliferation of nuclear explosive capability; be it further

Resolved, That the Senate of the United States strongly requests and urges the President to seek through the highest level of consultation in the United Nations and with the other leaders of the world community an intensive cooperative international effort to strengthen and improve both the scope, comprehensiveness, and effectiveness of the international safeguards on peaceful nuclear activities so that there will be a substantial and immediate reduction in the risk of diversion or theft of plutonium and other special nuclear materials to military or other uses that would jeopardize world peace and security; be it further

Resolved, That the President seek through consultation with suppliers of nuclear equipment and technology, their restraint in the transfer of nuclear technology and their cooperation in assuring that such equipment and technology only is transferred to other nations under the most rigorous, prudent, and safeguarded conditions designed to assure that the technology itself is not employed for the production of nuclear explosives; and be it further.

Resolved, That the Secretary of the Senate is directed to transmit copies of this resolution to the President of the United States and to the Secretary of State.

THE DANGER OF NUCLEAR PROLIFERATION

Mr. PASTORE. Mr. President, an article entitled "Brazil Nuclear Deal Raises U.S. Concern" written by Lewis H. Diuguid appeared in the June 1, 1975, edition of the Washington Post. I ask unanimous consent that the

article be placed in the RECORD in its entirety at this point.

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

BRAZIL NUCLEAR DEAL RAISES U.S. CONCERN

(By Lewis H. Diuguid)

Brazil has arranged to obtain from West Germany the technology that would give it the capability to produce nuclear weapons, and U.S. officials are concerned that the military-dominated government has decided to opt for the bomb.

Brazilian authorities insist, however, that the sole purpose of the contract with the Germans is to generate electricity.

Neighboring Argentina, with a long-standing nuclear research program, is also thought by some high-ranking officials to have decided to attempt nuclear-weapon manufacture.

Neither South American nation signed the 1970 nuclear nonproliferation treaty, and both appear on lists of countries expected soon to be capable of joining the United States, Soviet Union, Britain, France, China and, since last year, India in the nuclear club.

The development lending immediacy to the Brazilian case is an accord now being completed with the STEAG, AG consortium of Essen for provision of several large nuclear reactors, fuel-processing plants and, most important, a uranium-enrichment plant using a unique process.

Robert Gillette of Science magazine, commenting in the current issue, quotes estimates that the secretive contract will run to $8 billion over the next 10 to 15 years.

It is considered possible that Brazil will pay for the technology with the enriched uranium eventually produced. The vast country has deposits of natural uranium and fissionable thorium, plus the hydroelectric power in large quantity needed for the new enrichment process offered by STEAG, AG.

West Germany will need the enriched uranium for its own nuclear generators but it lacks cheap electricity needed for the STEAG, AG production process on which it is banking. The present gaseous diffusion and gas centrifuge processes, developed in this country and Western Europe, require less electricity. All demand huge investments of capital and technology.

A major question is what controls West Germany will require on the technology. As a signer of the nonproliferation treaty, Bonn is under some restraints. But the treaty's restrictions on supplies of enriched uranium need not apply if Brazil produces the weapons-grade fuel itself.

Without naming countries, U.S. Arms Control and Disarmament Director Fred C. Ikle said in April, "Unhappily, short-sighted commercial interests sometimes militate against application of effective controls . . . You would think that all nations willing to export nuclear materials or equipment would be anxious to prevent proliferation.

"Even the largest nations would suffer grievously if nuclear explosives became widely available."

The president of Brazil's nuclear energy commission, Hervasio de Carvalho, told Washington Post special correspondent Bruce Handler that the country must act now to assure supplies for its booming seaboard cities.

Carvalho explained that most of the rivers with undeveloped hydroelectric potential are too far away for cheap transmission to the cities.

Enriched uranium, however, could be produced at jungle generating sites and brought to the eight or so nuclear power plants—with a total capacity of nearly 10 million kilowatt hours—foreseen in the agreement.

Carvalho pointed out that the "basic principles" for bomb-making "are known in practically all countries," but that there are still "technical secrets."

A main U.S. control on those secrets has been refusal to sell the technology for production of enriched uranium.

Secretary of State Henry A. Kissinger offered assurances last week at the International Energy Agency meeting in Paris that the United States would increase supplies of enriched uranium to meet demand in countries agreeing to safeguards against proliferation of arms.

But West Europeans, and now the Brazilians, have been unwilling to rely solely on U.S. sources.

Neither Brazil nor Argentina signed the nonproliferation treaty because, they said, it offered unfair advantages to the nuclear powers. Both are also exempt from the lesser-known 1967 treaty establishing Latin America as a nuclear-free zone.

Argentina has not ratified the treaty and Brazil did so with a waiver requiring all territories within the zone to adhere before it takes effect for Brazil.

A member of Brazil's Chamber of Deputies, Lysaneas Maciel, told the Associated Press Friday in Brasilia that he had been told by an Argentine legislator that the Argentines are able to produce a nuclear explosion.

"That may cause a problem of imbalance in Latin America," said Maciel, who is chairman of the mines and energy committee of the Brazilian lower house.

Brazil, with a population of 100 million but a per capita income under $700, is a traditional competitor of Argentina, where the populattion of 24 million has a per capita income of about $1,000.

Argentina has long invested in nuclear research and has a nuclear power plant functioning, whereas Brazil's first station—provided by Westinghouse with U.S. enriched uranium—is still under construction.

The West German-supplied plant now operating and a second Argentine plant being supplied by Canada both use natural rather than enriched uranium.

As India proved with the use of plutonium in its Canadian-provided plant, nuclear explosions are possible without enriched uranium.

But as U.S. officials see it, the India and now Brazilian cases show that the real proliferation is of technology, not just fuel. Once the national capacity is built up, the national leaders can use it for peaceful explosions or nuclear bombs.

And while such decisions are tightly held, U.S. officials show intense concern that Brazil and Argentina have both decided to produce the bomb.

Mr. PASTORE. I must say at this juncture, parenthetically, that the substance contained in that article is correct.

The article points out that West Germany is about to enter into an agreement with the Brazilian Government to provide several large nuclear reactors, a fuel reprocessing plant, and a uranium enrichment plant. In other words, the arrangement would provide essentially an entire fuel cycle for the Brazilians. This matter disturbs me greatly as it does, I am sure, many of my colleagues and interested citizens. The Brazilian Government has not signed or ratified the Nonproliferation Treaty. In fact, the representatives of the Brazilian Government have made statements which have been carried in the press to the effect that they do not preclude the possibility of developing peaceful nuclear explosions. The scientific director of Brazil's center of physical research is quoted in the New York Times of August 24, 1974, as saying:

"Brazil already has the necessary conditions for building its first atomic bomb."

I ask unanimous consent that the New York Times article be printed in the RECORD at this point.

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

[From the New York Times, Aug. 24, 1974]

BRAZILIAN A-BOMB REPORTED WITHIN COUNTRY'S CAPACITY

RIO DE JANEIRO, Aug. 23.—The scientific director of Brazil's Center of Physical Research, Alfredo Marques, said yesterday that "Brazil already has the necessary conditions for building its first atomic bomb."

But Mr. Marques, speaking at an astronomy seminar, said there were other problems to be solved in making the bomb, because "a project of this nature involves rather ample questions, including the diplomatic field."

Brazil presently depends on the United States for plutonium and enriched uranium. The supplies are covered by an agreement signed with the United States Government two years ago, providing radioactive materials for Brazilian nuclear power plants for 30 years.

Mr. PASTORE. Mr. President, it is my understanding that behind the scenes the U.S. Government has taken steps to try to dissuade the Federal Republic of Germany from undertaking such an arrangement, particularly on providing enrichment and reprocessing capabilities to Brazil. Notwithstanding protestations by U.S. officials, including a meeting last April in Bonn, the arrangement apparently is going to be executed. I have been advised that on April 30 of this year the West German Parliament approved in principle the sale and the related arrangements to provide power reactors, a pilot plant for reprocessing fuel, and an enrichment capability to Brazil.

Now, I understand that the United States has sold Brazil two research reactors and a power reactor. The research reactors began operating in 1958 and 1960, respectively, and they do not have any significant amounts of plutonium connected with them because of their small size and design. The power reactor will not come into operation until 1976. All of these arrangements are governed by an Agreement for Cooperation between the United States and Brazil signed on July 17, 1972—which superseded an agreement signed in 1955—and this agreement runs until the year 2002. All of the facilities that I have mentioned are under International Atomic Energy Agency safeguards.

The proposed sale by West Germany to Brazil adds, however, a completely new dimension to the nonproliferation problem. West German is going to provide essentially a complete fuel cycle which could assist Brazil in making a nuclear bomb, if it so desires. Brazilian officials have been quite frank to indicate that Brazil does not plan to sign the Nonproliferation Treaty.

This, of course, reminds us all too vividly of the situation when India became the sixth nuclear power. The Indians utilized plutonium produced in a reactor not subject to IAEA safeguards and are now constructing a power reactor not under IAEA safeguards utilizing technology and knowhow obtained from a Canadian power reactor. I think this is an extremely important fact because no matter what arrangements are made with the West Germans, even if they were completely effective, there is nothing to preclude the Brazilians from building

separate and indigenous reprocessing and enriching facilities simply by copying what the West Germans have given them, and then deciding to build a nuclear explosive device, unless all such reproduced facilities are specifically subject to adequate IAEA safeguards.

Arrangements such as the proposed one between West Germany and Brazil would greatly aggravate the additional measures which must be taken to deal with nonproliferation of nuclear explosive devices. There are those, myself included, who strongly believe that the adequacy of international safeguards must be carefully and promptly reexamined and strengthened, and that this country should provide leadership to that end.

I am informed that the United States has urged its manufacturers of nuclear facilities not to enter into any arrangement such as the one proposed by West Germany, pending further study of the situation, and that the manufacturers have agreed. I applaud this decision because we cannot expect others to show restraint if we do not ourselves exercise restraint. The problem of nuclear explosive device proliferation does not concern any one country of the world or groups of countries—every nation's security and survival is directly involved. Secretary of State Kissinger in an address on September 23, 1974, before the 29th United Nations General Assembly, said that the United States is prepared to join with other countries in the world community to work urgently toward a system of effective international safeguards against the diversion of plutonium to nuclear explosives. The Secretary said, among other things that—

"The United States will shortly offer specific proposals to strengthen safeguards to other principal supplier countries."

I hope that the Secretary is now acting decisively to present specific proposals, at the earliest date, to the principal countries which supply nuclear technology which could lead to the proliferation of nuclear explosive devices.

Despite all of this, and despite the protestations of our State Department, the West Germans have decided to go ahead because they apparently look upon this as "business as usual." Nothing could be further from responsible action, no matter who the supplier might be.

I strongly stress the need and importance for the United States to urge the Federal Republic of Germany not to proceed with the arrangement, until these matters, which are of the gravest international concern, receive the most deliberate and careful consideration at the highest levels of international diplomacy.

West Germany's apparent disregard of the plea of our Government on this important international policy issue is really difficult for me to understand and accept. The United States has gone out of its way to assure our NATO allies, and particularly the West Germans, that we would defend them and has backed up this commitment with positive actions. Yet despite this, and despite the obvious need for reason and sound judgment to prevail, the pleas of our Government have been to no avail.

And what concerns me to no end is the fact that this is a likely peril being instituted by an ally in our own back yard, so to speak, while, at the same time, the U.S. Government is heavily committed in West Germany's backyard to defend them against a likely peril.

I urge the Secretary of State and the President to use and exhaust every available diplomatic avenue to assure that the proposed arrangement—and any similar arrangement which may be proposed by any other nation—be held in abeyance until the principal supplier countries have had a reasonable opportunity to consider and agree on the practical steps which can and must urgently be taken toward a system of effective international safeguards against the proliferation of nuclear explosives.

I would like at this point to have printed in the RECORD an extract from the foreign reactors list showing the reactors presently in Brazil. I would also like to have printed a copy of the United States-Brazil Agreement for Cooperation and a copy of the text of the Treaty on Nonproliferation of Nuclear Weapons.

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

FOREIGN REACTOR LIST

Foreign reactors operating, being built, or planned from a listing of foreign reactors which is updated and revised periodically by the Division of International Programs, Energy Research and Development Administration.

Country and designation	Description (type, enrichment, moderator, coolant—when available)	Site	Power	Criticality
Brazil:				
Operating—Research:				
IEA-R1 (U.S. built)	Pool, 20 and 93 percent enriched uranium, H_2O moderated and cooled.	Atomic Energy Institute, University of Sao Paulo	5 MWt	1958
IPR-R1 (U.S. built)	Triga Mark I, 20 percent enriched uranium, H_2O ZrH moderated, H_2O cooled.	Radioactive Research Institute, University of Minas Gerais, Belo Horizonte.	100 KWt	1960
IEN-R1	Argonaut, 20 percent enriched uranium, H_2O and graphite moderated, H_2O cooled.	Nuclear Engineering Institute, Rio de Janeiro	10 KWt	1965
Being built—Power: ANGRA 1	PWR, 2.2-3.6 percent UO_2, H_2O moderated and cooled	Angra-dos Reis, Rio de Janeiro	657 MWe	1976
Proposed—Power: ANGRA 2		Angra dos Reis		

[Atomic Energy Cooperation for Civil Uses]

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND BRAZIL

(Signed at Washington July 17, 1972)

NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89-497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—

". . . the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof."

AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL CONCERNING CIVIL USES OF ATOMIC ENERGY

Whereas the Government of the United States of America and the Government of the Federative Republic of Brazil signed an "Agreement for Cooperation Between the Government of the United States of America and the Government of the United States of Brazil Concerning Civil Uses of Atomic Energy" on July 8, 1965,[1] and

Whereas the Government of the United States of America and the Government of the Federative Republic of Brazil desire to pursue a research and development program looking toward the realization of peaceful and humanitarian uses of atomic energy, including the design, construction, and operation of power-producing reactors and research reactors, and the exchange of information relating to the development of other peaceful uses of atomic energy; and

Whereas the Government of the United States of America and the Government of the Federative Republic of Brazil are desirous of entering into this Agreement to cooperate with each other to attain the above objectives; and

Whereas the Parties desire this Agreement to supersede the "Agreement for Cooperation Between the Government of the United States of America and the Government of the United States of Brazil Concerning Civil Uses of Atomic Energy" signed on July 8, 1965;

The Parties agree as follows:

Article I

For the purposes of this Agreement:

(1) "Parties" means the Government of the United States of America, including the Commission on behalf of the Government of the United States of America, and the Government of the Federative Republic of Brazil. "Party" means one of the above Parties.

(2) "Commission" means the United States Atomic Energy Commission.

(3) "Atomic weapon" means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

(4) "Byproduct material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(5) "Equipment and devices" and "equipment or devices" means any instrument, apparatus, or facility, and includes any facility, except an atomic weapon, capable of making use of or producing special nuclear material, and component parts thereof.

(6) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency or government corporation but does not include the Parties to this Agreement.

(7) "Reactor" means an apparatus, other than an atomic weapon, in which a self-supporting fission chain reaction is maintained by utilizing uranium, plutonium, or thorium, or any combination of uranium, plutonium, or thorium.

(8) "Restricted Data" means all data concerning (1) design, manufacture, or utilization of atomic weapons, (2) the production of special nuclear material, or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the category of Restricted Data by the appropriate authority.

[1] TIAS 6126; 17 UST 1659.

(9) "Safeguards" means a system of controls designed to assure that any materials, equipment and devices committed to the peaceful uses of atomic energy are not used to further any military purpose.

(10) "Source material" means (1) uranium, thorium, or any other material which is determined by the Commission or the Government of the Federative Republic of Brazil to be source material, or (2) ores containing one or more of the foregoing materials, in such concentration as the Commission or the Government of the Federative Republic of Brazil may determine from time to time.

(11) "Special nuclear material" means (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission or the Government of the Federative Republic of Brazil determines to be special nuclear material or (2) any material artificially enriched by any of the foregoing.

(12) "Superseded Agreement" means the "Agreement for Cooperation between the Government of the United States of America and the Government of the United States of Brazil Concerning Civil Uses of Atomic Energy" signed by the Parties on July 8, 1965.

Article II

A. Subject to the provisions of this Agreement, the availability of personnel and material, and the applicable laws, regulations, and license requirements in force in their respective countries, the Parties shall cooperate with each other in the achievement of the uses of atomic energy for peaceful purposes.

B. Restricted Data shall not be communicated under this Agreement, and no materials or equipment and devices shall be transferred, and no services shall be furnished, under this Agreement, if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

C. This Agreement shall not require the exchange of any information which the Parties are not permitted to communicate.

Article III

Subject to the provisions of Article II, the Parties may exchange unclassified information with respect to the application of atomic energy to peaceful uses and the considerations of health and safety connected therewith. The exchange of information provided for in this Article will be accomplished through various means, including reports, conferences, and visits to facilities, and may include information in the following fields:

(1) Development, design, construction, operation, and use of research, materials testing, experimental, demonstration power, and power reactors and reactor experiments;

(2) The use of radioactive isotopes and source material, special nuclear material, and byproduct material in physical and biological research, medicine, agriculture, and industry and

(3) Health and safety considerations related to the foregoing.

Article IV

A. Materials of interest in connection with the subjects of agreed exchange of information, as provided in Article III and subject to the provisions of Article II, including source material, heavy water, byproduct material, other radioisotopes, stable isotopes, and special nuclear material for purposes other than fueling reactors and reactor experiments, may be transferred between the Parties for defined applications in such quantities and under such terms and conditions as may be agreed when such materials are not commercially available.

B. Subject to the provisions of Article II and under such terms and conditions as may be agreed, specialized research facilities and reactor materials testing facilities of the Parties may be made available for mutual use consistent with the limits of space, facilities, and personnel conveniently available when such facilities are not commercially available.

C. With respect to the subjects of agreed exchange of information as provided in Article III and subject to the provisions of Article II, equipment and devices may be transferred from one Party to the other under such terms and conditions as may be agreed. It is recognized that such transfers will be subject to limitations which may arise from shortages of supplies or other circumstances existing at the time.

Article V

The application or use of any information (including design drawings and specifications), and any material, equipment and devices, exchanged or transferred between the Parties under this Agreement or the superseded Agreement shall be the responsibility of the Party receiving it, and the other Party does not warrant the accuracy or completeness of such information and does not warrant the suitability of such information, material, equipment and devices for any particular use or application.

Article VI

A. With respect to the application of atomic energy to peaceful uses, it is understood that arrangements may be made between either Party or authorized persons under its jurisdiction and authorized persons under the jurisdiction of the other Party for the transfer of equipment and devices and materials other than special nuclear material and for the performance of services with respect thereto.

B. With respect to the application of atomic energy to peaceful uses, it is understood that arrangements may be made between either Party or authorized persons under its jurisdiction and authorized persons under the jurisdiction of the other Party for the transfer of special nuclear material and for the performance of services with respect thereto for the uses specified in Articles IV and VII and subject to the relevant provisions of Article VIII and to the provisions of Article IX.

C. The Parties agree that the activities referred to in paragraphs A and B of this Article shall be subject to the limitations in Article II and to the policies of the Parties with regard to transactions involving the authorized persons referred to in paragraphs A and B of this Article.

Article VII

A. During the period of this Agreement, and as set forth below, the Commission will supply to the Government of the Federative Republic of Brazil or, pursuant to Article VI, to authorized persons under its jurisdiction, under such terms and conditions as may be agreed, all of the requirements of the Federative Republic of Brazil for uranium enriched in the isotope U–235 for use as fuel in the power reactor program described in the Appendix to this Agreement, which Appendix, subject to the quantity limitation established in Article IX, may be amended from time to time by mutual consent of the Parties without modification of this Agreement.

(1) The Commission will supply such uranium enriched in the isotope U–235 by providing, to the same extent as for United States licensees, for the production or enrichment, or both, of uranium enriched in the isotope U–235 for the account of the Government of the Federative Republic of Brazil of such authorized persons. (Upon timely advice that any natural uranium required with respect to any particular delivery of enriched uranium under such service arrangements is not reasonably available to the Government of the Federative Republic of Brazil or any such authorized persons, the Commission will be prepared to furnish the required natural uranium on terms and conditions to be agreed.)

(2) Notwithstanding the provisions of paragraph A(1) of this Article, if the Government of the Federative Republic of Brazil or such authorized persons so request, the Commission, at its election, may sell the uranium enriched in the isotope U–235 under such terms and conditions as may be agreed.

B. As may be agreed, the Commission will transfer to the Government of the Federative Republic of Brazil or to authorized persons under its jurisdiction uranium enriched in the isotope U–235 for use as fuel in defined research applications, including research, materials testing, and experimental reactors and reactor experiments. The terms and conditions of each transfer shall be agreed upon in advance, it being understood that, in the event of transfer of title to uranium enriched in the isotope U–235, the Commission shall have the option of limiting the arrangements to undertakings such as those described in paragraph A(1) of this Article.

C. As may be agreed, the Commission will transfer to the Government of the Federative Republic of Brazil, or to authorized persons under the jurisdiction of the Government of the Federative Republic of Brazil, plutonium for use as fuel in reactors and reactor experiments. The terms and conditions of each transfer will be agreed upon in advance.

D. It is understood that the Commission may transfer to a person or persons under the jurisdiction of the Government of the United States of America such of its responsibilities under this Agreement with respect to the supply of special nuclear material, including the provision of enrichment services, as the Commission deems desirable.

Article VIII

A. With respect to transfers by the Commission of uranium enriched in the isotope U–235 provided for in Article VI, paragraph B and Article VII, it is understood that:

(1) Contracts specifying quantities, enrichments, delivery schedules, and other terms and conditions of supply or services will be executed on a timely basis between the Commission and the Government of the Federative Republic of Brazil or persons authorized by it, and

(2) Prices for uranium enriched in the isotope U–235 sold or charges for enrichment services performed will be those in effect for users in the United States of America at the time of delivery. The advance notice required for delivery will be that in effect for users in the United States of America at the time of giving such notice. The Commission may agree to supply uranium enriched in the isotope U–235 or perform enrichment services upon shorter notice, subject to assessment of such surcharge to the usual base price or charge as the Commission may consider reasonable to cover abnormal costs incurred by the Commission by reason of such shorter notice.

B. Should the total quantity of uranium enriched in the isotope U–235 which the Commission has agreed to provide pursuant to this Agreement and other Agreements for Cooperation reach the maximum quantity of uranium enriched in the isotope U–235 which the Commission has available for such purposes, and should contracts covering the adjusted net quality specified in Article IX not have been executed, the Commission may request, upon appropriate notice, that the Government of the Federative Republic of Brazil or persons authorized by it execute contracts for all or any part of such uranium enriched in the isotope U–235 as is not then under contract. It is understood that, should contracts not be executed in accordance with a request by the Commission hereunder the Commission shall be relieved of all ob-

ligations with respect to the uranium enriched in the isotope U-235 for which contracts have been so requested.

C. The enriched uranium supplied hereunder may contain up to twenty percent (20%) in the isotope U-235. A portion of the uranium enriched in the isotope U-235 supplied hereunder may be made available as material containing more than twenty percent (20%) in the isotope U-235 when the Commission finds there is a technical economic justification for such a transfer.

D. It is understood, unless otherwise agreed, that, in order to assure the availability of the entire quantity of uranium enriched in the isotope U-235 allocated hereunder for a particular reactor project described in the Appendix, it will be necessary for the construction of the project to be initiated in accordance with the schedule set forth in the Appendix and for the Government of the Federative Republic of Brazil or persons authorized by it to execute a contract for that quantity in time to allow the Commission to provide the material for the first fuel loading. It is also understood that, if the Government of the Federative Republic of Brazil or persons authorized by it desire to contract for less than the entire quantity of uranium enriched in the isotope U-235 allocated for a particular project or terminate the supply contract after execution, the remaining quantity allocated for that project shall cease to be available and the maximum adjusted net quantity of U-235 provided for in Article IX shall be reduced accordingly, unless otherwise agreed.

E. Within the limitations contained in Article IX, the quantity of uranium enriched in the isotope U-235 transferred under Article VI, paragraph B or Article VII and under the jurisdiction of the Government of the Federative Republic of Brazil for the fueling of reactors or reactor experiments shall not at any time be in excess of the quantity necessary for the loading of such reactors or reactor experiments, plus such additional quantity as, in the opinion of the Parties, is necessary for the efficient and continuous operation of such reactors or reactor experiments.

F. When any special nuclear material received from the United States of America pursuant to this Agreement or the superseded Agreement requires reprocessing, or any irradiated fuel elements containing fuel material received from the United States of America pursuant to this Agreement or the superseded Agreement are to be removed from a reactor and are to be altered in form or content, such reprocessing or alteration may be performed in Brazilian facilities upon a joint determination of the Parties that the provisions of Article XI may be effectively applied, or in other facilities as may be mutually agreed.

G. Special nuclear material produced as a result of irradiation processes in any part of the fuel that may be leased by the Commission under this Agreement or the superseded Agreement shall be for the account of the lessee and, after reprocessing as provided in paragraph F of this Article, title to such produced material shall be in the lessee unless the Commission and the lessee otherwise agree.

H. No special nuclear material produced through the use of material transferred to the Government of the Federative Republic of Brazil or to authorized persons under its jurisdiction, pursuant to this Agreement or the superseded Agreement, will be transferred to the jurisdiction of any other nation or group of nations, except as the Commission may agree to such a transfer.

I. Some atomic energy materials which may be provided in accordance with this Agreement, or which have been provided to the Government of the Federative Republic of Brazil under the superseded Agreement, are harmful to persons and property unless handled and used carefully. After delivery of such materials, the Government of the Federative Republic of Brazil shall bear all responsibility, insofar as the Government of the United States of America is concerned, for the safe handling and use of such materials. With respect to any special nuclear material or fuel elements which the Commission may, pursuant to this Agreement, lease to the Government of the Federative Republic of Brazil or to any authorized person under its jurisdiction, or may have leased pursuant to the superseded Agreement to the Government of the Federative Republic of Brazil, the Government of the Federative Republic of Brazil shall indemnify and save harmless the Government of the United States of America against any and all liability (including third party liability) for any cause whatsoever arising out of the production or fabrication, the ownership, the lease and the possession and use of such special nuclear material or fuel elements after delivery by the Commission to the Government of the Federative Republic of Brazil or to any such authorized person under its jurisdiction.

Article IX

A. The adjusted net quantity of U-235 in enriched uranium transferred from the United States of America to the Federative Republic of Brazil under Articles IV, VI, and VII during the period of this Agreement for Cooperation, or under the superseded Agreement, shall not exceed in the aggregate 12,300 kilograms. The following method of computation shall be used in calculating transfers, within the ceiling quantity of 12,300 kilograms of U-235, made under the said Articles or the superseded Agreement:

From:

(1) The quantity of U-235 contained in enrichment uranium transferred under the said Articles or the superseded Agreement, minus

(2) The quality of U-235 contained in an equal quantity of uranium of normal isotopic assay,

Subtract:

(3) The aggregate of the quantities of U-235 contained in recoverable uranium of United States origin either returned to the United States of America or transferred to any other nation or group of nations with the approval of the Government of the United States of America pursuant to this Agreement or the superseded Agreement, minus

(4) The quantity of U-235 contained in an equal quantity of uranium of normal isotopic assay.

B. The quantity of plutonium transferred from the United States of America to the Federative Republic of Brazil under Articles IV, VI and VII during the period of this Agreement for Cooperation, or under the superseded Agreement, shall not exceed a net amount of twenty (20) kilograms. The net amount of plutonium shall be the gross quantity transferred to the Government of the Federative Republic of Brazil, or to authorized persons under the jurisdiction of the Government of the Federative Republic of Brazil, less the quantity which has been returned to the United States of America or transferred to any other nation or group of nations with the agreement of the Government of the United States of America pursuant to this Agreement.

Article X

A. The Government of the Federative Republic of Brazil guarantees that:

(1) Safeguards provided in Article XI shall be maintained.

(2) No material, including equipment and devices, transferred to the Government of the Federative Republic of Brazil or authorized persons under its jurisdiction by purchase or otherwise pursuant to this Agreement or to the superseded Agreement, and no special nuclear material produced through the use of such material, equipment or devices, will be used for atomic weapons, or for research on or development of atomic weapons, or for any other military purpose.

(3) No material, including equipment and devices, transferred to the Government of the Federative Republic of Brazil or to authorized persons under its jurisdiction pursuant to this Agreement or the superseded Agreement will be transferred to authorized persons or beyond the jurisdiction of the Government of the Federative Republic of Brazil except as the Commission may agree to such a transfer to the jurisdiction of another nation or group of nations, and then only if, in the opinion of the Commission, the transfer is within the scope of an Agreement for cooperation between the Government of the United States of America and the other nation or group of nations.

B. The Government of the United States of America guarantees that:

(1) No material, including equipment and devices, transferred to the Government of the United States of America or authorized persons under its jurisdiction by purchase or otherwise pursuant to this Agreement or the superseded Agreement, and no special nuclear material produced through the use of such material, including equipment or devices, or an equivalent amount of material of the same type as such transferred or produced material substituted therefor, will be used for atomic weapons, or for research on or development of atomic weapons, or for any other military purpose.

(2) No material, including equipment and devices, transferred to the Government of the United States of America or to authorized persons under its jurisdiction pursuant to this Agreement or the superseded Agreement will be transferred to unauthorized persons or beyond the jurisdiction of the Government of the United States of America except as the Government of the Federative Republic of Brazil may agree to such a transfer to the jurisdiction of another nation or group of nations, and then only if, in the opinion of the Government of the Federative Republic of Brazil, the transfer is within the scope of an Agreement for Cooperation between the Government of the Federative Republic of Brazil and the other nation or group of nations.

Article XI

A. The Government of the United States of America and the Government of the Federative Republic of Brazil emphasize their common interest in assuring that any material, equipment or devices made available to the Government of the Federative Republic of Brazil or any authorized person under its jurisdiction pursuant to this Agreement or the superseded Agreement shall be used solely for civil purposes.

B. Except to the extent that the safeguards rights provided for in this Agreement are suspended by virtue of the application of safeguards of the International Atomic Energy Agency, as provided in Article XII, the Government of the United States of America, notwithstanding any other provisions of this Agreement, shall have the following rights:

(1) With the objective of assuring design and operation for civil purposes and permitting effective application of safeguards, to review the design of any

(a) reactor, and

(b) other equipment and devices the design of which the Commission determines to be relevant to the effective application of safeguards,

which are to be made available under this Agreement, or have been made available under the superseded Agreement, to the Gov-

ernment of the Federative Republic of Brazil or to any authorized person under its jurisdiction by the Government of the United States of America or any person under its jurisdiction or which are to use, fabricate, or process any of the following materials so recovered from, or produced as a result of designated by the Commission,

(2) With respect to any source material or special nuclear material made available to the Government of the Federative Republic of Brazil or to any authorized person under its jurisdiction under this Agreement or the superseded Agreement by the Government of the United States of America or any person under its jurisdiction and any source material or special nuclear material utilized in, recovered from, or produced as a result of the use of any of the following materials, equipment or devices so made available:

(a) source material, special nuclear material, moderator material, or other material designated by the Commission,

(b) reactors, and

(c) any other equipment or devices designated by the Commission as an item to be made available on the condition that the provisions of this paragraph B(2) will apply,

(i) to require the maintenance and production of operating records and to request and receive reports for the purpose of assisting in ensuring accountability for such materials, and

(ii) to require that in any such material in the custody of the Government of the Federative Republic of Brazil or any person under its jurisdiction be subject to all of the safeguards provided for in this Article and the guarantees set forth in Article X;

(3) To approve facilities which are to be used for the storage of any of the special nuclear material referred to in paragraph B(2) of this Article which is not required for atomic energy programs in the Federative Republic of Brazil and which is not transferred beyond the jurisdiction of the Government of the Federative Republic of Brazil or otherwise disposed of pursuant to an arrangement mutually acceptable to the Parties;

(4) To designate, after consultation with the Government of the Federative Republic of Brazil, personnel who, accompanied, if either Party so requests, by personnel designated by the Government of the Federative Republic of Brazil, shall have access in the Federative Republic of Brazil to all places and data necessary to account for the source material and special nuclear material which are subject to paragraph B(2) of this Article to determine whether there is compliance with this Agreement and to make such independent measurements as may be deemed necessary;

(5) In the event of non-compliance with the provisions of this Article or the guarantees set forth in Article X and the failure of the Government to the Federative Republic of Brazil to carry out the provisions of this Article within a reasonable time, to suspend or terminate this Agreement and to require the return of any materials, equipment and devices referred to in paragraph B(2) of this Article;

(6) To consult with the Government of the Federative Republic of Brazil in the matter of health and safety.

C. The Government of the Federative Republic of Brazil undertakes to facilitate the application of safeguards provided for in this Article.

D. The Government of the United States of America shall direct persons designated by it under provisions of paragraph B(4) of this Article not to reveal to persons other than those authorized within the Government of the United States of America to receive such information on grounds of their official obligations in connection with safeguards, any industrial secret or confidential information which comes to their knowledge as a consequence of their official obligations established in the above-mentioned paragraph.

Article XII

A. The Government of the United States of America and the Government of the Federative Republic of Brazil note that, by an agreement signed by them and the International Atomic Energy Agency on March 10, 1967,[2] the Agency has been applying safeguards to materials, equipment and facilities transferred to the jurisdiction of the Government of the Federative Republic of Brazil under the superseded Agreement. The parties, recognizing the desirability of continuing to make use of the facilities and services of the International Atomic Energy Agency, agree that the Agency safeguards shall continue to apply to materials, equipment and facilities transferred under the superseded Agreement or to be transferred under this Agreement.

B. It is contemplated that the continued application of Agency safeguards pursuant to this Article will be accomplished as provided in the above-mentioned trilateral agreement among the Parties and the Agency, as it may be amended from time to time or supplanted by a new trilateral agreement. It is understood that, without modification of this Agreement, the safeguards rights accorded to the Government of the United States of America by Article XI of this Agreement will be suspended during the time and to the extent that the Government of the United States of America agrees that the need to exercise such rights is satisfied by a safeguard agreement as contemplated in this paragraph.

C. In the event the applicable safeguards agreement referred to in paragraph B of this Article should be terminated prior to the expiration of this Agreement and the Parties should fail to agree within three months upon a resumption of Agency safeguards, either Party may, by notification, terminate this Agreement. Before either Party takes steps to terminate this Agreement, the Parties will carefully consider the economic effects of such termination. Neither Party will invoke its termination rights until the other Party has been given sufficient advance notice to permit arrangements by the Government of the Federative Republic of Brazil, if it is the other Party, for an alternative source of power and to permit adjustment by the Government of the United States of America, if it is the other Party, of production schedules. In the event of such termination by either Party, the Government of the Federative Republic of Brazil shall, at the request of the Government of the United States of America, return to the Government of the United States of America all special nuclear material received pursuant to this Agreement or the superseded Agreement and still in its possession or in the possession of persons under its jurisdiction. The Government of the United States of America will compensate the Government of the Federative Republic of Brazil or the persons under its jurisdiction for their interest in such material so returned at the Commission's schedule of prices then in effect in the United States of America.

Article XIII

The rights and obligations of the Parties provided for under this Agreement shall extend, to the extent applicable, to cooperative activities initiated under the superseded Agreement, including, but not limited to, information, material, equipment and devices transferred thereunder.

Article XIV

The "Agreement for Cooperation Between the Government of the United States of America and the Government of the United States of Brazil Concerning Civil Uses of Atomic Energy" signed on July 8, 1965, is superseded by this Agreement on the date this Agreement enters into force.

Article XV

This Agreement shall enter into force on the date on which each Government shall have received from the other Government written notification that it has complied with all statutory and constitutional requirements for entry into force of such Agreement[3] and shall remain in force for a period of thirty (30) years.

In witness whereof, the undersigned, duly authorized, have signed this Agreement.

Done at Washington, in duplicate in the English and Portuguese languages, both equally authentic, this seventeenth day of July, 1972.

For the Government of the United States of America:

U. ALEXIS JOHNSON,
JAMES R. SCHLESINGER

For the Government of the Federative Republic of Brazil:

JOÃO AUGUSTO DE ARAUJO CASTRO.

APPENDIX

Brazilian enriched uranium power reactor program

Reactor: Angra I, 626 MWe, PWR.
Start of construction: 1972.
Criticality date: 1976.
Total KGS. U-235 required: 11,800.

[Atomic Energy—Application of Safeguards by the IAEA to the United States-Brazil Cooperation Agreement]

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA, BRAZIL, AND THE INTERNATIONAL ATOMIC ENERGY AGENCY

Agreement signed at Vienna March 10, 1967; Entered into force October 31, 1968.

AGREEMENT BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY, THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED STATES OF BRAZIL FOR THE APPLICATION OF SAFEGUARDS

Whereas the Government of the United States of America and the Government of the United States of Brazil have been cooperating on the civil uses of atomic energy under their Agreement for Cooperation of 8 July 1965,[1] which requires that equipment, devices and materials made available to Brazil by the United States be used solely for peaceful purposes and establishes a system of safeguards to that end;

Whereas the Agreement for Cooperation reflects the mutual recognition of the two Governments of the desirability of arranging for the Agency to administer safeguards as soon as practicable;

Whereas the Agency is, pursuant to its Statute[2] and the action of its Board of Governors, now in a position to apply safeguards in accordance with the Agency's Safeguards Document and Inspectors Document;

Whereas the two Governments have reaffirmed their desire that equipment, devices and materials supplied by the United States under the Agreement for Cooperation or produced by their use or otherwise subject to safeguards under that Agreement shall not be used for any military purpose and have requested the Agency to apply safeguards to such materials, equipment and facilities as are covered by this Agreement; and

Whereas the Board of Governors of the Agency approved that request on 22 February 1966;

Now, therefore, the Agency and the two Governments agree as follows:

[2] TIAS 6583; 19 UST 6322.

[3] Sept. 20, 1972.

[1] TIAS 6126; 17 UST 1659.

[2] TIAS 3873; 8 UST 1093.

PART I

Definitions

Section 1. For the purposes of this Agreement:

(a) "Agency" means the International Atomic Energy Agency.

(b) "Board" means the Board of Governors of the Agency.

(c) "Agreement for Cooperation" means the agreement between Brazil and the United States for co-operation on the civil uses of atomic energy signed on 8 July 1965.

(d) "Inspectors Document" means the Annex to Agency document GC(V)INF/39, which was placed in effect by the Board on 29 June 1961.

(e) "Inventory" means either of the lists of material, equipment and facilities described in Section 10.

(f) "Nuclear material" means any source or special fissionable material as defined in Article XX of the Agency's Statute.

(g) "Safeguards Document" means Agency document INFCIRC/66, which was approved by the Board on 28 September 1965.

(h) "United States" means the Government of the United States of America.

(i) "Brazil" means the Government of the United States of Brazil.

PART II

Undertakings by the Governments and the Agency

Section 2. Brazil undertakes that it will not use in such a way as to further any military purpose any material, equipment or facility while it is listed in the Inventory for Brazil.

Section 3. The United States undertakes that it will not use in such a way as to further any military purpose any special fissionable material, equipment or facility while it is listed in the Inventory for the United States.

Section 4. The Agency undertakes to apply safeguards in accordance with the provisions of this Agreement to materials, equipment and facilities while they are listed in the Inventories to ensure so far as it is able that they will not be used in such a way as to further any military purposes.

Section 5. Brazil and the United States undertake to facilitate the application of safeguards and to co-operate with the Agency and each other to that end.

Section 6. The United States agrees that its rights under Article VI of the Agreement for Cooperation to apply safeguards to equipment, devices and materials subject to that Agreement will be suspended with respect to materials, equipment and facilities while they are listed in the Inventory for Brazil. It is understood that no other rights and obligations of Brazil and the United States between themselves under Article VI and under other provisions of the Agreement for Cooperation, including those arising by reason of paragraph B of Article VII, will be affected by this Agreement.

Section 7. If the Agency is relieved, pursuant to Section 21(a), of its undertaking in Section 4, or if for any other reason the Board determines that the Agency is unable to ensure that any material, equipment or facility listed in an Inventory is not being used for any military purpose, the material, equipment or facility involved shall thereby automatically be removed from such Inventory until the Board determines that the Agency is again able to apply safeguards thereto. When, under this Section, an item is removed from the Inventory for either Government, the Agency may, at the request of the other Government, provide it with information available to the Agency about such material, equipment or facility in order to enable that Government to exercise effectively its rights thereto.

Section 8. Brazil and the United States shall promptly notify the Agency of any amendment to the Agreement for Cooperation and any notice of termination given with respect to that Agreement.

PART III

Inventories and notifications

Section 9.

(a) An initial list of all the materials, equipment and facilities which are within the jurisdiction of Brazil and subject to the Agreement for Cooperation shall be prepared by the two Governments and submitted jointly to the Agency as promptly as feasible after the entry into force of this Agreement. The Agency's acceptance thereof shall establish the Inventory for Brazil and the Agency will thereupon commence applying safeguards to such materials, equipment and facilities.

(b) Thereafter Brazil and the United States shall jointly notify the Agency of:

(i) Any transfer from the United States to Brazil under this Agreement for Cooperation of materials, equipment or facilities;

(ii) Any transfer from Brazil to the United States of any special fissionable material which has been included in the Inventory for Brazil pursuant to Section 12; and

(iii) Any other materials, equipment and facilities which as a consequence of the transfers referred to in (i) and (ii) above come within the scope of the Category described in Section 10 (b) or (e).

(c) The Agency shall, within 30 days of its receipt of a joint notification, advise both Governments either:

(i) That the items covered by the notification are listed in the appropriate Inventory as of the date of the Agency's advice; or

(ii) That the Agency is unable to apply safeguards to such items, in which case, however, it may indicate at what future time or under what conditions it would be able to apply safeguards thereto if the Governments so desire.

Section 10. The Agency shall establish and maintain the Inventory with respect to each Government which shall be divided into three Categories.

(a) Category I of the Inventory with respect to Brazil shall list:

(i) Equipment and facilities transferred to Brazil;

(ii) Material transferred to Brazil or material substituted therefor in accordance with paragraph 25 or 26(d) of the Safeguards Document;

(iii) Special fissionable materials produced in Brazil, as specified in Section 12, or any material substituted therefor in accordance with paragraph 25 or 26(d) of the Safeguards Document; and

(iv) Nuclear materials, other than those which are listed under (ii) or (iii) above, which are processed or used in any of the materials, equipment or facilities listed under (i), (ii) or (iii) above, or any material substitute therefor in accordance with paragraph 25 or 26(d) of the Safeguards Document.

(b) Category II of the Inventory with respect to Brazil shall list:

(i) Any facility while it incorporates any equipment listed in Category I of the Inventory for Brazil; and

(ii) Any equipment or facility while it is containing, using, fabricating or processing any material listed in Category I of the Inventory for Brazil.

(c) Category III of the Inventory with respect to Brazil shall list any nuclear material which would normally be listed in Category I of the Inventory for Brazil but which is not so listed because:

(i) It is exempt from safeguards in accordance with the provisions of paragraph 21, 22 or 23 of the Safeguards Document; or

(ii) Safeguards thereon are suspended in accordance with the provisions of paragraph 24 or 25 of the Safeguards Document.

(d) Category I of the Inventory with respect to the United States shall list:

(i) Special fissionable material of whose transfer from Brazil the Agency has been notified pursuant to Section 9(b)(ii) or material substituted therefor, in accordance with paragraph 25 or 26(d) of the Safeguards Document; or

(ii) Special fissionable material produced in the United States, as specified in Section 12, or any material substituted therefor in accordance with paragraph 25 or 26(d) of the Safeguards Document.

(e) Category II of the Inventory with respect to the United States shall list any equipment or facility while it is containing, using, fabricating or processing any material listed in Category I of the Inventory for the United States.

(f) Category III of the Inventory with respect to the United States shall list any material which would normally be listed in Category I of the Inventory for the United States but which is not so listed because:

(i) It is exempt from Safeguards in accordance with the provisions of paragraph 21, 22 or 23 of the Safeguards Document; or

(ii) Safeguards thereon are suspended in accordance with the provisions of paragraph 24 or 25 of the Safeguards Document.

The Agency shall send copies of both Inventories to both Governments every twelve months and also at any other times specified by either Government in a request communicated to the Agency at least two weeks in advance.

Section 11. The notification by the two Governments provided for in Section 9(b)(i) shall normally be sent to the Agency not more than two weeks after the material, equipment or facility arrives in Brazil, except that shipments of source material in quantities not exceeding one metric ton shall not be subject to the two-week notification requirement but shall be reported to the Agency at intervals not exceeding three months. All notifications under Section 9 shall include, to the extent relevant, the nuclear and chemical composition, the physical form, and the quantity of the material and/or the type and capacity of the equipment or facility involved, the date of shipment, the date of receipt, the identity of the consignor and consignee, and any other relevant information. The two Governments also undertake to give the Agency as much advance notice as possible of the transfer of large quantities of nuclear materials or major equipment or facilities.

Section 12. Each Government shall notify the Agency, by means of its reports pursuant to the Safeguards Document, of any special fissionable material it has produced, during the period covered by the report, in or by the use of any of the materials, equipment or facilities described in Section 10(a), 10(b)(i) or 10(d). Upon receipt by the Agency of the notification, such produced material shall be listed in Category I of the Inventory, provided that any material so produced shall be deemed to be listed and therefore shall be subject to safeguards by the Agency from the time it is produced. The Agency may verify the calculations of the amounts of such materials; appropriate adjustment in the Inventory shall be made by agreement of the Parties; pending final agreement of the Parties, the Agency's calculations shall govern.

Section 13. The two Governments shall jointly notify the Army of the transfer to the United States of any materials, equipment or facilities listed in the Inventory for Brazil. Upon receipt thereof by the United States:

(a) Materials described in Section 9(b)(ii) shall be transferred from the Inventory for

Brazil to Category I of the Inventory for the United States;

(b) Other materials, and equipment or facilities shall be deleted from the Inventory.

Section 14. The two Governments shall jointly notify the Agency of any transfer of materials, equipment or facilities listed in Category I of the Inventory to a recipient which is not under the jurisdiction of either of the two Governments. Such materials, equipment or facilities may be transferred and shall thereupon be deleted from the Inventory, provided that:

(a) Arrangements have been made by the Agency to safeguard such materials, equipment or facilities; or

(b) The materials, equipment or facilities will be subject to safeguards other than those of the Agency but generally consistent with such safeguards and accepted by the Agency.

Section 15. Whenever either Government intends to transfer material or equipment, listed in Category I of its Inventory, to a facility within its jurisdiction which the Agency has not previously accepted for listing in that Government's Inventory, the Government shall so notify the Agency and may make the transfer to that facility only after the Agency has accepted the facility for listing in that Government's Inventory.

Section 16. The notifications provided for in Section 13, 14 and 15 shall be sent to the Agency at least two weeks before the material, equipment or facility is to be transferred. The contents of these notifications shall conform, as far as appropriate, to the requirements of Section 11.

Section 17. The Agency shall exempt from safeguards nuclear material under the conditions specified in paragraph 21, 22 or 23 of the Safeguards Documents and shall suspend safeguards with respect to nuclear materials under the conditions specified in paragraph 24 or 25 of the Document.

Section 18. The Agency shall terminate safeguards under this Agreement with respect to those items deleted from an Inventory as provided in Section 13(b) and 14 above. Nuclear material other than that covered by the preceding sentence shall be deleted from the Inventory and Agency safeguards thereon shall be terminated as provided in paragraph 26 of the Safeguards Document.

PART IV

Safeguards procedures

Section 19. In applying safeguards, the Agency shall observe the principles set forth in paragraphs 9 through 14 of the Safeguards Document.

Section 20. The safeguards to be applied by the Agency to the items listed in the Inventories are those proceduers specified in Part III of the Safeguards Document. The Agency shall make subsidiary arrangements with each Government concerning the implementation of safeguards procedures. The Agency shall have the right to request the information referred to in paragraph 41 of the Safeguards Document and to make the inspections refered to in paragraphs 51 and 52 of the Safeguards Document.

Section 21. If the Board determines that there has been any noncompliance with this Agreement, the Board shall call upon the Government concerned to remedy such noncompliance forthwith, and shall make such reports as it deems appropriate. If the Government fails to take fully corrective action within a reasonable time:

(a) The Agency shall be relieved of its undertaking to apply safeguards under Section 4 for such time as the Board determines that the Agency cannot effectively apply the safeguards provided for in this Agreement; and

(b) The Baord may take any measures provided for in Article XII.C of the Statute.

The Agency shall promptly notify both Governments in the event of any determination by the Board pusuant to this Section.

PART V

Agency inspectors

Section 22. Agency inspectors performing functions pursuant to this Agreement shall be governed by paragraphs 1 through 7 and 9, 10, 12 and 14 of the Inspectors Document. However, paragraph 4 of the Inspectors Document shall not apply with regard to any facility or to nuclear material to which the Agency has access at all times. The actual procedures to implement paragarph 50 of the Safeguards Document in the United States and in Brazil shall be agreed between the Agency and the Government concerned before the facility or material is listed in the Inventory.

Section 23. Brazil shall apply the relevant provisions of the Agreement on the Privileges and Immunities of the Agency to Agency inspectors performing functions under this Agreement and to any property of the Agency used by them.

Section 24. The provisions of the International Organizations Immunities Act of the United States shall apply to Agency inspectors performing functions in the United States of America under this Agreement and to any property of the Agency used by them.

PART VI

Finance

Section 25. Each Party shall bear any expense incurred in the implementation of its responsibilities under this Agreement. The Agency shall reimburse each Government for any special expenses, including those referred to in paragraph 6 of the Inspectors Document, incurred by the Government or persons under its jurisdiction at the written request of the Agency, if the Government notified the Agency before the expense was incurred that reimbursement would be required. These provisions shall not prejudice the allocation of expenses attributable to a failure by a Party to comply with this Agreement.

Section 26.

(a) Brazil shall ensure that any protection against third-party liability, including any insurance or other financial security in respect of a nuclear incident occurring in a nuclear installation under its jurisdiction shall apply to the Agency and its inspectors when carrying out their functions under this Agreement as that protection applies to nationals of Brazil.

(b) In carrying out its functions under this Agreement within the United States, the Agency and its personnel shall be covered to the same extent as United States nationals by any protection against third-party liability provided under the Price-Anderson Act, including insurance or other indemnity coverage that may be required by the Price-Anderson Act with respect to nuclear incidents within the United States.

Settlement of disputes

Section 27. Any dispute arising out of the interpretation or application of this Agreement which is not settled by negotiation or as may otherwise be agreed by the Parties concerned shall on the request of any Party be submitted to an arbitral tribunal composed as follows:

(a) If the dispute involves only two of the Parties to this Agreement, all three Parties agreeing that the third is not concerned, the two Parties involved shall each designate one arbitrator, and the two arbitrators so designated shall elect a third, who shall be the Chairman. If within thirty days of the request for arbitration either Party has not designated an arbitrator, either Party to the dispute may request the President of the International Court of Justice to appoint an arbitrator. The same procedure shall apply if, within thirty days of the designation or appointment of the second arbitrator, the third arbitrator has not been elected; or

(b) If the dispute involves all three Parties to this Agreement, each Party shall designate one arbitrator, and the three arbitrators so designated shall by unanimous decision elect a fourth arbitrator, who shall be the Chairman, and a fifth arbitrator. If within thirty days of the request for arbitration any Party has not designated an arbitrator, any Party may request the President of the International Court of Justice to appoint the necessary number of arbitrators. The same procedure shall apply if, within thirty days of the designation or appointment of the third of the first three arbitrators, the Chairman or the fifth arbitrator has not been elected.

A majority of the members of the arbitral tribunal shall constitute a quorum, and all decisions shall be made by majority vote. The arbitral procedure shall be fixed by the tribunal. The decisions of the tribunal, including all rulings concerning its constitution, procedures, jurisdiction and the division of the expense of arbitration between the Parties, shall be binding on all Parties. The remuneration of the arbitrators shall be determined on the same basis as that of ad hoc judges of the International Court of Justice.

Section 28. Decisions of the Board concerning the implementation of this Agreement, except such as relate only to Part VI, shall, if they so provide, be given effect immediately by the Parties, pending the final settlement of any dispute.

PART VIII

Amendment, modifications, entry into force and duration

Section 29. The Parties shall, at the request of any one of them, consult about amending this Agreement. If the Board modifies the Safeguards Document, or the scope of the safeguards system, this Agreement shall be amended at the request of the Governments to take account of any or all such modifications. If the Board modifies the Inspectors Document, this Agreement shall be amended at the request of the Governments to take account of any or all such modifications.

Section 30.

(a) This Agreement shall be signed by the Director General of the Agency or his representative and by the authorized representative of each Government.

(b) This Agreement shall enter into force on the date on which the Agency shall have received from the two Governments written notification that they have complied with all statutory and constitutional requirements for its entry into force.[3]

Section 31. This Agreement shall remain in force during the term of the Agreement for Cooperation, as extended from time to time, unless terminated sooner by any Party upon six months' notice to the other Parties or as may otherwise be agreed. It may be prolonged for further periods as agreed by the Parties and may be terminated sooner by any Party on six months' notice to the other Parties or as may be otherwise agreed. However, this Agreement shall remain in force with regard to any nuclear material referred to in Section 10(a)(iii) or 10(d) until the Agency has notified both Governments that it has terminated safeguards on such material in accordance with Section 18.

DONE in Vienna, this 10th day of March 1967, in triplicate in the English language.

FOR THE INTERNATIONAL ATOMIC ENERGY AGENCY:

SIGVARD EKLUND

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

VERNE B. LEWIS,

FOR THE GOVERNMENT OF THE UNITED STATES OF BRAZIL:

HELIO F. S. BITTENCOURT.

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[3] Oct. 31, 1968.

[Atomic Energy—Application of Safeguards by the IAEA to the United States-Brazil Cooperation Agreement]

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA, BRAZIL, AND THE INTERNATIONAL ATOMIC ENERGY AGENCY

Agreement amending the agreement of March 10, 1967. Signed at Vienna July 27, 1972; Entered into force September 20, 1972.

AGREEMENT TO AMEND THE AGREEMENT BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY, THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED STATES OF BRAZIL FOR THE APPLICATION OF SAFEGUARDS

Whereas the Government of the United States of America and the Government of the Federative Republic of Brazil have been cooperating on the civil uses of atomic energy under their Agreement for Co-operation signed on 8 July 1965,[1] which requires that equipment, devices and materials made available to Brazil by the United States be used solely for peaceful purposes;

Whereas the Agreement for Co-operation signed on 8 July 1965 has been superseded by an Agreement for Co-operation signed on 17 July 1972,[2] which requires that equipment, devices and materials made available to Brazil by the United States under either Agreement be used solely for peaceful purposes;

Whereas the International Atomic Energy Agency has been applying safeguards in accordance with the provisions of the Agreement between the International Atomic Energy Agency, the Government of the United States of America and the Government of the United States of Brazil for the Application of Safeguards of 10 March 1967[3] to equipment, materials and facilities required to be safeguarded under the Agreement for Co-operation of 8 July 1965 to ensure so far as it is able that they will not be used in such a way as to further any military purpose;

Whereas the Agency and the two Governments desire to amend the Agreement of 10 March 1967 to apply safeguards to materials, equipment and facilities required to be safeguarded by the Agreement for Co-operation of 17 July 1972;

Now, therefore, the Agency and the two Governments agree as follows:

Section 1. The Agreement for the Application of Safeguards of 10 March 1967 is amended as follows:

A. The first Whereas clause is amended to read as follows:

"Whereas the Government of the United States of America and the Government of the Federative Republic of Brazil have agreed to continue co-operating on the civil uses of atomic energy under their Agreement for Co-operation of 17 July 1972, which requires that equipment, devices and materials made available to Brazil by the United States be used solely for peaceful purposes and establishes a system of safeguards to that end"

B. The fifth Whereas clause is amended to read as follows:

"Whereas the Board of Governors of the Agency approved that request on 29 February 1972"

C. Section 1(c) is amended to read as follows:

"(c) 'Agreement for Co-operation' means the agreement between Brazil and the United States for co-operation on the civil uses of atomic energy signed on 17 July 1972, as it may be amended"

D. Section 1(g) is amended to read as follows:

"(g) 'Safeguards Document' means Agency document INFCIRC/66/Rev. 2, which contains provisions approved by the Board on 28 September 1965, 17 June 1966, and 13 June 1968"

E. Section 1(i) is amended to read as follows:

"(i) 'Brazil' means the Government of the Federative Republic of Brazil"

F. Section 6 is amended by deleting "Article VI of" in the first sentence, and by deleting the second sentence and inserting the following language in lieu thereof:

"It is understood that no other rights and obligations of Brazil and the United States between themselves under the Agreement for Co-operation will be affected by this Agreement"

G. Section 20 is amended by deleting "Part III of" in the first sentence.

Section 2. The present Agreement shall be signed by or for the Director General of the Agency and by the authorized representatives of Brazil and the United States and shall enter into force on the date upon which the Agreement for Co-operation of 17 July 1972 enters into force.[4] The two Governments shall notify the Agency of the date of the entry into force of the Agreement for Co-operation of 17 July 1972 within one week after that date.

Done in Vienna, this twenty-seventh day of July 1972, in triplicate in the English language.

For the International Atomic Energy Agency:

A. FINKELSTEIN.

For the Government of the United States of America:

DWIGHT J. PORTER.

For the Government of the Federative Republic of Brazil:

HELIO F. S. BITTENCOURT.

TREATY OF THE NON-PROLIFERATION OF NUCLEAR WEAPONS

The States concluding this Treaty, hereinafter referred to as the "Parties to the Treaty".

Considering the devastation that would be visited upon all mankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war and to take measures to safeguard the security of peoples.

Believing that the proliferation of nuclear weapons would seriously enhance the danger of nuclear war.

In conformity with resolutions of the United Nations General Assembly calling for the conclusion of an agreement on the prevention of wider dissemination of nuclear weapons.

Undertaking to co-operate in facilitating the application of International Atomic Energy Agency safeguards on peaceful nuclear activities.

Expressing their support for research, development and other efforts to further the application, within the framework of the International Atomic Energy Agency safeguards systems, of the principle of safeguarding effectively the flow of source and special fissionable materials by use of instruments and other techniques at certain strategic points.

Affirming the principle that the benefits of peaceful applications of nuclear technology, including any technological by-products which may be derived by nuclear-weapon States from the development of nuclear explosive devices, should be available for peaceful purposes to all Parties to the Treaty, whether nuclear-weapon or non-nuclear-weapon States.

Convinced that, in furthrance of this principle, all Parties to the Treaty are entitled to participate in the fullest possible exchange of scientific information for, and to contribute alone or in co-operation with other States to, the further development of the applications of atomic energy for peaceful purposes,

Declaring their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to undertake effective measures in the direction of nuclear disarmament,

Urging the co-operation of all States in the attainment of this objective,

Recalling the determination expressed by the Parties to the 1963 Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water in its Preamble to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to this end.

Desiring to further the easing of international tension and the strengthening of trust between States in order to facilitate the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons and the means of their delivery pursuant to a Treaty on general and complete disarmament under strict and effective international control.

Recalling that, in accordance with the Charter of the United Nations, States must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations, and that the establishment and maintenance of international peace and security are to be promoted with the least diversion for armaments of the world's human and economic resources.

Have agreed as follows:

ARTICLE I

Each nuclear-weapon State Party to the Treaty undertakes not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly; and not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices.

ARTICLE II

Each non-nuclear-weapon State Party to the Treaty undertakes not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or explosive device directly, or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices.

ARTICLE III

I. Each non-nuclear-weapon State Party to the Treaty undertakes to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency in accordance with the Statute of the International Atomic Energy Agency and the Agency's safeguards system, for the exclusive purpose of verification of the fulfilment of its obligations assumed under this Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices. Procedures for the safeguards required by this Article shall be followed with respect to source or special fissionable material whether it is being produced, processed or used in any principal nuclear facility or is outside any such facility. The safeguards required by this Article shall be applied on all source or special fissionable material in all peaceful nuclear activities

[1] TIAS 6126; 17 UST 1969.

[2] TIAS 7439; 23 UST.

[3] TIAS 6583; 19 UST 6322.

[4] Sept. 20, 1972.

within the territory of such State, under its jurisdiction, or carried out under its control anywhere.

2. Each State Party to the Treaty undertakes not to provide: (a) source of special fissionable material, or (b) equipment or material especially designed or prepared for the processing, use or production of special fissionable material, to any non-nuclear-weapon State for peaceful purposes, unless the source of special fissionable material shall be subject to the safeguards required by this Article.

3. The safeguards required by this Article shall be implemented in a manner designed to comply with Article IV of this Treaty, and to avoid hampering the economic or technological development of the Parties or international co-operation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing, use or production of nuclear material for peaceful purposes in accordance with the provisions of this Article and the principle of safeguarding set forth in the Preamble of the Treaty.

4. Non-nuclear-weapon States Party to the Treaty shall conclude agreements with the International Atomic Energy Agency to meet the requirements of this Article either individually or together with other States in accordance with the Statute of the International Atomic Energy Agency. Negotiation of such agreements shall commence within 180 days from the original entry into force of this Treaty. For States depositing their instruments of ratification or accession after the 180-day period, negotiation of such agreements shall commence not later than the date of such deposit. Such agreements shall enter into force not later than eighteen months after the date of initiation of negotiations.

ARTICLE IV

1. Nothing in this Treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with Articles I and II of this Treaty.

2. All the Parties to the Treaty undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy. Parties to the Treaty in a position to do so shall also co-operate in contributing alone or together with other States or international organizations to the further development of the applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear-weapon States Party to the Treaty, with due consideration for the needs of the developing areas of the world.

ARTICLE V

Each Party to the Treaty undertakes to take appropriate measures to ensure that, in accordance wtih this Treaty, under appropriate international observation and through appropriate international procedures, potential benefits from any peaceful applications of nuclear explosions will be made available to non-nuclear weapon States Party to the Treaty on a non-discriminatory basis and that the charge to such Parties for the explosive devices used will be as low as possible and exclude any charge for research and development. Non-nuclear-weapon States Party to the Treaty shall be able to obtain such benefits, pursuant to a special international agreement or agreements, through an appropriate international body with adequate representation of non-nuclear weapon States. Negotiations on this subject shall commences as soon as possible after the Treaty so desiring may also obtain such benefits pursuant to bilateral agreements.

ARTICLE VI

Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.

ARTICLE VII

Nothing in this Treaty affects the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories.

ARTICLE VIII

1. Any Party to the Treaty may propose amendments to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Governments which shall circulate it to all Parties to the Treaty. Thereupon, if requested to do so by one-third or more of the Parties to the Treaty, the Depositary Government shall convene a conference, to which they shall invite all the Parties to the Treaty, to consider such an amendment.

2. Any amendment to this Treaty must be approved by a majority of the votes of all the Parties to the Treaty, including the votes of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. The amendment shall enter into force for each Party that deposits its instrument of ratification of the amendment upon the deposit of such instruments of ratification by a majority of all the Parties, including the instruments of ratifictaion of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. Therefore, it shall enter into force for any other Party upon the deposit of its instrument of ratification of the amendment.

3. Five years after the entry into force of this Treaty, a conference of Parties to the Treaty shall be held in Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the Preamble and the provisions of the Treaty are being realised. At intervals of five years thereafter, a majority of the Parties to the Treaty may obtain, by submitting a proposal to this effect to the Depositary Governments, the convening of further conferences with the same objective of reviewing the operation of the Treaty.

ARTICLE IX

1. This Treaty shall be open to all States for signature. Any State which does not sign the Treaty before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics and the United States of America, which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force after its ratification by the States, the Governments of which are designated Depositaries of the Treaty, and forty other States signatory to this Treaty and the deposit of their instruments of ratification. For the purposes of this Treaty, a nuclear-weapon State is one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to 1 January, 1967.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding states of the date of each signature, the date of deposit of each instrument of ratification or of accession, the date of the entry into force of this Treaty, and the date of receipt of any requests for convening a conference or other notices.

6. This Treaty shall be registered by the depositary Governments pursuant to Article 102 of the Charter of the United Nations.

ARTICLE X

1. Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

2. Twenty-five years after the entry into force of the Treaty, a conference shall be convened to decide whether the Treaty shall continue in force indefinitely, or shall be extended for an additional fixed period or periods. This decision shall be taken by a majority of the Parties to the Treaty.

ARTICLE XI

This Treaty, the English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

In witness whereof the undersigned, duly authorized, have signed this Treaty.

Done in triplicate, at the cities of London, Moscow and Washington, the first day of July, one thousand nine hundred and sixty-eight.

Mr. SYMINGTON. Mr. President, will the distinguished Senator from Rhode Island yield?

Mr. PASTORE. I yield.

Mr. SYMINGTON. I would congratulate him on being the one person to consistently bring before Congress and the people the steadily growing danger incident to nuclear proliferation and nuclear weaponry and the dangers connected therewith.

As a member of the Joint Atomic Energy Committee, and with the privilege of serving under him as chairman, I, too, was shocked—that is a fair word—at the arrangements the West Germans have made with Brazil.

Does the Senator know of any arrangement with Brazil which would result in plutonium being shipped back to West Germany?

Mr. PASTORE. No; I do not know about that particular arrangement, but they do not have to ship it back. They are giving them the full cycle. They are giving them reprocessing, the know-how and the technology. Of course, the argument is going to be made by the West German Government that they are going to put thus under the safeguards of the international organization, which may be true. But on the other hand there is nothing that stops Brazil from building their own indigenous plants by using the technology that the West Germans give them. Then they will say, "We do not have to be under safeguards at all."

Here we are, we have nuclear bombs in Latin America. Then the next thing is Argentina, maybe Chile, maybe somebody else. What do we do? We are making an atomic fortress in Latin America, after the American taxpayers have spent billions and billions of dollars in West Germany and in Europe to protect them against a peril, and they are

constituting one in our own backyard. Are we going to have Cuba all over again?

Mr. SYMINGTON. I believe it would be possible the Germans might want plutonium. As everyone knows, West Germany is between two great nuclear powers, the Soviet Union and France. The Soviets have signed the nonproliferation treaty. France has not signed or ratified it, but rather has consistently adopted unilateral policies in this nuclear field.

We spent many hours yesterday discussing the number of our military people in Europe, primarily in West Germany. What we are talking about this morning is the development of a situation which could wipe out most of those people with one or two airplanes or one or two missiles.

I again commend the Senator for bringing up this vital subject and would ask this question: Yesterday on the ticker, although a small development, could it not be a camel's nose under the tent when Libya makes arrangements with the Soviet Union to obtain small reactors comparable perhaps to what we gave Brazil to start them off in the art, but which could be increased into a complete nuclear armament cycle as West Germany apparently has now given Brazil?

Mr. PASTORE. Well, of course, everything is possible. From my investigation, I do not think that is very likely to happen for the simple reason that that is a 2 megawatt research reactor with the possibility of being accelerated to 10 megawatts. Beyond that it comes under the safeguards and inspection. There is no technology involved. I mean, there is a distinction in that case. As a matter of fact, the Soviets are doing in Libya what we have already done once in Brazil ourselves. There is a distinction to be made between granting the full cycle and only giving a research reactor which is under international control. First of all, the production of plutonium is very slight. It has to be reprocessed and they do not have the reprocessing facilities in those countries to begin with. It does not mean that they cannot build them, but, after all, when we talk about an undeveloped nation operating under such an arrangement that it is an entirely different thing.

The thing that disturbs me is not only has Brazil not signed the nonproliferation treaty, but the fact still remains that they are boasting of the fact that they have the capability and I understand, the motivation to build an atomic bomb. We cannot stop them if they do that on their own, no more than they can stop us from doing anything we want to do on our own. But here we have an ally, West Germany, where we are so heavily committed.

The Senator from Montana (Mr. MANSFIELD), who has been introducing an amendment year in and year out to withdraw about 50 percent of our troops out of West Germany, and West Germany does not like the idea at all, only yesterday announced that he would not propose the amendment because of the lack of credibility or the likelihood of the lack of credibility among our NATO allies because of the debacle of South Vietnam.

Here we are. We have changed our mind about withdrawing our troops to assist them, to protect them. We are heavily committed there. And what are they doing? They are selling all of this technology to the Brazilian Government. How far is Brazil from Cuba? Is it in Latin America? Is it in the Western Hemisphere? What are we doing?

Mr. SYMINGTON. How far is Brazil from West Germany.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SYMINGTON. Mr. President, I ask unanimous consent to proceed for 5 minutes.

Mr. MANSFIELD. Mr. President, if we could go into morning business now, I wish we could do so and the Senator from Missouri could be recognized.

Mr. SYMINGTON. Mr. President, for many years, the Senator from Rhode Island has been the leader in warning of this great and growing danger realized probably the most important single problem in the world today.

I congratulate the able Chairman of the Joint Atomic Energy Committee for bringing up this latest startling development in the entire nuclear field.

Mr. GLENN. If the Senator will yield, I will stay within my 3-minute limit.

Mr. PASTORE. I yield.

Mr. GLENN. I do want to associate myself with the remarks of both able Senators and particularly congratulate the Senator from Rhode Island on his forthrightness in bringing this forward to the attention of the Senate and the American people. I think we have kept much of our nuclear policy based on an exclusivity basis that no longer exists. I think this is evidence of that.

Scientific information does not remain the property of one nation for very long. I think much of our policy has remained based on that. We are seeing West Germany now contribute to the spread of nuclear know-how and potentially nuclear weapons around the world.

Other nations, whether it be Sweden, France, India, or whatever nation, could contribute to this later on. We all want to seek the benefits that can come to the world from the proper use of nuclear energy. So far, the limitations on that use have only been expressed through the very tentative at best arrangements of the International Atomic Energy Agency, which is the best we have, but which remains on a voluntary basis for cooperation. The nonproliferation treaty, which, as the Senator from Missouri pointed out, France has not even signed or agreed with and yet sends nuclear equipment around the world, is the only other way we have dreamed up so far of trying to somehow control this nuclear spread and keep it under control.

New techniques are becoming available almost daily in this field. I believe it is almost mandatory, as the Senators have pointed out, that we come up with some new way, whether it is a new incentive for people to cooperate, which we have talked about privately in the past in various meetings, or whether it is strengthening the arrangements that we have now.

I think the Senator from Rhode Island has very properly put his finger on what is a tremendously increasing danger around the world that we get in this whole Brazilian thing with West Germany, and our lack of control over it, pointing out the hazards that we face today in this area. I feel this should have the very highest priority of the President and the State Department in trying to work out whatever control methods we can that will not only strengthen the IAEA or the NPT signatory nations, their effect on the other nations of the world, but see if we can come up with new methods of control which would be more meaningful than what we have now.

We no longer have this monopoly of nuclear knowledge. It is spreading through many nations of the world. We have to come up with new techniques to control this or it is out of control. We can figure on every tiny nation in the world having its own atomic weapon in the next 15 or 20 years unless we do something now to control it.

I once again congratulate the Senator from Rhode Island and the Senator from Missouri on the lead they have taken in this area. I hope we can see our executive branch of Government and the State Department taking the lead. Hopefully, we can work with them through the Joint Atomic Energy Committee and the Government Operations Committee, which has oversight over the Nuclear Regulatory Commission, and get some kind of control in this area.

Mr. SYMINGTON. Will the able Senator yield?

Mr. GLENN. Certainly.

Mr. SYMINGTON. I commend him for his position. It is a matter about which he knows a very great deal, based on his past superb experience. I would ask the Senator: If the West Germans, where we already have put tens of billions of dollars in military equipment for their defense and apparently to continue to put billions in ground troops, planes, nuclear weapons, despite requests and advice of this Government, makes a deal of this character with Brazil, what would prevent one of the six members of the nuclear club, three of whom have not signed said treaty, or ratified it—what would prevent France—in return for an amount of oil from some of these Mideast countries, which have become unprecedently rich in recent years, the OPEC group, from giving them all the information necessary, if not weapons themselves, in return for oil if their economy was faced with disaster because of the lack of that fuel?

Mr. GLENN. I would think that there would be nothing that would prevent that. I think in fact, just about a year and a half ago we saw a breakdown of international cooperation when the embargo hit in the Mideast that saw various nations scurrying about making their own private arrangements, quite apart from the common good that we all agreed to that everybody was adhering to before. I would think that the danger that the Senator alludes to would be a very real one, particularly with any embargo situation that is invoked in the future. I would think that we would face probably exactly the situation the Senator outlines.

Mr. PASTORE. Mr. President, the point that needs to be made here, and I have tried to emphasize that point, is, naturally, you cannot get a sovereign government to agree to sign any agreement that it does not want to sign. Naturally, of course, this has to be all done by mutual consent. The trouble is sometimes when you get into this area of mutual consent you get into certain compromises which do not lead to the strength that you need to enforce this nonproliferation, as the Senator has already pointed out.

But the serious question that I raised here today is that here we are, and this is being done by West Germany. I am not talking about France. France has not signed the nuclear nonproliferation treaty. We are talking about West Germany, and West Germany, of course, has just given Brazil the full cycle.

The present government in Brazil may be very amenable in their friendship to the United States. I am not questioning that at all. But we are living in a changing world where governments are being toppled over day by day. How do we know that we will not have another Castro in some other country in South America or Latin America?

Once that happens and they have the facilities to make a bomb, then we have something else to worry about.

It would be foolish to argue in the Chamber of the Senate, "Let us cut out the military budget" when we have a brand new peril right under the belly of the United States. That necessarily means that if Latin America goes nuclear, it means that we have to begin to be concerned about that and have to begin to take measures. Then you will be cutting down the military budget. You will be exacerbating that budget. And that is where the peril lies.

I say West Germany should have consulted the United States. After all, we consult them. The majority leader says we will forget the withdrawal of troops this year in order to satisfy them. Now they come along, and they give all the facilities to Brazil, which is not

too far away from the United States of America, the capability to make a bomb.

I say of all the countries in the world that should not have done it is West Germany.

Mr. GLENN. If the Senator will yield for one further comment, I believe the significant part of this, as the Senator has pointed out, is that this is one of the first times that the complete cycle has been sold. Before this time, we have had various parts of the cycle, but this is one of the first deals, I believe, where we have seen a complete cycle sold, which includes all the reprocessing, everything that would permit a nation, not only to use this for nuclear energy, for legitimate purposes, but the reprocessing cycle gives them, for the first time, the total capability for plutonium use in the weaponry. Prior to this it has been sort of a reprocessing. It was held off as bait, or it was held off to one side. Nations were not given this very freely, because it did give the capability, then, for atomic weaponry that we do not want to see.

But what we are seeing now is the entry in the world business community of nuclear energy, on the basis just like any other source of energy, but it has the side effect here of once plutonium is available then of having it potentially available for atomic weaponry or a terrorist stealing of atomic weaponry, and so on.

I think we have to encourage the President and the best minds in Congress and the State Department to get going just as fast as possible on trying to get some new type control procedures because the old procedures are obviously not adequate to this new era in which we are entering.

Mr. PASTORE. That is correct.

Mr. GLENN. I thank the Senator very much.

Mr. SYMINGTON. Mr. President, will the Senator yield at that point?

Mr. GLENN. Certainly.

Mr. SYMINGTON. We computerized in the Joint Committee and found arrangements France has made with a country in the Middle East, fortunately, a country truly a friend of ours. As a result, by reprocessing the plutonium from the waste in question, that country could make 200 Hiroshima-type bombs a year. One Hiroshima bomb, as we know from testimony, killed 100,000 people.

So this is a practical matter, one which, unfortunately, when we were discussing forces in Europe, was almost disregarded in the debate, especially from the standpoint of proliferation and the growing sensitivity in West Germany of the fact the two countries located next to it, the Soviet Union and France, have both become major nuclear powers.

It occurs that in their own interest they could be beginning to plan along nuclear lines themselves. The papers say one of the reasons we are given all these NATO reassurances is growing doubt that the real shield over NATO, the nuclear umbrella, is one they believe the American Government might not fulfill in a crunch.

So I think this is a very serious matter.

I again commend the Senator from Rhode Island for bringing this up, and also the Senator from Ohio for his remarks, and would hope we would worry less about numbers of divisions and conventional weapons and more about this steady proliferation of nuclear weapon proficiency all over the world.

Mr. PASTORE Mr. President, I might conclude by saying this: If this agreement goes through at this time in this fashion, it will make a mockery out of the Monroe Doctrine.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order the Senator from South Dakota (Mr. ABOUREZK) is recognized for not to exceed 5 minutes.

PRESIDENT FORD IS MAKING ABORTION A CAMPAIGN ISSUE

Mr. ABOUREZK. Mr. President, President Ford has apparently chosen to use the White House lawn and the White House press corps for his campaign stump speeches. Wednesday, in what the New York Times described as a "carefully planned news conference," and then again this morning in meeting with the Catholic bishops from around the country, Mr. Ford began what apparently will be a major effort to make abortion an issue in the Presidential campaign.

Abortion is a complicated, emotional issue that has deep religious, health, and philosophical ramifications.

There is a deep division in this country on the issue of abortion. Dedicated people on both sides feel very strongly, for sound, legitimate reasons. Those who have strong, personal convictions on this issue deserve respect for their views. They have not received that respect from President Ford. Nor does he deserve theirs, for he has changed his own position in a crass and cynical attempt, not to express a heartfelt conviction, but to scratch for some way to get votes.

In the past, Mr. Ford has said that he personally opposes abortion and was not in favor of a constitutional amendment. He now says he agrees with the Republican platform, which supports enactment of a constitutional "right to life" amendment.

His action is only a replay of the divisive opportunism that Richard Nixon victimized the country with for so many years.

If Mr. Ford had long held the view that a constitutional amendment was desirable for deep, personal or religious reasons, then he would deserve our respect. But he has not. In an act of extreme political opportunism, he is, tragically, adding to the deep divisions in this country over the abortion issue. If President Ford wants to campaign by tending to the business of the country from the White House—if he wants to appear "Presidential," he should seek to unify our Nation, not sow the seeds of emotional division in an attempt to get himself elected.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond 10:50 a.m., with statements therein limited to 5 minutes each.

VETERANS POPPY PROGRAM TO CONTINUE

Mr. GRIFFIN. Mr. President, this morning I am pleased to announce that the familiar veterans memorial poppy program, which has been in existence since World War I and which has raised millions of dollars each year for the aid of disabled veterans and their families, will now be able to continue without being hobbled by the Fair Labor Standards Act.

American veterans will now be able to go on assembling the familiar paper flowers in veterans hospitals across the land; the program will not be terminated, as appeared to be the case only a few weeks ago.

Thanks to the cooperative efforts of several key governmental agencies and some of my Senate colleagues, an administrative solution has been forged to what appeared earlier as almost an impossible situation.

Last spring, spokesmen for the Veterans' Administration, the American Legion, and the Veterans of Foreign Wars approached me and other Members of Congress to register their deep concern. They advised that the Civil Service Commission and the Department of Labor had ruled, or were about to rule, without any change in the law by Congress, that the Fair Labor Standards Act should be applied to patients in veterans hospitals who voluntarily assemble paper poppies as a means of participating in this program. The sponsoring veterans organizations were concerned that if the Department of Labor and the Civil Service Commission followed through and enforced their new interpretation of the law, the traditional and familiar poppy program would have to be terminated. This would have been an unfortunate situation, to say the least.

After consultation with the Veterans' Administration, which theretofore had been unable to persuade the agencies to reconsider their position, I concluded that legislation would be necessary to correct the problem. Accordingly, on July 30, I submitted to the Senate an amendment to H.R. 3348—an amendment cosponsored by 30 other Senators—to change the law and make clear that there is not, and never has been, any intention on the part of Congress to subject the poppy program to the Fair Labor Standards Act requirements.

However, I am glad to announce this morning that enactment of such legislation will not now be necessary. On September 1, representatives of the Department of Labor, the Civil Service Commission, the Veterans Administration, and representatives of the Senate Committees on Labor and Public Welfare and Veterans Affairs met to discuss this situation.

On Tuesday of this week, an agreement in principle was worked out; and yesterday, September 9, that agreement was reduced to writing, in the form of an exchange of letters.

In a letter to the Civil Service Commission, the Veterans Administration has agreed that the poppy program will be conducted under authority of 38 U.S.C. 618. That section allows patients in veterans hospitals to perform services for theraputic and rehabilitative purposes at nominal remuneration. That administrative move apparently enables the Civil Service Commission and the Labor Department to modify their earlier position. In any event, I am pleased that an administrative solution has been worked out.

Mr. President, I ask that several letters—one from the Veterans Administration to the Civil Service Commission, another from the Civil Service Commission to the Veterans Administration, as well as letters from the American Legion

and the Veterans of Foreign Wars—be printed in the RECORD.

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

VETERANS ADMINISTRATION,
Washington, D.C., September 9, 1976.

Mr. CARL F. GOODMAN,
General Counsel,
U.S. Civil Service Commission,
Washington, D.C.

DEAR MR. GOODMAN: As we discussed in our September 1, 1976, meeting, this will formally advise you of our proposed course of action with respect to the operation of the poppy programs within the Veterans Administration.

In earlier submissions and discussions, we have stated our views regarding the application of the Fair Labor Standards Act to the various VA rehabilitation programs which involve the utilization of patient services. We appear to be in agreement that the therapeutic patient activities which are conducted under the authority of 38 U.S.C. 618 are exempt from the Fair Labor Standards Act.

As you know, it has been our conviction that the poppy programs are also exempt from the Fair Labor Standards Act. We understand you may not agree with this position if these programs continue to be structured and conducted under the general aegis of the Compensated Work Therapy program, rather than under the 38 U.S.C. 618 authority. We, therefore, indicated to you that we would restructure the poppy programs so as to remove them from the formal Compensated Work Therapy program.

Since the poppy programs are considered therapeutic and rehabilitation activities by VA medical authorities, we are now taking steps to operate them under our 38 U.S.C. 618 authority. We believe the transfer of the operation of the poppy programs to incentive therapy is appropriate. Unlike compensated work therapy, the poppy programs are philanthropic projects carried on by charitable service organizations solely for the benefit of veterans and their dependents; veterans are the sole source of labor in these programs; the VA incurs no obligation to the sponsoring service organizations; the VA does not compete for these projects or negotiate price; all remuneration for the assembly of poppies goes to patients; and, the proceeds that service organizations derive from the sale of assembled poppies are used to benefit veterans and their families and, broadly speaking, to help accomplish the mission of the Veterans Administration.

Historically, the Veterans Administration and service organizations have worked cooperatively toward the same end—the general welfare of veterans. The contributions of service organizations to all veterans, as well as to veterans in VA facilities, are of such magnitude they cannot be measured. The poppy programs are an invaluable aid to both the VA and service organizations in accomplishing their common mission. For all of these reasons, we believe the poppy programs are uniquely suited to be operated within the ambit of 38 U.S.C. 618. You may be assured, however, that other patient work programs operated by the VA, under arrangements with non-VA organizations, do not, in our opinion, meet the criteria of the 618 authority, and we, therefore, do not propose to take similar action with respect to those programs.

We would appreciate receiving your assurance that this action on our part will remove all doubt as to the application of the Fair Labor Standards Act to the poppy programs.

Sincerely yours,

JOHN J. CORCORAN,
General Counsel.

CIVIL SERVICE COMMISSION,
OFFICE OF THE GENERAL COUNCIL,
Washington, D.C., September 9, 1976.

Mr. JOHN J. CORCORAN,
General Counsel,
Veterans Administration,
Washington, D.C.

DEAR MR. CORCORAN: This is in response to your letter of September 9, 1976, concerning the operation of the Poppy Program within the Veterans Administration. On February 24, 1976, we advised you that under various circumstances including advice that the Veterans Administration intends to make changes in connection with the Poppy Program and considering that the Civil Service Commission had not received any complaints of FLSA violation in connection with the Poppy Program, it appeared untimely for us to render an opinion concerning coverage of that program under FLSA. We had, internally, considered the question as to whether the Incentive Therapy Program (ITP) run by the Veterans Administration is subject to the provisions of the FLSA.

As I advised you at our meeting of September 1, 1976, we had come to the conclusion that in light of the specific authority contained in section 618 of title 38, United States Code, the provisions of the FLSA, in our view, have no impact on the ITP or those patients participating in it. Our reasons for this view are set forth below.

You have now advised that the Veterans Administration is taking steps to operate the Poppy Program under the authority contained in 38 United States Code, section 618 and request our assurance that this action on your part "will remove all doubt as to the application of the FLSA to the Poppy Program." Unfortunately, I cannot give you such a blanket assurance since I cannot predict what private parties may do in litigation and what judgments a court might come to. I can, however, advise you that it is my opinion that if the Poppy Program is operated by the Veterans Administration pursuant to and in accordance with the provisions of 38 United States Code, section 618, the FLSA would not be applicable to said programs. The reasoning set forth below concerning the ITP would, of course, be equally applicable to the Poppy Program since they would be part of the Veterans Administration ITP programs.

The Incentive Therapy Program (ITP) is a program in which VA patients work for the agency at the facility at which they receive medical care. The participants are both residents and "outpatients". They receive remuneration for their work at a rate which is based on an individual evaluation of the patient's productivity as compared with that of a non-handicapped employee who performs the same or similar function, the rates ranging from $.05 per hour up to the current minimum wage. The evaluation of productivity is made at the outset and at three-month intervals by a team which includes a therapist and the attending physician. The results of the evaluations may alter the rate of remuneration, and are recorded in the patient's medical record.

There is no question but that the work performed by patients under the ITP is of economic benefit to the VA. The participants perform work as janitors, gardeners, kitchen help, clerks and messengers (and similar work) at the VA facilities where they receive health care. While economic benefit is present, the principal purpose for the program and its goals are oriented toward patient therapy as part of the medical care provided by the VA. However, the U.S. District Court for the District of Columbia, in *Souder* v. *Brennan*, 367 F. Supp. 808 (1973), specifically held that despite a primary purpose of therapy, work done by patients of "consequential economic benefit" to the hospital, is employment under the FLSA.

The *Souder* court summarized the law as follows:

"The terms of the Fair Labor Standards Act have traditionally been broadly construed and the Congress is not only aware of but has approved of such broad construction. *Economic reality is the test of employment and the reality is that many of the patient-workers perform work for which they are in no way handicapped and from which the institution derives full economic benefit. So long as the institution derives any consequential economic benefit the economic reality test would indicate an employment relationship rather than mere therapeutic exercise.* To hold otherwise would be to make therapy the sole justification for thousands of positions as dishwashers, kitchen helpers, messengers and the like.

* * * * *

"Further support of this approach can be found in the fact that the Act contains specific exemption provisions, yet *Congress did not see fit to specifically exclude patient-workers from coverage. The specific exemptions granted are numerous and detailed, indicating clearly that Congress is quite capable of specifically excluding from coverage some of those who might otherwise be covered by the general provisions.* Congress did not exclude patient-workers from coverage and, therefore, the Court cannot do so. (emphasis added) at 813.

While *Souder* v. *Brennan, supra,* concerned mentally ill patients in State hospitals, both the reasoning and language of the Court are compelling with regard to patient-workers generally. Therefore, absent any specific provision of law to the contrary, patient-workers in the ITP of the VA would be employees of the VA and would, therefore, be entitled to the protection of the FLSA.

However, specific contrary statutory authority does exist. It has been represented that the ITP is operated by the VA under the authorization contained in section 618 of title 38, United States Code, which provides as follows:

"The Administrator, upon the recommendation of the Chief Medical Director, *may utilize the services of patients* and members in Veterans Administration hospitals and domiciliaries for therapeutic and rehabilitative purposes, *at nominal remuneration, and such patients and members shall not under these circumstances be held or considered as employees of the United States for any purpose.* The Administrator shall prescribe the conditions for utilization of such services." (Emphasis added)

The above provision was enacted on August 6, 1962, as section 2(1) of Public Law 87-574. Therefore, it is of earlier origin than the FLSA Amendments of 1974.

It is a general rule of statutory construction that where two enactments covering coterminous fields of operation are irreconcilably at conflict, by any reasonable interpretation, the prior in time must yield to the extent of the conflict. See IA Sands, *Sutherland's Statutes and Statutory Construction,* § 23.09 at p. 223 (4th Ed. 1973). However, the overriding principle of statutory construction is to give effect to all statutes. As Professor Sands states:

"The bent of the rules of interpretation and construction is to give harmonious operation and effect to all of the acts upon a subject, where such construction is reasonably possible, even to the extent of superimposing a construction of consistency upon the apparent legislative intent to repeal, where two acts can, in fact, stand together and both be given consonant operation. *Supra,* at § 23.10, p. 231."

It appears that both section 618 of title 38, U.S.C., and section 214(c) of title 29, U.S.C., (FLSA), deal with patient-workers. Since the FLSA is of general application, and section 618 of title 38, U.S.C., has limited, special application, it is possible to reconcile the two statutes, each being given a reasonable interpretation. As Professor Sands states, *supra,* Vol. 2A § 51.05:

"General and special acts may be in *pari materia*. If so, they should be construed together. Where one statute deals with a subject in general terms, and another deals with a part of the same subject in a more detailed way, the two should be harmonized if possible; but if there is any conflict the latter will prevail, regardless of whether it was passed prior to the general statute, unless it appears that the legislature intended to make the general act controlling. In the language of a court: 'It is the general rule that where the general statute standing alone would include the same matter as the special act, and thus conflict with it, the special act will be considered as an exception to the general statute whether it was passed before or after such general enactment. Where the special statute is later it will be regarded as an exception to or qualification of the prior general one; and where the general act is later the special statute will be considered as remaining an exception to its terms unless it is repealed in general words or by necessary implication.'"

In general, the provisions of the FLSA apply to patient-workers. Section 618 of title 38, U.S.C., however, applies specifically to patients of the VA who are utilized as part of their therapy to work for that agency. Thus, section 618, where it applies, is the more specific statute, and therefore, it must be viewed as an exception to the more general FLSA, despite the fact that the former is prior in time of enactment. Thus, the provions of the FLSA have no impact on the ITP or those patients participating in it.

Sincerely yours,

CARL F. GOODMAN,
General Counsel.

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, D.C., Sept. 10, 1976.

Hon. ROBERT P. GRIFFIN,
Russell Senate Office Building,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR GRIFFIN: I have been advised, both by telephone and copies of the enclosed correspondence, representatives of the Veterans Administration, the Civil Service Commission, and the Department of Labor have agreed upon an administrative solution to preclude the possible subjection of our V.F.W. Buddy Poppy Program to the Fair Labor Standards Act. Briefly, the agreement stipulates our Buddy Poppy Program will henceforth be administered under authority contained in Section 618 of Title 38, United States Code and, thus, exempted from the Fair Labor Standards Act.

In as much as the foregoing circumvents a potentially most serious problem for our Buddy Poppy Program, perhaps even termination thereof, we fully support this administrative solution.

In conclusion, Senator Griffin, permit me to state unequivocally I am convinced this agreement would not have been possible but for your amendment and tenacity in pursuit thereof. For this we of the Veterans of Foreign Wars of the United States are extremely grateful and we thank you.

With best wishes and kindest personal regards, I am,

Sincerely,

DONALD H. SCHWAB,
Director,
National Legislative Service.

THE AMERICAN LEGION,
Washington, D.C., September 10, 1976.

Hon. ROBERT P. GRIFFIN,
U.S. Senate
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR GRIFFIN: I am in receipt of correspondence that occurred between Carl F. Goodman, General Counsel, U.S. Civil Service Commission and John J. Cochran, General Counsel, Veterans Administration. This exchange indicates a solution to the poppy problem that is acceptable to the interested parties. This solution is satisfactory to the American Legion and I wanted you to know of our accord.

The further pursuit of legislative relief no longer appears to be necessary. Your amendment, "The Griffin Amendment", which you so diligently advanced and so stubbornly held fast, forced an administrative agreement.

The Legislative Division is most appreciative of your stalwart dedication to seeking a solution to the poppy program dilemma, your action provided the initiative for the ultimate resolve. Thank you for the management that spelled success! Senator Griffin, we are also thankful for all the advice, assistance and patience of Gilbert Clark of your staff.

I have notified our National Commander, William J. Rogers and the President of our Auxiliary, Mrs. Paul Brown of this successful agreement. National Commander Rogers is announcing the good news to the New Jersey State Convention of The American Legion today. I am sure both of the National leaders will contact you in the very near future.

Respectfully,

MYLIO S. KRAJA,
Director,
National Legislative Commission.

MESSAGES FROM THE HOUSE

At 10:08 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 10394) to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14262) making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 43, 60, 64, 73, and 100 and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate numbered 19, 20, 21, 22, 42, 46, 59, 63, 70, 76, 91, 107, 112, and 114 and concurs therein, each with an amendment in which it requests the concurrence of the Senate.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HUDDLESTON, from the Committee on Agriculture and Forestry: With an amendment:

H.R. 15068. An act to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1976 in certain disaster areas in South Carolina and Georgia (Rept. No. 94–1228).

By Mr. McINTYRE, from the Committee on Banking, Housing and Urban Affairs;

S. 3802. An original bill to extend the moratorium on conversions of savings and loan associations, and for other purposes (Rept. No. 94–1229).

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

S. 3712. A bill authorizing the extension of the American Canal at El Paso, Tex., and for other purposes (Rept. No. 94–1230).

S. 3727. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Allen Camp unit, Pit River division, Central Valley project, California, and for other purposes (Rept. No. 94–1231).

EXECUTIVE REPORTS OF COMMITTEES

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

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

Ralph E. Becker, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Honduras.

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

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Ralph E. Becker.

Post_____Nominated_____.

CONTRIBUTIONS, AMOUNT, DATE, AND DONEE

(If none, write none)

1. Self.
2. Spouse.
3. Children and Spouses: Names.
4. Parents: Names.
5. Grandparents: Names.
6. Brothers and Spouses: Names.

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.

RALPH E. BECKER.

CONTRIBUTIONS, AMOUNT, DATE, AND DONEE

Self

$100, 1972, Percy Campaign Committee.
$100, 1972, D.C. Republican Primary.
$50, 1972, Republican Convention.
$500, 1972, D.C. Committee of Businessmen to Assist Congressional Leaders.
$25, 1972, Citizens for Percy.
$15, 1972, Finance Committee to Re-elect the President.
$25, 1972, Keep Minshall in Congress.
$100, 1973, Inaugural Committee.
$75, 1973, D.C. Republican Committee.
$10, 1973, Young Republicans.
$10, 1974, National Friends of John Brademas.
$25, 1974, Republican National Finance Committee.
$120, 1974, D.C. Republican Committee.
$50, 1974, Republican Congressional Committee.
$25, 1974, Kentuckians for Senator Cook.
$25, 1974, Linda Boggs Campaign Committee.
$25, 1974, Jerry Moore Campaign Committee.
$25, 1974, Goldwater for Senate Committee.
$10, 1974, Committee to Elect Mel Burton.
$20, 1974, Citizens for Rosenfeld.
$25, 1974, Frank Rich Committee.
$30, 1974, Rockwell Foster.
$25, 1974, Dr. Robinson.
$50, 1974, Jerry Moore.
$150, 1974, Committee for Washigton.
$75, 1974, Walter Washington Campaign Committee.
$25, 1974, Walter Washington.
$50, 1974, Sterling Tucker.
$50, 1974 National Republican Senatorial Committee.
$25, 1974, Newton J. Steers, Jr. Maryland Senate Committee.
$50, 1974, Republican National Sustaining Committee.
$25, 1975, Bud Shuster for Congress.
$120, 1975, D.C. Republican Committee.

$100, 1975, Anderson for Congress Finance Committee.
$100, 1975, Re-Elect John Rhodes Committee.
$25, 1975, Friends of Jim Buckley.
$50, 1975, Barry M. Goldwater Scholarship Award.
$15, 1975, Firt A.D. Republican Club.
$125, 1975, President Ford Committee.
$29, 1975, D.C. Republican Committee.
$25, 1975, Republican National Finance Committee.
$60, 1975, Women's National Republican Club.
$25, 1975, Republican National Finance Committee.
$50, 1975, Republican Senate Campaign Fund.
$100, 1975, Roncalio Reception.
$400, 1976, D.C. Republican Dinner Committee.
$50, 1976, Republican National Committee.
$875, 1976, President Ford Committee.
$60, 1976, D.C. Republican Committee.
$50, 1976, Friends of Jim Buckley.
$50, 1976, Shuster for Congress.

Spouse

None in 1972, 1973 or 1974.
$100, 1975, Friends of Robert C. Byrd Committee.
$1000, 1976, President Ford Committee.

Children and spouses

William W. Becker

$25, 1974, Jerry Moore Campaign Committee.
$100, 1974, Committee for Washington.
$250, 1972, D.C. Committee of Businessmen to Assist Congressional Leaders.
$20, 1974, Ripon Society.
$50, 1976, President Ford Committee.

Donald L. Becker

$30, 1972, McGovern for President Committee.
$20, 1976, Udall for President Committee.
No contributions for Mrs. William W. Becker, Pamela Feinstein, or Ralph E. Becker, Jr.
Parents—Not Applicable.
Grandparents—Not Applicable.
Brothers and Spouses—Not Applicable.

Sisters and spouses

Mr. and Mrs. Louis Klein have made no contributions.

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. MANSFIELD:

S. 3800. A bill to provide for the reimbursement for losses sustained by persons injured by certain criminal acts, to make grants to States for the payment of such reimbursement, and for other purposes. Ordered placed on the Calendar.

By Mr. TALMADGE (for himself, Mr. LONG, Mr. RIBICOFF, Mr. DOLE, Mr. NELSON, Mr. GRAVEL, Mr. ROTH, Mr. MOSS, Mr. PACKWOOD, Mr. HARTKE, Mr. ALLEN, Mr. BEALL, Mr. BUCKLEY, Mr. DOMENICI, Mr. EASTLAND, Mr. FONG, Mr. HOLLINGS, Mr. INOUYE, Mr. JAVITS, Mr. MANSFIELD, Mr. MUSKIE, Mr. NUNN, Mr. PELL, Mr. PERCY, Mr. RANDOLPH, Mr. HUGH SCOTT, Mr. STONE, Mr. THURMOND, Mr. TOWER, Mr. TUNNEY, Mr. FANNIN, Mr. BROCK, Mr. BENTSEN, Mr. HARRY F. BYRD, JR., Mr. HASKELL, Mr. HATHAWAY, Mr. CHILES, Mr. CHURCH, Mr. WILLIAMS, and Mr. KENNEDY):

S. 3801. A bill to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes. Referred to the Committee on Finance.

By Mr. McINTYRE, from the Committee on Banking, Housing and Urban Affairs:

S. 3802. A bill to extend the moratorium on conversions of savings and loan associations, and for other purposes. Ordered placed on the Calendar.

By Mr. HRUSKA:

S. 3803. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers and for other purposes. Referred to the Committee on Commerce.

By Mr. FANNIN:

S. 3804. A bill to direct the Secretary of Agriculture to release a condition with respect to certain real property conveyed by the United States to the board of regents of the universities and State colleges of Arizona for the use of the University of Arizona. Referred to the Committee on Agriculture and Forestry.

By Mr. RANDOLPH:

S.J. Res. 211. A joint resolution to authorize and request the President to issue annually a proclamation designating the fourth Sunday of May of each year as "National Grandparents' Day". Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MANSFIELD:

S. 3800. A bill to provide for the reimbursement for losses sustained by persons injured by certain criminal acts, to make grants to States for the payment of such reimbursement, and for other purposes. Ordered placed on the Calendar.

Mr. MANSFIELD. Mr. President, I introduce a bill entitled "Victims of Crime Act of 1976," and I ask unanimous consent that it be considered as having been read twice, and that it be placed on the Calendar.

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

By Mr. TALMADGE (for himself, Mr. LONG, Mr. RIBICOFF, Mr. DOLE, Mr. NELSON, Mr. GRAVEL, Mr. ROTH, Mr. MOSS, Mr. PACKWOOD, Mr. HARTKE, Mr. ALLEN, Mr. BEALL, Mr. BUCKLEY, Mr. DOMENICI, Mr. EASTLAND, Mr. FONG, Mr. HOLLINGS, Mr. INOUYE, Mr. JAVITS, Mr. MANSFIELD, Mr. MUSKIE, Mr. NUNN, Mr. PELL, Mr. PERCY, Mr. RANDOLPH, Mr. HUGH SCOTT, Mr. STONE, Mr. THURMOND, Mr. TOWER, Mr. TUNNEY, Mr. FANNIN, Mr. BROCK, Mr. BENTSEN, Mr. HARRY F. BYRD, JR., Mr. HASKELL, Mr. HATHAWAY, Mr. CHILES, Mr. CHURCH, Mr. WILLIAMS, and Mr. KENNEDY):

S. 3801. A bill to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes. Referred to the Committee on Finance.

(The remarks of Mr. TALMADGE and other Senators on the introduction of the above bill are printed earlier in today's RECORD.)

By Mr. HRUSKA:

S. 3803. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes. Referred to the Committee on Commerce.

CONSUMER COMMUNICATIONS REFORM ACT OF 1976

Mr. HRUSKA. Mr. President, I am introducing today the Consumer Communications Reform Act of 1976.

Congress has an obligation to maintain a regulatory policy in accordance with the broad public interest standards enacted in the Federal Communications Act of 1934. The purpose of the act is to make available to all the people of the United States, rapid and efficient communications service with adequate facilities at reasonable charges. I am of course particularly concerned with service to rural areas in my State of Nebraska and in other parts of the country where people rely primarily upon phone service to obtain current weather reports, to request help in emergencies or just to make contact with a neighbor.

In order to assure that people in rural areas have access to phone service, the cost has been partially allocated to other types of consumers in an effort to maintain rural service at a reasonable cost. Any changes that would adversely affect this policy would cause great hardship upon those living in rural areas and would be contrary to the purpose behind the 1934 Act.

PROVISIONS OF THE BILL

The bill I am proposing would reinforce the policy behind the 1934 act and would also allow carriers to set competitive rates that cannot be considered as too low so long as they equal or are greater than the incremental costs of providing these services. It would provide standards for the authorization of new specialized carriers to prohibit needless and wasteful duplication of facilities. Finally, the bill reaffirms the States' exclusive jurisdiction over terminal equipment that is used for both intrastate and interstate communications.

OTHER BILLS

Two other versions of this bill have been introduced in the Senate. S. 3192, which has been introduced by the Senator from Indiana (Mr. HARTKE) contains

all the provisions of this bill except sections 4 and 5 relating to acquisitions by and of specialized common carriers. Presently, the FCC has the authority to approve mergers and acquisitions of telephone and telegraph companies. Such approval exempts the transaction from the terms of other acts of Congress, such as the antitrust laws, under which the acquisitions might be deemed unlawful. Sections 4 and 5 extend this approval authority of the FCC to specialized common carriers.

S. 3403 which has been introduced by the Senator from Louisiana (Mr. JOHNSTON) contains all the provisions of this bill except the acquisition provisions just discussed and sections 6 and 7 which reaffirm State jurisdiction over local terminal and station equipment.

HISTORY OF THE TELECOMMUNICATIONS INDUSTRY

In the early days following the expiration of the Bell patents, rival telephone companies fought with each other for the right to serve the same territories, but the consumer did not always benefit from this competition. For example, in my own State, Omaha and Lincoln each were served by two companies. A consumer had to subscribe to service from both companies in order to talk to all the local users.

By 1934, Congress found that the availability of telephone service was a matter of national concern and enacted the Communications Act of 1934. In that Act, Congress stated that it was the national goal "to make available, so far as possible, to all the people of the United States, rapid, efficient, nationwide, and worldwide wire and radio communications service with adequate facilities at reasonable charges."

This notion of access to telecommunications was reaffirmed particularly with respect to rural America when Congress amended the Rural Electrification Act in 1949 stating:

> It is hereby declared to be the policy of the Congress that adequate telephone service be made generally available in rural areas . . . to assure the viability of adequate telephone service to the widest practicable number of rural users of such service.

Through Federal and State government regulation, the industry has developed under the common carrier principle in order to prevent duplicative and wasteful competition. There are now about 1,600 companies providing a highly cooperative, nonduplicating, integrated telephone system in the United States. In Nebraska, 50 telephone companies serve our citizens from the more densely populated centers of Omaha and Lincoln in the East to the sparsely settled sand hills and river valleys to the West.

Widely available service has also been made possible through a rate structure developed by the carriers with the approval of State and Federal regulators, based in part upon rate averaging at the Federal and State levels. By this means, the rate in any given regulatory jurisdiction is the same for a call of equal distance whether it be between two urban centers or two rural communities.

Rates have also been designed so that the cost of the more discretionary services such as WATS, terminal equipment, extensions, premium sets and other equipment makes substantial contributions to the costs and overhead of residential thereby permitting rates for such service to be lower than otherwise would be the case.

Over the years, this system has worked well and enabled the United States to develop the best and least expensive telephone system in the world. A recent study indicates that the average monthly cost in 1975 for residential uses was $9.

FCC DECISIONS

Beginning in 1968, in the name of competition, the Federal Communications Commission began to erode the national telecommunications policy and change the pattern of telecommunications service. Since that time, the FCC has allowed the interconnection of customer provided terminal equipment—the devices at the end of a telephone line which send or receive signals, such as telephones—without any protective connecting devices despite State regulatory ruling to the contrary.

FCC decisions have allowed the entry of specialized common carriers into the marketplace which in almost all cases provide duplicative services of those offered by existing regulated carriers. These entries have been only in the lucrative, high density markets. There have been no attempts by specialized common carriers to offer alternative services to rural or residential users.

Recently, the FCC completed a 4-year review of the technology and economics of the Bell System. It is interesting to note that an FCC judge concluded that the record of that report did not justify restructuring this industry but rather suggested the need for more effective regulation.

ANTITRUST AND MONOPOLY SUBCOMMITTEE HEARINGS

The subjects of this bill are not new to the Congress. In 1974, the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary held 7 days of hearings, during which the problems addressed by the bill were explored in depth.

At this point, I would like to point out some of the pertinent testimony from those hearings.

Edward B. Crosland, senior vice president of A.T. & T., testified at some length on the reasonableness of the telephone costs. During the period 1964–1974, telephone costs increased 18.5 percent while the costs for electricity increased 47.3 percent and the costs for gas increased 40.7 percent. He stated further that if the policy of the FCC decisions on interconnection and specialized common carriers continued, residential costs could climb by as much as 75 percent.

Hugh R. Wilbourn, Jr., first vice president, U.S. Independent Telephone Association, gave similar testimony. He stated that:

> The businesses which buy interconnection equipment and those merchants who sell it to them have no interest in the residential subscriber and no obligation to serve him. The same goes for the specialized common carriers. They do not really care what happens to the residential subscriber's rates. So it's big business that these (the FCC) decisions favor, not the little guy . . ."

Mr. Wilbourn concluded as did Mr. Crosland, that undermining the cohesion of the telecommunications system would result in an inevitable and inexorable increase in residential rates.

Eugene V. Rostow, Sterling professor of law and public affairs at Yale University, testified that the specialized common carriers have not in fact offered new services or tapped new markets as the early FCC decisions had intended. Mr. Rostow stated that:

> Specialized common carriers have simply duplicated the private line services of the telephone companies at lower rates, and only on selected high density routes where there has been a high revenue/cost relationship, and where Bell's rates are vulnerable to competition because of nationwide rate averaging. Inevitably, this process will also result in higher costs for the general body of rate payers.

NEBRASKA STATE POLICY

Mr. President, I would like to turn now to a discussion of Nebraska State policy in this regard.

In 1966 in the case of *Northwestern Bell Telephone Company, Omaha* v. *Consolidated Telephone Company of Dunning*, 142 NW 2d 324, the Nebraska Supreme Court affirmed the general policy of the State public service commission which is to control common carriers—

> To secure adequate sustained service for the public at the *lowest reasonable cost*, and to protect and conserve investments made for that purpose (emphasis added).

A later case explained that for Nebraska "the concept of public utility regulations now is and always has been, one of regulated monopoly." *Radio–Fone, Inc.* v. *A.T.S. Mobile Telephone, Inc.*, 193 NW 2d 442 (1972).

Despite the well-established Nebraska public policy, the Nebraska Supreme Court in *Sherdon* v. *Dann*, 229 NW 2d 531 (1975), overruled actions by the Nebraska Public Service Commission in deference to the recent FCC interconnect decisions. In the case of *In re Telerent Leasing Corp.*, 45 F.C.C. 2d 404 (1974), aff'd, *North Carolina Utilities Comm'n* v. *FCC*, case No. 74–1220 (4th Cir., Apr. 14, 1976), pet. for reh. den., it was determined that Federal regulations shall have priority and primacy over conflicting State regulations on intercommunications. This decision is presently being appealed to the U.S. Supreme Court.

The conflict between the FCC encroachment into areas previously considered to be intrastate in character and the prerogative of the States has been recognized by the Nebraska Legislature, which passed a resolution on April 9, 1976, directing an Interim Telecommunications Committee to investigate the matter and to make a full report to the legislature. I ask unanimous consent to have the resolution printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

OTHER OPINIONS

Mr. HRUSKA. Many groups have expressed support for the principles of the bill I am presenting today. Among these are the National Association of Regulatory Utility Commissioners, the American Farm Bureau Federation, the Telecommunications International Union, the

Communications Workers of America and the Nebraska Public Service Commission. I have already received many letters of support for this type of bill from consumers in Nebraska. I ask unanimous consent to have these resolutions and statements printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

CONCLUSION

Mr. HRUSKA. Mr. President, we hear so much about how new technology is going to bring the age of information to every American doorstep. Let us proceed in accordance with that policy without disrupting a system which has provided telephone service unsurpassed by any other nation. Overturning a structure which has served urban and rural Americans with quality service for comparatively low costs will do irreparable harm. I am particularly concerned with the effect this would have on the people of Nebraska.

This legislation which I propose will reaffirm the national telecommunications policy and insure that all persons will continue to receive the fine low-cost telephone service to which they have become accustomed, and help to assure their participation in the benefits which the age of information promises to urban as well as rural Americans. Congress must act. The bill which I have introduced today completes the trilogy of bills on this subject and the issues are now defined for consideration by the Senate. Prompt committee hearings on the legislation are a necessity if the matter is to be resolved and I urge the support of my colleagues to that end.

Mr. President, it is now late in this the last session of the 94th Congress; however, I believe that the introduction of this bill will at this point in time serve a very good and useful purpose. The bill itself should be reintroduced early in the 95th Congress. In the meanwhile all interested parties, industry and consumers alike, will have been placed on notice that next year this subject will be considered. Thus, during the lull between the old and new Congress, preparation of testimony and other preliminary steps can go forward. It is my hope that action on this measure will begin shortly after the start of the 95th Congress.

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

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

S. 3803

A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; 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 "Consumer Communications Reform Act of 1976."

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. The Congress finds and declares that—

(a) The revenues from integrated interstate and foreign common carrier telecommunications services, based on charges reflecting both costs and value of service, have contributed toward meeting the costs of facilities used in common for providing such interstate and foreign services and local telephone exchange service throughout the United States, and hereby helped maintain a level of charges for telephone exchange service which is lower than otherwise would be required.

(b) The technical integrity of the nationwide telecommunications system, its coordinated planning, design, installation, improvement, management, operation and maintenance are indispensable elements in the interstate telecommunications network, necessary both to the reasonableness of charges and to the high quality and universality of common carrier telecommunications service, and accordingly Congress hereby reaffirms its policy that the integrated interstate telecommunications network shall be structured so as to assure widely available, high quality telecommunications services to all of the Nation's telecommunications users.

(c) The authorization of lines, facilities, or services of specialized carriers which duplicate the lines, facilities, or services of other telecommunications common carriers—

(1) involves higher charges for users of telephone exchange service by decreasing the interstate revenues that otherwise would be available for contribution to the common costs of providing telephone services throughout the United States;

(2) fosters inefficiencies in the utilization of national telecommunications resources through the creation of unnecessary and wasteful duplication of telecommunications lines and facilities and wasteful use of the radio spectrum;

(3) significantly impairs the technical integrity, the coordinated planning, design, installation, improvement, management, operation and maintenance of the integrated nationwide telecommunications network; and

(4) has an adverse impact on the national objectives of maintaining stability of consumer price levels, conserving national economic resources, improving productivity, and fostering an economy that will maintain adequate sources and reasonable costs of capital; and is, therefore, contrary to the public interest.

(d) The Congress reaffirms its intent that the complete authority to regulate terminal and station equipment used for telephone exchange service shall rest with the States even though such terminal and station equipment also may be used in connection with interstate services.

(e) The congressional findings and declarations of policy set forth herein are necessary to achieve the purposes of the Communications Act of 1934 as specified in section 1 of that Act; and the Federal Communications Commission shall take no action inconsistent with the findings and declarations in this Act.

CHARGES FOR SERVICE

SEC. 3. Section 201(b) of the Communications Act of 1934, as amended (47 U.S.C. 201) is amended by adding the following at the end of the first sentence: "No compensatory charges for or in connection with such communication service may be found to be unjust or unreasonable on the ground that it is too low. The Commission may not hold the charge of a carrier up to a particular level to protect the traffic or revenues from a communication service offered or provided by another carrier if such charge proposed by the carrier is compensatory. As used in this subsection, a charge is compensatory so long as it equals or exceeds the incremental cost of providing the communications service. Such incremental cost is the additional cost caused by the provision of the service including, where appropriate, the capital costs of whatever additional facilities are required to provide the service.".

ACQUISITIONS BY AND OF CERTAIN COMMON CARRIERS

SEC. 4. The Communications Act of 1934, as amended, is further amended by adding the following new section 224:

"SEC. 224. Upon application of any common carrier or other person involved in the transaction, the Commission shall have jurisdiction (i) to approve the acquisition of control by a domestic common carrier of any other domestic common carrier or the acquisition of the whole or any part of the property of a domestic common carrier by any other domestic common carrier, or (ii) to approve the acquisition by a person which is not a common carrier of control of any domestic common carrier or the acquisition of the whole or any part of the property of a domestic common carrier, whenever the Commission determines, after full opportunity for hearing on an evidentiary record, that such approval is in the public interest. The Commission shall give reasonable notice in writing concerning any such proposed action to the Governor of each of the States in which the physical property affected, or any part thereof, is situated, and to each State commission that may also have jurisdiction over any of the common carriers involved, and to such other persons as it may deem advisable, and shall afford such parties a reasonable opportunity to participate in any hearings related to such action. If the Commission approves the proposed acquisition, it shall certify to that effect; and thereupon any Act or Acts of Congress making the proposed acquisition unlawful shall not apply. As used in this section 224, 'domestic common carrier' shall mean a common carrier, the major portion of whose traffic and revenues is derived from communications services other than foreign communications. This section 224 shall not apply where either section 221(a) or 222 of this Act is applicable or to the acquisition by any person of a telephone common carrier as defined in section 225(a)(1).".

SEC. 5. Section 2(b) of the Communications Act of 1934, as amended (47 U.S.C. 152(b)) is further amended by striking the clause beginning with the words "except that" following the semicolon and inserting the following "except that sections 201 through 205 of this Act, both inclusive, and section 224 of this Act shall, except as otherwise provided therein, apply to carriers described in clauses (2), (3), and (4).".

REAFFIRMATION OF STATE JURISDICTION OVER LOCAL TERMINAL AND STATION EQUIPMENT

SEC. 6. Section 2(b) of the Communications Act of 1934, as amended (47 U.S.C. 152(b)) is further amended by striking "or" at the end of the phase following "(1)" and substituting therefor the following: "including but not limited to, the charges, classifications, practices, services, facilities, or regulations for or in connection with the use or connection of any station equipment, terminating facilities, exchange plant, and other like instrumentalities and apparatus used in common for both intrastate communication service and interstate or foreign communication service, whether provided by a common carrier or any other person, or".

SEC. 7. Section 3 of the Communications Act of 1934, as amended (47 U.S.C. 153), is

further amended by adding the following new subsection:

"(gg) 'Intrastate communication' means communication or transmission between points in the same State, territory, or possession of the United States, or in the District of Columbia, including among other things, all station equipment, terminating facilities, exchange plant, and other like instrumentalities and apparatus used for or in connection with telephone exchange service or interexchange service, even though such equipment, facilities, plant, instrumentalities or apparatus are or may be used in connection with interstate or foreign communications service. 'Intrastate communication service' means any service which provides intrastate communication.".

FINDINGS TO BE INCLUDED IN COMMISSION AUTHORIZATIONS OF SPECIALIZED CARRIERS

SEC. 8. The following new section is added in title II of the Communications Act of 1934, as amended:

"SEC. 225. (a) As used in this section—

"(1) The term 'telephone common carrier' means any common carrier, the major portion of whose traffic and revenues, in interstate and foreign communication and in intrastate communication, is derived from message telephone services, telephone exchange services, radio-telephone exchange services, or a combination thereof.

"(2) The term 'telegraph common carrier' means any common carrier which provides a public message telegram service in interstate communications.

"(3) The term 'specialized carrier' means any common carrier other than a telephone or telegraph common carrier.

"(4) The term 'message telephone service' means telephone service between stations in different exchange areas on a message-by-message basis, contemplating a separate connection for each occasion of use.

"(5) The term 'public message telegram service' means a substantially nationwide telegraph service for the transmission and reception of record matter where the transmission is not directly controlled by the sender and for which a charge is collected on the basis of number of words transmitted and which is available to the public.

"(b) The Commission shall not grant or authorize any construction permit, station license, or certificate, for the construction, acquisition, or operation of any communication or transmission line or facility, or extension thereof, or any modification or renewal thereof, that otherwise might be granted or authorized pursuant to any provision of this Act, to any specialized carrier that furnishes or proposes to furnish interstate communication service unless the Commission shall find, after full opportunity for evidentiary hearing on the record, that such permit, license, or certificate, will not result in increased charges for telephone exchange service or in wasteful or unnecessary duplication of communication lines, facilities, equipment and instrumentalities of any telephone or telegraph common carrier, and will not significantly impair the technical integrity and capacity for unified and coordinated planning, management, design, and operation of the nationwide telephone network. In finding that such grant or authorization will not result in wasteful or unnecessary duplication, the Commission shall determine, among other things, that the proposed service or services of the specialized carrier, which are the subject of the requested grant or authorization, (i) are not like or similar to any service or services provided by a telephone or telegraph common carrier and (ii) cannot be provided by available communications lines, facilities, equipment, or instrumentalities of a telephone or telegraph common carrier. At any hearing involving a matter under this subsection, the burden of proof to support the requisite findings by the Commission shall be on the applicant for such permit, license, or certificate.".

EXHIBIT 1

NEBRASKA UNICAMERAL LEGISLATURE
LEGISLATIVE RESOLUTION 159

Whereas, The Federal Communications Commission in recent actions appears to be extending Federal jurisdiction over additional communication services including certain services which had previously been considered intrastate communication services; and

Whereas, such Federal regulation of communication services may be contrary to the long standing separation of Federal and State regulation over communications services and may adversely affect intrastate communication users in Nebraska; and

Whereas, Federal legislation has been introduced in Congress which would reaffirm the purpose of the Communications Act of 1934.

Now, therefore, be it resolved by the members of the eighty-fourth legislature of Nebraska, second session:

1. That the Nebraska Legislatures Interim Telecommunications Committee is hereby directed to investigate the present and proposed relationship regarding the relative jurisdiction of the State of Nebraska and Federal Communications Commission, as such relates to the charges, services, facilities, and regulation of the provision of Nebraska intrastate communication services.

2. That such committee make a report of its findings, together with its recommendations to the next regular session of the legislature.

EXHIBIT 2

RESOLUTION FOR SUPPORT OF BASIC TELEPHONE SERVICE CONSUMER BENEFIT LEGISLATION

Whereas, Continuation of recent policies of the FCC with respect to the regulation of the provision of local terminal and station equipment constitutes preemption of States' jurisdiction; and

Whereas, Such preemption constrains the States in the execution of the mandate to insure the best interests of the local telephone service consumer; and

Whereas, The proliferation of "specialized common carriers" constitutes wasteful duplication of facilities and wastefully duplicative use of resources; and

Whereas, The operation of "specialized common carriers" and liberalized interconnection serve to divert revenues which would otherwise flow to the benefit of the local basic telephone service consumer; and

Whereas, The results of the aforementioned actions are not in the best interests of local service consumers as confirmed by detailed studies conducted by the NARUC Committee on Communications, the staffs of member commissioners and others; and

Whereas, Continuation of the debate of these and related issues represents an unwarranted expense to the rate paying consumer of telecommunications services; now, therefore, be it

Resolved, That the Executive Committee of the National Association of Regulatory Utility Commissioners, hereby supports such legislation as has been and may be introduced in the Congress of the United States that, in the judgment of the President of this Association and the Committee on Communications, whose membership is nationally diversified, will serve to resolve the matters herein described to the benefit of the general ratepayer and consumer of basic local telephone service and directs the Officers of the Association to seek the enactment of such legislation by the Congress and its approval by the President of the United States.

Sponsored by the Committee on Communications.

TELECOMMUNICATIONS INTERNATIONAL UNION
RESOLUTION ON COMPETITION

1. The American Telephone and Telegraph Company, and its subsidiaries, as the prime provider of telephone service in the United States, has constructed and maintained a telephone system unequaled in the world. Members of the Telecommunications International Union have played an integral role in the success of the system through their on-the-job efforts.

2. Under the legislative mandate of the Communications Act of 1934, this system operates as a regulated monopoly, providing the benefits of a universal, low-cost basic residential service through a sound technical network.

3. In recent years, decisions by the Federal Communications Commission have eroded the concept of the regulated monopoly by introducing the element of competition into the industry. Competition was intended to benefit the public interest by the creation or expansion of markets for telecommunications services. FCC and state regulatory agency decisions have not produced these benefits but have threatened the traditional goals for which the telephone industry has operated—high-quality, broad-ranged services at reasonable prices.

4. In view of this continuing threat to the regulated portion of the telephone industry, the Congress of the United States will be asked to reaffirm and reestablish the meaning and intend of the national policy embodied in the Communications Act of 1934, with due consideration for technological change within the industry.

Therefore, be it resolved, by the Telecommunications International Union, meeting in Delegates' Conference, that the T.I.U. play an active and aggressive role in a legislative effort with other segments of the industry—fellow telephone unionists, the A.T.&T. Co., and the independent telephone companies—intended to eliminate the confusion spawned by the actions of the federal and state regulatory agencies, and

Be it further resolved that the Legislative Committee of the T.I.U. be charged with the responisbility for directing a legislative campaign designed to impress upon the Congress the importance of a national communications policy, and

Be it finally resolved that the members of the Telecommunications International Union be encouraged to participate in such a campaign by contacting their Senators and Representatives to urge their support of legislations recommended by the officers of the T.I.U.

CWA EXECUTIVE BOARD TELECOMMUNICATIONS
POLICY STATEMENT

In 1921, the Congress adopted legislation to affirm a national policy of fostering a unitary switched telephone network, so that each American with access to a telephone could reach any other residential or business telephone. This concept was incorporated into the Communications Act of 1934, whose statement of national policy was that the regulation provided therein would ". . . make available so far as possible, to all the people of the United States a rapid, efficient, nationwide and worldwide wire and radio communication service with adequate facilities and reasonable charges. . . ."

The near-universality of telephone service in the United States is shown by the 94% penetration, that is, into 67 million residences achieved by the industry through the employment of mostly private capital. The industry provides more than 140 million telephones, employs more than one million

American men and women, and takes in some $30 billion a year in gross receipts.

The Federal Communications Commission, created by the 1934 Act, has in recent years made several decisions which have pushed its regulatory policy away from the original intent of the national policy. Over the years, telephone companies have developed rate structures which tend to level out the revenue requirements and prices to business and residential customers, allowing the latter group to be kept within reach of the ordinary family budget. State and Federal regulators recognized that business users and other customers in densely populated areas should pay higher rates, in order that the widespread use of the telephone could be continued, for the mutual benefit of business and residential customers.

In the late 1960's, the FCC issued the "carterfone" and "Specialized Common Carrier" decisions, which injected an element of so-called competition into the telephone industry. However, the competition from companies supplying "interconnect" and private line data and voice services has begun to drain off revenues from the telephone companies, which for many years have had the total responsibility for integrated end-to-end service. A significant fall-off in telephone company revenues, which is apparent from business trends, will cause the operating telephone companies to seek new rates, which will be calculated on a smaller revenue base. If business use of "interconnect" and "Specialized Common Carrier" services furnished by other than franchised telephone companies shows a sizeable growth, the residential user of telephone service will be forced to pay considerably higher rates—or to do without telephone service. The "interconnect" and "Specialized Common Carrier" companies, which do not bear the heavy expense of providing integrated end-to-end service, are assisted in "cream-skimming" by the action of the FCC, which in the last decade did not stop to analyze the long-term economic effects of such "competition" in the telephone industry.

Some smaller telephone companies, and even larger ones, have recently begun experiencing revenue fall-offs due in great part to FCC tolerance and permissiveness for a "pick-and-choose" kind of telephone service. Public utilities of all kinds are in a tight financial situation because of inflation, a factor which shows little sign of subsiding in 1976.

Because the FCC only recently undertook what appears destined to be a long-term study of the economic effects of the so-called competition in the telephone industry, at a time when such a study is at least five years overdue, the industry has begun to prepare a drive in Congress for a clear statement of direction to the Commission, to fulfill the policy of the Communications Act of making service avaliable as widely as possible.

After review, we conclude that the Congress should reaffirm its long-standing policy of network unity, with the network providing all needed services within its capabilities. Further, we believe the Commission should only authorize "Specialized Common Carriers" to provide services not readily available through the present telephone network, and under conditions that do not pose economic or technical threats to network viability.

Resolved: That the Executive Board of the Communications Workers of America on behalf of, and in the interest of its Members, does hereby call upon the Congress to clarify and reemphasize the intent of the law so that the viability of the industry will be preserved and strengthened and to specify without any doubt the responsibility of the Commission to ensure that the intent of the law be carried out and thus to ensure further that the State and Federal regulatory agencies, in conjunction with more than 1,700 operating telephone companies, can keep residential rates within reasonable limits, for the benefit of all consumers.

[American Farm Bureau Federation Resolution Of The 57th Annual Meeting, January, 1976]

RURAL ELECTRIFICATION AND TELEPHONES

We support the goal of attaining an efficient interstate telephone system that will provide telephone service to rural consumers at a reasonable cost. We oppose policies which erode those revenues that traditionally have contributed to maintaining service at reasonable rates over the entire telephone network.

We support rural electric and telephone cooperatives organized and operated in accordance with cooperative principles and practices.

Local ownership by well informed members is the best safeguard for true cooperative principles.

We commend the rural electric systems for their efforts in establishing the National Rural Utilities Cooperative Finance Corporation (CFC) to enable electric systems serving rural areas to borrow from nongovernment sources. We encourage Farm Bureau members who are patrons and leaders in electric cooperatives to urge all such cooperatives to participate in and support this effort.

The 1973 amendments to the Rural Electrification Act provide a means of assuring adequate capital from the private money market for rural electric cooperatives through REA insured and guaranteed loans.

We urge the Congress to authorize annual levels for the REA electric loan program which, along with other loan programs will adequately reflect the capital needs of the rural electric systems, thus insuring that the growing power requirements of rural America will be met.

We also support the rural telephone bank system in assuring that rural people have available efficient telephone service.

We believe that consideration should be given to establishing a pool of electrical power to help assure an adequate supply of electricity during periods of localized shortages.

We oppose any effort to convert rural electric cooperatives into a public power system.

RESOLUTION

CONSUMER COMMUNICATIONS REFORM ACT OF 1976

Whereas, the Nebraska Public Service Commission is vitally concerned with the quality and cost of telephone service to the general public, and

Whereas, certain Federal Communications Commission decisions have resulted in competition in the communications industry, and

Whereas, such decisions have resulted in conflicts between the several state regulatory agencies and the Federal Communications Commission with respect to jurisdiction over telecommunications common carriers, and

Whereas, such competition will result in higher costs and/or a lower quality of service for the average telephone user, and

Whereas, legislation known as the Consumer Communications Reform Act of 1976 has been introduced in the Congress of the United States which would reaffirm the intent of Congress with respect to the structure of the telephone industry and reaffirm the authority of the states to regulate terminal equipment, now therefore, be it

Resolved, that the Nebraska Public Service Commission urges the Nebraska Congressional Delegation to support the Consumer Communications Reform Act of 1976.

By Mr. RANDOLPH:

Senate Joint Resolution 211. A joint resolution to authorize and request the President to issue annually a proclamation designating the fourth Sunday of May of each year as "National Grandparents' Day." Referred to the Committee on the Judiciary.

Mr. RANDOLPH. Mr. President, today I introduce a joint resolution to authorize and request the President to issue annually a proclamation designating the fourth Sunday in May of each year as "Grandparents Day."

I sponsored Senate Joint Resolution 126 in the 93d Congress authorizing the proclamation of "Grandparents' Day" which the Senate passed. The House was unable to pass this measure during that Congress. I realize that a heavy legislative calendar remains in this session. It is our hope that the Congress will act to honor our grandparents in this Bicentennial Year.

Mr. President, a West Virginian, Mrs. Marian McQuade of Oak Hill, has spearheaded this movement for the past 4 years to create the nationwide observance. She has urged the Governors of our 50 States to proclaim such a day. She has received a commitment from President Ford that he will sign the measure. I do hope that we can proclaim such a day. It would be the ideal time of the year to visit our grandparents and those citizens residing in nursing and care homes.

Mr. President, I ask unanimous consent that an article from the August 24, 1976, Charleston Gazette be placed in the RECORD at this point.

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

GRANDPARENTS' DAY GETS FORD PLEDGE

OAK HILL, W. VA.—A West Virginia woman working for the establishment of a Grandparents Day—similar to the present Mothers and Fathers Day celebrations—says President Ford agrees with her proposal.

Mrs. Marion McQuade of Oak Hill, who has been working on the Grandparents Day idea since 1973, was an alternate delegate to the Republican National Convention in Kansas City last week.

Mrs. McQuade said Monday that during the convention Ford agreed to sign a proclamation setting aside a day in the year to honor the nation's grandparents.

Ford asked her to send him some information about the project before he signs the proclamation naming a specific date, Mrs. McQuade said.

"I got the idea for Grandparents Day in 1973, and I've been writing our congressmen and the President about it ever since," the grandmother of eleven "with three on the way" said.

"I called Gov. Arch Moore about my idea and he went along with it," Mrs. McQuade said. "We had Grandparents Day in West Virginia in 1973 and ever since then I've been trying to get it made into a national holiday."

The 60-year-old grandmother said she got the idea when she started working at a nursing home with the elderly.

"So many of these people are shut up and neglected, even though they have grandchildren living." Mrs. McQuade said, "I thought maybe if we had a Grandparents Day some

of these people would get the love and attention they need so badly."

ADDITIONAL COSPONSOR

S. 3782

At the request of Mr. LEAHY, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 3782, a bill relating to fuel and energy needs of rural residents.

AMENDMENTS SUBMITTED FOR PRINTING

INVESTMENT ADVISERS ACT—S. 2849

AMENDMENTS NOS. 2281 AND 2282

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

Mr. BARTLETT submitted two amendments intended to be proposed by him to the bill (S. 2849) to amend the Investment Advisers Act of 1940 to authorize the Securities and Exchange Commission to prescribe standards of qualification and financial responsibility for investment advisers, and for other purposes.

ADDITIONAL FUNDS FOR WILDLIFE RESTORATION PROGRAMS—S. 1294

AMENDMENT NO. 2283

(Ordered to be printed and referred to the Committee on Commerce.)

Mr. METCALF. Mr. President, the House appears to be moving rapidly toward passing an important bill to provide State wildlife agencies additional funds for their wildlife restoration and hunter education programs. The House bill, H.R. 9067, originally was introduced as a companion measure to S. 1294 which I and several colleagues introduced in the Senate last year. Both measures would levy an 11 percent tax on component parts of handloaded ammunition, the receipts from which would bolster the Federal aid in wildlife restoration program.

The House Committee on Ways and Means and the Committee on Merchant Marine and Fisheries have refined the language of the original bill to include Puerto Rico, American Samoa, Guam, and the Virgin Islands as full beneficiaries of the Federal aid in wildlife restoration program. I heartily agree with that improvement.

Therefore, in order to expedite the passage of this bill by the Senate, I am submitting the House language as an amendment in the form of a substitute to S. 1294.

I urge my colleagues to support this bill. It has the endorsement of the State wildlife agencies, component part manufacturers, sportsman organizations. It is supported by the International Association of Game, Fish and Conservation Commissioners which represents the fish and wildlife agencies in all 50 States. And, it has the backing of conservation groups such as the Wildlife Management Institute and National Wildlife Federation.

The 94th is the third Congress to consider this bill. In both preceding Congresses, time ran out before this measure could be enacted. Let us not let that happen again. Fifty State wildlife agencies, the Nation's wildlife resources, sportsmen, and other wildlife enthusiasts are counting on us this year.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Thomas A. Grace, Jr., of Louisiana, to be U.S. marshal for the middle district of Louisiana (reappointment).

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Friday, September 17, 1976, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARING

Mr. HRUSKA. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Friday, September 17, 1976, at 9:30 a.m., in room 2228 Dirksen Senate Office Building, on the following nominations:

Vincent L. Broderick, of New York, to be U.S. district judge for the southern district of New York, vice Howard R. Tyler, resigned.

Howard G. Munson, of New York, to be U.S. district judge for the northern district of New York, vice Edmund Port, retired.

Any persons desiring to offer testimony in regard to these nominations, shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

The subcommittee consists of the Senator from Arkansas (Mr. MCCLELLAN); the Senator from Nebraska (Mr. HRUSKA) and myself as chairman.

ADDITIONAL STATEMENTS

FEDERAL FUNDING FORMULAS SHORTCHANGE ILLINOIS

Mr. PERCY. Mr. President, the Economic Development Administration of the Department of Commerce has recently issued proposed regulations for the allocation of funds under title I of the Public Works Employment Act of 1976. Allocations under these proposed guidelines will once again discriminate against the State of Illinois. During recent years, fairness in Federal funding has been eroded so that now Illinois receives only about 72 cents from each dollar of Federal tax revenue paid in, and this inequity will continue unless we begin to reexamine all the formulas in use for the allocation of Federal funds. We cannot go on subsidizing the so-called sunbelt States by abandoning our older economic areas. This apparent failure of federalism is not unique to Illinois, and I know that many of my colleagues join me in calling for a complete review of Federal funding allocation formulas and in looking forward to the Joint Economic Committee hearings on this issue. Our concern is bipartisan, and shared by my colleague Senator STEVENSON. Gov. Dan Walker discussed the problem in a recent Illinois congressional delegation meeting, and Mayor Richard Daley of Chicago has outlined his objections to the Public Works Employment Act allocation formula in a well-reasoned letter to the Economic Development Administration. I ask unanimous consent that their remarks be printed in the RECORD.

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

DEAR MR. EDEN: We are concerned that the legislative intent of Congress be preserved and not be altered by the regulations recently issued by the Department of Commerce, Economic Development Administration, for the implementation of Title I. Local Public Works Capital Development and Investment Program of the Public Works Employment Act of 1976 (PL 94-369). The purpose of Title I is to provide economic stimulus to areas experiencing severe and prolonged unemployment and to the construction industry through the expeditious construction or renovation of useful public facilities. However, the Federal regulations, as they exist now, do not fairly address themselves to this purpose.

The legislation states that areas experiencing unemployment rates higher than the national rate should be entitled to a greater portion of the funds. Thus, Congress has stipulated that 70% of the funds be awarded to qualifying projects from areas having unemployment rates higher than the national rate. The remaining 30% of the monies is available for eligible projects from areas having an unemployment rate below the national rate with priority being given to those areas having a rate between 6.5% and the national average).

While the legislation specifies that 70% of the funds go to projects in high unemployment areas, the Economic Development Administration proposes to allocate funds to States rather than to project areas according to the following regulations:

"Subject to program administrative costs and statutory minimum and maximum amounts allocated to individual States by the legislation, 65 percent of the funds will be set aside as planning ceilings for individual States based on the share of unemployed workers residing in a State of the total national unemployed; 35 percent of the funds will be set aside as planning ceilings for individual States based on the relative severity of unemployment for each State above the national unemployment rate."

The U.S. Employment rate for June was 7.5% while the unemployment rate for the State of Illinois was 7.4%; therefore, as a result of this administrative decision the State of Illinois was not eligible to receive any of the funds set aside for those states above the national average, although the June employment rate for Chicago was 8.2%. The following table highlights the tremendous inequity that is created by utilizing the proposed Economic Development Administration's formula.

PRELIMINARY ALLOCATIONS: MIDWEST REGION

State	Number of unemployed	Unemployment rate (June 1976)	State allocation (millions)	Allocation per unemployed person
Illinois	378,700	7.4	$64.0	$168
Michigan	397,400	10.2	157.0	395
Ohio	344,800	7.2	62.0	180
Indiana	134,300	5.6	24.0	178
Wisconsin	124,800	5.8	22.5	180
Minnesota	100,200	5.3	18.7	187

(The above distribution reflects allocations based upon June, 1976, unemployment statistics. The Economic Development Administration has pointed out that these preliminary allocations are unofficial at this point and that there is a possibility for more recent unemployment statistics. However, even with newer statistics, we strongly object to the State allocation formula presently contemplated.)

As clearly illustrated above, utilizing the present State allocation formula, the unemployed worker in Michigan receives 2½ times the benefits vis-a-vis his unemployed co-worker in Illinois. The numbers speak for themselves. Total unemployment in Michigan was 397,400, while Illinois was at the 378,700 level. Yet, Michigan is proposed to received $157 million while Illinois is only to receive $64 million.

Labor markets, especially construction industry markets, function on a local area basis, not on a statewide basis. A public works project not only provides employment to the construction industry, but also furthers the local public good. Congress rightfully intended the greater benefits to accrue to hard-hit localities by providing that 70% of the funds are to be utilized in such project areas.

However, Congress did not intend that a pure staff decision would result in such an unequal and unwarranted disparity in State allocation levels as evidenced in the tremendous difference between the funds going to Michigan and Illinois. Allocations on a state unemployment rate basis using the present administratively determined 65%/35% formula have no justification in the law. Severity and duration of unemployment should be weighed solely on an individual project area basis, as the legislation clearly intended. The results of the present formula are bizarre, unanticipated and inequitable. Since we recognize the administrative and management usefulness of State allocations, we recommend that the volume of unemployment be the sole criterion for distribution of funds to States. Using this criterion, the National League of Cities/U.S. Conference of Mayors has determined that the States in this region would receive the following allocations:

NATIONAL LEAGUE OF CITIES, RECOMMENDED ALLOCATIONS (AUG. 11, 1976)

State	Number of unemployed	Estimated State allocation	Unemployment rate (May 1976)	Allocation per unemployed person
Illinois	335,200	$93.1	6.7	$277
Indiana	123,400	34.4	5.2	278
Michigan	375,300	104.3	9.7	277
Ohio	324,100	90.2	6.9	278
Wisconsin	113,500	31.5	5.4	277
Minnesota	88,200	24.5	4.8	277

Equity and legislative intent can best be served by allocating funds to States based upon the total number of unemployed residents and by making project awards within each State using the required 70%/30% allocation method based on local unemployment rates and other local factors as specified in the current regulations.

In order to more fully implement the legislative intent of the Public Works Employment Act of 1976, we strongly urge that the tentative regulations be modified to utilize the volume of unemployment as the sole criterion for determining State planning allocations while maintaining the present regulations for project selection within States.

We look forward to participating in this timely and appropriate federal response to local unemployment and community needs.

Sincerely,

RICHARD DALEY,
Mayor.

REMARKS BY GOV. DAN WALKER

INTRODUCTION

In FY 75 Illinois received back in federal expenditures only 72¢ for every dollar of federal tax revenues generated within the State. The upper Midwest states have received only 70¢ back for each dollar contributed, in contrast with $1.17 for the Far West. The upper Midwest states have consistently fared the poorest among the regions in the country in terms of both direct payments to state and local governments and federal domestic outlays, including defense expenditures, salaries and public works.

While some of the disparity in total outlays between Northeastern and Midwestern states and the South and West can be traced to defense expenditures, disparities in formula-driven domestic expenditures are extremely important.

In providing over $50 billion in grant funds to state and local governments, Congress has enacted a variety of formulas which allocate federal funds on the basis of seemingly "rational" factors, such as:

Population;
Per capita income;
Poverty population;
Percent of welfare population; and
Percent of overcrowded housing, and other factors.

Taken together, however, many of the grant-in-aid program formulas have distributed federal dollars in such a way that the Northern industrial states, and Illinois in particular, have been discriminated against. These formulas tend to hurt the very areas of the country that are lagging in population and economic growth.

* * * * *

FORMULA GRANTS: THE NEED FOR EQUITY

The key to the overall imbalance in the flow of grant dollars is the inequity in formulas used to distribute federal funds. These formulas tend to channel expenditures away from our State and region.

Medicaid and AFDC: This formula compares per capita income of states to the national per capita income. States which provide relatively high welfare payments, thus raising their per capita income are limited to the minimum reimbursement 50%.

Reimburses states at varying rates, e.g.:

Arkansas, 65 percent; AFDC, 74.60 percent, medicaid.

Idaho, 64.64 percent; AFDC, 68.18 percent, medicaid.

Missouri, 54.2 percent; AFDC, 59.98 percent, medicaid.

Mississippi, 65.0 percent; AFDC, 78.28 percent, medicaid.

Illinois, 50 percent; AFDC, 50 percent, medicaid, which is the minimum level of federal support. If Illinois had been reimbursed for these programs at the same rate as Mississippi, we would have received an addition $227 million in FY 1976.

Title XX of the Social Security Act distributes over $2.5 billion in funding for social services to low income persons, purely on the basis of population:

As Illinois' population declines relative to the faster-growing Western and Southern states, our ceiling on reimbursement will be reduced from $133.8 million in FY 75 to $128 million in FY 80.

Title I of the Elementary and Secondary Education Act distributes over $1.6 billion to states and local school districts through a formula based on:

Number of children below poverty level,

Two-thirds of the number of children on AFDC, and the

Number of institutionalized neglected, delinquent or foster children supported with public funds.

Since Northern states typically provide higher welfare payments which lift children above poverty level, this formula tends to distribute more funds to Southern states with lower welfare payments.

Community Development block grants distribute over $2.8 billion per year through a complex formula—6 factors plus a "hold-harmless" provision—which, we believe, will distribute funds outside older cities to suburban and rural areas, over time hurting Northern industrial states such as Illinois.

Energy Conservation legislation will distribute at least $25 million in FY 1977 through a formula which weights the following elements:

75% population;

25% divided equally among all states.

As a result, this program will underfund the colder, more industrial states of the North and Midwest, where energy use is high and potential energy savings are greatest.

In addition, *block grants proposed this year* for health, social services, education and nutrition would have placed ceilings on federal expenditures in these areas which would have hurt urbanized states with higher inflation rates, costing Illinois for example over $40 million in health care reimbursements each year after FY 1978.

These are only a few examples. We should work together to scrutinize each and every distributional formula as they come up in Congress and enact new formula elements which will assist our State and region.

FORMULA FACTORS TO BE CONSIDERED FOR IMPROVING EQUITY

Just as formulas which tend to distribute funds away from the Northern industrial states are based on "rational" factors, other formula elements which will help our states should be explored. These include:

Tax effort—by taking into consideration state and local tax effort, this factor would channel funds to jurisdictions in Illinois and other industrial states, where the costs of public services are high.

Regional cost indexing would take into account cost of living in different regions. For example, by adding this factor to the Revenue Sharing Formula Illinois would be one of 15 states whose General Revenue Sharing entitlement would increase substantially.

Unemployment rates would tend to channel funds to states which suffer structural economic problems, which may be compounded by imbalances in Federal domestic expenditures. Countercyclical revenue sharing, which provides the State and localities in Illinois over $47 million, is a good example of how this formula element can work in our favor.

STRUCTURAL ECONOMIC PROBLEMS IN THE NORTHERN INDUSTRIAL STATES

In addition to the basic question of equity, the federal government must address structural economic factors which place the Northern industrial states at a further disadvantage compared to the South and West. The economic factors argue for more than an "equitable" treatment for our region.

This country has a long tradition of chan-

nelling federal benefits to economically developing regions in order to stimulate growth. The massive public works in the South and West and Appalachia are examples of how the federal government has used its budget to stimulate regional economies.

While the Illinois economy is still strong and diverse, a number of factors will tend to bring to Illinois the kind of economic stagnation we find in the Northeast if we do not anticipate our problems, and—with the help of the federal government—cure them. These factors include:

Public services are more expensive than in "Sunbelt" states; as a result, the private sector has to pay generally higher taxes than in Sunbelt states.

In addition, businesses often face higher costs, including:

Higher energy costs;

Higher labor costs; and

Higher maintenance and replacement costs for aging plant and equipment. As some businesses leave for the federally subsidized "Sunbelt" the tax base of Northern states narrows, prompting local tax increases and a continuing economic spiral.

These factors argue for rigorous efforts not only to reverse the flow of federal outlays away from the "economically mature" states, but for an aggressive effort to develop Northern states economically by directing additional federal expenditures into our region.

MAIL DELIVERY

Mr. INOUYE. Mr. President, I would like to direct the attention of my colleagues to a letter I received from Dean Howard McKaughn of the University of Hawaii. In his correspondence, Dean McKaughn lists a number of cases in which extremely long delays in mail delivery between Hawaii and the mainland have caused the university to lose financial support for its programs, jeopardized the admission applications of students, and prevented faculty participation in important activities in their fields.

The unhappy result in each of these instances has been a small but perceptible decline in the educational opportunities that the school can offer its students. If allowed to continue, this increasing inability of Hawaii's only major university to give Hawaii's youth the best possible scholastic training and to conduct research of value to the public, will prove detrimental to the university and society in general. Understandably, Dean McKaughn asks that something be done to improve the quality of the mail service.

His is not the only request of this nature that I have received over the course of the year. Almost every week a number of complaints from constituents who have experienced undue delays in their mail delivery reach my office: Important business associations are threatened when a Honolulu company has difficulty communicating with its west coast affiliates, a public service organization's grant proposal is lost in the mail, a student is ineligible for a Rhodes scholarship because his letters of recommendation are not received in time.

Hawaii, gentlemen, is an island State and because of this relies on Trans-Pacific communication services, particularly the mail, to keep in tune with events on all levels, personal, professional, and what have you, that occur on the continent. Naturally the problems created by inefficient mail delivery are not unique to Hawaii.

Though we may be made more aware of them, because of our isolated position, I am sure that most of you have also received many complaints from the citizens of your own State. Not to respond to these demands would be a violation of the "public service" mandate of the Postal Service and a blatant neglect of the needs of the people.

We are all aware of the problems that this organization has been experiencing. It is true for example that more mail is now being delayed than was previously the case. The fact that between 85 and 95 percent of the mail slated for 1-, 2-, and 3-day delivery does reach its destination on time is scant comfort to those who depend on reliable service.

That relatively small percentage of lost or missent mail equals several billion pieces of mail a year. That adds up to a lot of unhappy people. It also adds up to a lot of individuals and organizations like the University of Hawaii that have sustained substantial losses, because they could not get their mail on time.

In answering the needs of the people, it is our purpose to revitalize and improve the Postal Service. We cannot accept that the institution of modern technology must be accompanied by a decline in service.

Mr. President, I request unanimous consent that the communication from Dean McKaughn be printed in the RECORD.

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

AUGUST 4, 1976.

Hon. DANIEL K. INOUYE,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR INOUYE: I want to call your attention the increasing severity of problems with our U.S. mail delivery between Hawaii and Washington, D.C. There have been several cases in which we have mailed items from the University of Hawaii and delivery has been so slow that we have lost support for our programs. Let me list some cases from our School of Public Health.

Case 1—A special purpose traineeship grant was sent from the Office of Research Administration on February 18 in time to make the February 27 deadline for receipt in Washington. The packet of material was received in Washington March 19; missing the deadline and was thus returned as ineligible.

Case 2—A project grant for a curriculum in health planning analysis which was sent out from the Office of Research Administration on March 1 in time to make a March 15 deadline for receipt in Washington. As of April 6th the material had not yet been received in Washington.

Case 3—A certified airmail letter containing a transcript of a prospective student by the name of Kitkousky was sent to us from UCLA on March 11. This "certified mail" was received in the School of Public Health on April 2. It almost resulted in our inability to consider this student for admission.

Case 4—A letter from the Public Affairs Office of the Johns Hopkins Medical School which was sent first class from Baltimore on February 13 was received in the School of Public Health on April 2. This piece of mail announced an International Health Symposium that would have been profitable for us to have participated in; but by the time it was received, the session had already been held.

Compounding our problem is the fact that deadlines for consideration of research and training proposals are now based on their arrival in Washington, D.C. rather than the mailing date. This puts Hawaii at a distinct disadvantage.

Further, mail reaching us from Washington, D.C. is also slow. Therefore, we often receive notification of possible programs with very little time to respond.

I am hoping you can help us. I have contacted Senator Fong on the matter, too. I am enclosing a few items that are pertinent, showing a rather inconsistent picture in our various agencies on deadline dates.

I believe the problem is serious enough to warrant further investigation. If you do have suggestions, we will appreciate it very much.

Sincerely yours,

HOWARD P. MCKAUGHAN,
Dean, Graduate Division and Director of Research.

THE NEW RULERS OF THE AMERICAN POLITICAL SYSTEM

Mr. GOLDWATER. Mr. President, on August 31, the same day that I presented to the Senate a statement describing big labor's effort to gain control of the American political system, Jimmy Carter, the Democratic Presidential candidate, was huddled in Washington, D.C., with the bosses of big labor. When Mr. Carter left the Capital City, he took with him what a Washington Post staff writer called a ringing endorsement from organized labor.

According to news reports, AFL–CIO president, George Meany introduced Mr. Carter to a gathering of several hundred union leaders as "our candidate." The Washington Star reported that after speaking to the labor audience, Mr. Carter "had a private luncheon with some of the labor leaders." What went on at that closed meeting is unknown.

What the public does know, the Star indicated, is that Mr. Meany disclosed that he was setting up a steering committee of labor leaders to meet every 2 weeks to make sure that "our machinery is working to promote Mr. Carter." The story in the next morning's Washington Post revealed that Mr. Meany had also promised "an intensive campaign" on behalf of Mr. Carter by labor's political organization, which Mr. Meany proclaimed is "the best political machine in the country."

As the Carter-labor dialog was described in the New York Times of September 1:

> Top labor leaders promised Jimmy Carter today that they would stage "the strongest most effective get-out-the-vote campaign ever conducted by the labor movement" this autumn.

The same article disclosed:

> After [Mr. Carter's] speech before the general board of the A.F.L.-C.I.O., the board unanimously adopted a resolution of support that said victory in November would "require millions of volunteer hours, mil-

lions of telephone calls, massive mailings and the personal commitment that trade unionists bring to politics."

We also know that Mr. Carter welcomed these pledges of help from big labor. He is quoted in the Washington Star as telling union bosses:

That they could make the difference between his winning or losing the election. Labor's help was badly needed.

Mr. President, big labor itself has openly confirmed exactly what I claimed in my speech of August 31. Union bosses are intent upon controlling this year's elections—will make greater efforts than ever before—and have enormous resources of the very kind required to get around the restrictions of the new election law.

Mr. President, among the evidence of organized labor's attempt to capture the American political system that appears in my earlier statement is a listing of union contributions to candidates for the U.S. Senate. An additional item has come to my attention since then, and in order to keep the list as current as possible, I am today revealing the updated figures, as follows:

NAME AND ORGANIZED LABOR CONTRIBUTIONS

MARYLAND

*J. Glenn Beall, Jr. (R), $17,900.
Paul Sarbanes (D), $71,595.

TEXAS

*Lloyd M. Bentsen (D),[1] $36,750.
Alan Steelman (R), none.

TENNESSEE

*William E. Brock (R), none.
James Sasser (D), $21,900.

NEW YORK [2]

*James L. Buckley (R), none.
Peter Peyser (R), $23,178.
Daniel Moynihan (D), $18,500.
Paul O'Dwyer (D), $500.
Robert Abrams (D), $300.
Bella Abzug (D), $19,420.

NORTH DAKOTA

*Quentin Burdick (D), $25,500.
Robert Stroup (R), none.

VIRGINIA

*Harry Byrd, Jr.,[1] none.
Elmo Zumwalt (D), $45,580.

WEST VIRGINIA

*Robert Byrd (D),[1] $79,300.

NEVADA

*Howard Cannon (D), $44,550.
David Towell (R), none.

FLORIDA

*Lawton Chiles (D), none.
John Grady (R), none.
Walter Simms (R), none.
Helen Hansel (R), none.

ARIZONA

*Paul Fannin (R), retiring.
Sam Steiger (R), none.
John Conlan (R), none.
Dennis DeConcini (D), $4,100.

HAWAII

*Hiram Fong (R), retiring.
William Quinn (R), none.
Spark Matsunaga (D), $26,650.
Patsy Mink (D), $2,400.

MICHIGAN

*Philip Hart (D), retiring.
Donald Riegle (D), $4,700.
James O'Hara (D),[3] $103,278.
Marvin Esch (R), $300.

INDIANA

*Vance Hartke (D), $101,775.
Richard Lugar (R), none.

NEBRASKA

*Roman Hruska (R), retiring.
Edward Zorinsky (D), $4,300.
John McCollister (R), none.

MINNESOTA

*Hubert Humphrey (D) [4] $95,175.
Gerald Brekke (R), none.

WASHINGTON

*Henry Jackson (D),[4] $168,477.
George Brown (R), none.
Henry Neilson (R), none.

MASSACHUSETTS

*Edward Kennedy (D), $55,550.
Mike Robertson (R), none.

WYOMING

*Gale McGee (D), $41,794.
Malcom Wallop (R), none.

MONTANA

*Mike Mansfield (D), retiring.
John Melcher (D), $21,650.
Stanley Burger (R), none.

NEW MEXICO

*Joseph Montoya (D), $41,200.
Harrison Schmitt (R), none.

UTAH

*Frank Moss (D), $58,475.
Jack Carlson (R), none.
Orrin Hatch (R), none.

MAINE

*Edmund Muskie (D), $27,863.
Robert Moks (R), none.

RHODE ISLAND

*John Pastore (D), retiring.
Philip Noel (D), $300.
John Chafee (R), none.

WISCONSIN

*William Proxmire (D), none.
Stanley York (R), none.

DELAWARE

*William Roth (R), none.
Thomas Maloney (D), $19,850.

PENNSYLVANIA

*Hugh Scott (R), retiring.
John Heinz (R), $1,500.
William Green (D), $64,075.
Jeanette Reidman (D),[3] $10,465.

VERMONT

*Robert Stafford (R), $7,850.
Tom Salmon (D), $3,000.

MISSISSIPPI

*John C. Stennis (D), none.

MISSOURI (6)

*Stuart Symington (D), retiring.
Warren Hearnes (D), $1,350.
Jerry Litton (D),[6] $800.
James Symington (D), $47,600.
John Danforth (R), none.

OHIO

*Robert Taft, Jr. (R), $3,700.
Howard Metzenbaum (D), $52,743.
James Stanton (D),[3] $30,969.

CALIFORNIA

*John Tunney (D), $118,583.
Tom Hayden (D),[3] $1,000.
S. I. Hayakawa (R), none.

CONNECTICUT

*Lowell Weicker (R), $4,500.
Gloria Schaffer (D), $2,500.

NEW JERSEY

*Harrison Williams (D), $115,750.
David Norcoss (R), none.

Total, $1,649,195.

FOOTNOTES

*Incumbent.
[1] Includes aborted Presidential campaign.
[2] Primary not yet held.
[3] O'Hara lost primary to Riegle; Reidman lost to Green; Stanton lost to Metzenbaum; Hayden lost to Tunney.
[4] Includes Presidential campaign contributions.
[5] Primary on Sept. 15th.
[6] Cong. Litton died; Hearnes nominated by Central Committee.

Now, there is a very interesting fact hidden among all this data. Note that nearly all labor contributions to Senate campaigns have gone to Democrat candidates. The respective totals are $1,590,-267 given to the Democrats compared with only $58,928 contributed to Republicans. The Republican share of union largess is a barely visible 3 percent.

Mr. President, in the interest of further updating information which I compiled in my original remarks, I can state with assurance today that the true amount of total contributions by big labor, both in direct cash payments and in-kind efforts, to try to put their candidates in office by the 1976 elections will be an astounding $70 to $100 million. This will be the greatest attempt ever made by labor bosses in America to gain control over Government and the future of the Nation.

Mr. President, on August 31, I placed in the RECORD a lengthy statement concerning the influence which labor unions are attempting to wield in the forthcoming political campaign. In my list of contributions made by organized labor to incumbent Senators seeking reelection and to other candidates for the U.S. Senate in 1976, a contribution of $4,500 to Senator LOWELL WEICKER, Republican of Connecticut, and a $2,500 contribution to Gloria Schaffer, his Democrat opponent, were inadvertently omitted. The Senate total should be $1,649,195.

CHICAGO TRIBUNE TASK FORCE CITES NEED FOR REFORM IN TEAMSTERS CENTRAL STATES PENSION FUND

Mr. PERCY. Mr. President, the Central States, Southeast, and Southwest Areas Pension Fund of the Teamsters Union is the largest union-operated pension fund in the United States with assets exceeding $1.4 billion. Nonetheless, the fund is expected to absorb losses of over $50 million this year alone.

Although detailed lists of Teamsters loans are not required to be filed for the public record, Chicago Tribune reporters Chuck Neubauer and George Bliss have been able to piece together the fund's loan portfolio in the Chicago area from internal fund documents, land records and court files. Their startling findings, uncovered during an intensive, 3-month-long investigation, raise the following points:

First. The pension fund has invested approximately two-thirds of its assets in real estate ventures—especially in

hotels and motels. In comparison, most pension funds, which are considered to be conservative investors, reportedly invest very little, if at all, in real estate because of the high risk involved.

Second. In attempting to recoup the fund's losses from bad loans, the fund further compounds its already high losses by refinancing at low interest rates, granting moratoriums on payments of interest or principal, or suspending payments altogether.

Third. The fund grants large loans to individuals with ties to or conflicts of interest with the Teamsters Union and to individuals linked to the crime syndicate.

Fourth. Many loans are backed by insufficient collateral.

The Central States Pension Fund is controlled by 16 trustees—half are Teamsters officials and the other half are trucking executives. The Tribune reporters point to evidence that some of these "trustees" may be abusing their fiduciary duties by making risky loans to individuals who would be unable to get a loan under any other circumstances from a more respectable institution, while increasing their own salaries with fees and commissions. The series reports that the fund is "bogged down with shaky, delinquent, and foreclosed mortgages" which, in most instances, are worth quite a bit less than the amount carried on the fund's books.

Mr. President, the Central States Pension Fund is not a charitable organization. Nor does it take an experienced businessman to realize that this is no way to run a business. With an average rate of return of 4.5 percent on its loans—as compared to a reported rate double that for other pension funds—it would be more profitable and far more secure to invest the fund's assets in a common bank savings account at 5½ percent interest.

Who has been hurt, and how many? That remains still to be determined. Fortunately, most members of the fund continue to receive their disability, annuity and death benefits. But in the coming years, inflation and a growing membership may begin to strain the fund's continued viability. The members who have been willing to look the other way as long as they received an increase in wages stand to lose a great deal while a handful of outsiders, some with criminal backgrounds, take home everything.

We are dealing with a very controversial and serious matter. In addition to investigations now being carried out in the executive branch by the Departments of Justice and Labor, the Internal Revenue Service recently revoked the fund's tax-exempt status retroactive to January 1965, on the theory that the fund was not being operated for the "exclusive benefit" of employees. In response to these charges, the fund's executive director, Daniel J. Shannon, has stated that the fund has made "mistakes * * * but all that has changed now." The fund must take advantage of this opportunity to put its house into order. The too-long silent membership should demand it.

Concurrently, the Permanent Subcommittee on Investigations, ably chaired by Senator SAM NUNN, is monitoring the activities of the Central States Pension Fund as well as other serious abuses in the labor-management field.

I commend Chuck Neubauer and George Bliss for their continuing efforts to bring the details of the Central States Pension Fund's loan activity to light. I would also like to express my appreciation to Todd Fandell, the Chicago Tribune financial reporter, for his contributions in writing the series.

Mr. President, I ask unanimous consent that the incisive five-part series appearing daily from the July 30 to August 3, 1976, editions of the Tribune and the editorial from the August 4, 1976 edition of that paper be printed in the RECORD following my remarks.

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

[From the Chicago Tribune, July 30, 1976]

BAD LOANS DRAINING TEAMSTER FUND

(By Chuck Neubauer and George Bliss)

(NOTE.—The Teamster union's Central States pension fund—with assets of $1.4 billion—is the richest union pension fund in the country. Two recent federal crackdowns have made it also the most controversial. The fund's tangled financial dealings in the Chicago area have been investigated by Chuck Neubauer and George Bliss, Tribune reporters, for three months. This is their first report in a five-part series written by Todd Fandell, Tribune financial reporter).

Daniel J. Shannon suddenly has grown fond of painting a picture of reform for the scandal-ridden Teamster union's Central States, Southeast, and Southwest Areas Pension Fund.

"Forget the past," Shannon, executive director of the huge fund, has been telling every reporter willing to listen.

"Sure, the fund made mistakes back in history, but all that has changed now," said the former president of the Chicago Park District and one-time political protege of Mayor Daley.

Coming from the 42-year-old former All-America football star at Notre Dame, the pious pronouncements have been an effective public relations move. They are a radical departure from a 21-year tradition in which Teamster officials refused to discuss any specifics regarding the pension fund's peculiar affairs.

But an intensive three-month Tribune investigation of the $1.4 billion fund indicates limited reforms by Shannon are too little and too late. The fund is in deep trouble, and Shannon and his bosses, the fund's 16 trustees, know it.

The fund's troubles are fully illustrated by studying its loan activity. Although the Teamsters haven't been required to file detailed lists of loans for the public record, The Tribune has pieced together for the first time a picture of the pension fund's major Chicago area loans from internal fund documents, land records, and court files.

Illinois is one of four states that has shared heavily in the pension fund's largesse over the years. The four—California, Nevada, and Florida are the other three—usually account for about 70 percent of the fund's outstanding loans. California projects take half that amount; Illinois, Nevada, and Florida split the remainder.

The investigation shows conclusively that in Illinois, as elsewhere, the pension fund has lost millions over the years in serving as the banker for persons who cannot get loans elsewhere. Cases to be detailed later in this series establish the following:

The fund, contrary to normal pension fund standards, has invested heavily in motels and hotels, considered among the riskiest types of real estate investments. Many such loans, though often granted on unusually liberal terms, have been foreclosed or restructured when recipients couldn't meet principal or interest payment schedules.

In many cases, the fund's struggles to remedy bad loan situations by refinancing them have simply prompted it to pour more money down the drain, compounding its heavy losses. In at least two local cases, the Teamsters have been forced to foreclose on the same property twice within a short time. One of these properties is under its third loan granted by the fund.

Large loans consistently have gone to persons with ties to and conflicts of interest with Teamster officials, as well as to persons with crime syndicate backgrounds or links. Most of these loans would not be granted under any circumstances by more respectable financial institutions, least of all by pension funds, which are expected to be conservative investors.

Many Teamster loans are backed by collateral insufficient to protect the outstanding balance on the loans. Many properties covered by these loans still are carried on the fund's books at highly inflated values that couldn't be met in a sale.

Besides the enormous task of unburdening itself of hundreds of millions of dollars of questionable loans, the fund is under attack by the federal government. After years of ignoring a steady flow of allegations that the union's leaders were using the fund for their own gain instead of for employe beneficiaries, federal officials now seem on the verge of a crackdown.

For nearly a year, investigators from the Labor and Justice departments have been closing in on the fund, checking claims of kickbacks, unjustified fees paid to consultants and "finders" who help arrange loans, links to organized crime, granting of hundreds of millions of dollars of improperly secured loans, missing money, and other misdeeds.

Observers say the investigation's goal may be to place the fund in some sort of receivership, to oust its badly tainted board of trustees and their cronies, and to turn the fund's management over to independent pension experts.

"At the very least, these guys will be nailed for a breach of their fiduciary duties to administer all this money for the good of the employes and not themselves," one source predicted.

Action against the fund isn't expected until after the November election, probably early next year. Investigation of its tangled web of bad loans and suspect dealings has proved a painstaking task, investigators concede. And experts disagree on the extent to which the government can prosecute the fund and force reforms under new federal pension legislation that has not been fully interpreted.

Further, preelection moves might antagonize Teamsters officials, who have considerable political clout. For this reason, skeptics still doubt an all-out offensive against the fund will ever come.

Reforms claimed by Shannon boil down to his efforts to clean up the fund's portfolio of bad loans and to sell real estate it owns because of foreclosures on delinquent loans. He wants to put more money into higher-grade investments such as stocks and bonds. He also has fired some members of his staff.

"It's mostly window dressing, designed to blunt the inevitable result of the government investigations and, possibly, protect his own hide," a Shannon acquaintance said. "When you come right down to it, he's still a front man for the Teamsters leaders on

the fund's board of trustees and is powerless to do anything without their approval."

The biggest problem faced by Shannon or any potential reformer is shedding the burden of delinquent, foreclosed and shaky mortgages and the real estate loans that Teamsters officials have meted out for two decades to friends and associates, many with criminal records.

It is highly unusual for a pension fund to make real estate loans at all, financial experts told The Tribune. "They're just too risky," one said. "You would be hard-pressed to find many pension funds that are run by accepted standards that would put a nickel of that kind of money into any kind of real estate, let alone risky ventures like these loans."

Yet the Teamsters have seen fit to put two thirds of their nickels into real estate. About $900 million of the fund's $1.4 billion in assets is invested in real estate, Shannon said. Another $350 million to $375 million is in stocks, bonds, and short-term debt, types of securities prudent pension funds stick with.

Another $100 million is in property owned and operated by the pension fund, mostly as a result of foreclosures on delinquent loans. It is property "where somehow we got title, and all of it is for sale," Shannon said.

A policy of selling is relatively new for the fund, since it long has been stuck with properties it had loaned money on. "We're not in the business of running motels and real estate; we're in the finance business," Shannon recently told The Tribune. "If something has gone bad or doubtful, we should sell it."

Unfortunately, selling property with a history of financial failure is not easy and often results in big losses. Anticipating such losses, the fund last year diverted $50 million in assets to a reserve fund set up to cover the probable sale of real estate at prices below the value carried on the fund's books.

It marked the first time the fund had acknowledged the possibility of big losses on its investments. But experts who have studied the fund's real estate loans contend the $50 million won't be adequate. More money will be needed, they warn, further reducing assets available to pay pension benefits.

Shannon publicly has minimized the bad loans on the fund's books. "We have only $45 million in delinquent loans out of the $900 million in total real estate loans," he insisted.

But when pressed by The Tribune, he conceded his figure included only those loans on which current principal or interest payments were behind schedule. It does not include millions of dollars in loans that already have been modified from the original terms to give lower interest rates or stretched-out repayment schedules.

In the past, such situations have signaled repeat problems for the fund because borrowers also failed to meet the revised terms.

The Tribune has found numerous cases where the Teamsters have granted a borrower a moratorium on interest or principal payments. Sometimes the fund has suspended all payments on a loan, but such cases aren't considered delinquent.

Although Shannon and other Teamsters officials deny it, the Central States fund has earned a poor return on its investments in recent years, especially compared with most pension funds, The Tribune found.

"Last year we received a 4½ per cent return on our investment" before expenses, Shannon said. That would amount to an income of about $60 million in interest, dividends, and rent from the fund's total assets.

While conceding that is less than can be earned from an ordinary bank savings account, Shannon contended a consultant hired to evaluate the fund concluded that "we were a little better than average." Further, the fund's performance in this area will improve, he forecast.

But pension experts are dubious. Typical pension funds last year earned a rate of return more than double that of the Teamsters fund, they noted.

"Hell, they're not even keeping pace with inflation; they're actually losing ground at an alarming rate," a Chicago executive with years of experience as a director of a giant pension fund told The Tribune.

Another expert consulted by The Tribune said a properly managed pension fund, with a cash inflow of the size apparently enjoyed by the Central States fund, could have built its assets to a much higher figure, possibly even double the $1.4 billion.

To date, however, the fund has had little trouble paying its pensions and other benefits to retired and disabled employes. The fund's investment errors have been masked by contributions that in recent years have exceeded annual benefits paid by $100 million or more.

But in coming years that margin may be jeopardized, although weekly employer contributions are scheduled to jump to a maximum of $31 per worker in 1978 from the current $25. New federal pension rules may force an end to severely restrictive Teamsters position qualification rules under which thousands of longtime trucking industry employes have been barred in the past from receiving pension benefits. Along with a natural increase in the number of retirees, this will substantially increase required payouts.

Also, pension payments will have to be increased from current levels to offset inflation, even though the size of current benefits paid to employes who qualify is considered good by most standards.

Despite its investment troubles, the pension fund continues to be operated under the direction of the old crew of Teamsters officials associated with Jimmy Hoffa, several of them convicted of kickbacks, extortion, and other crimes.

"There will never be a true reform that can root out all the rotten apples in the fund until there's total upheaval at the top—an unlikely event unless it's forced by the government," one source close to current investigations of the fund said.

One example of the fund's current leadership talent is William Presser, a Teamsters vice president from Cleveland.

In 1971, Presser pleaded guilty to illegally accepting money from employers with Teamsters labor contracts in return for advertising in a union publication to ensure "labor peace." Such a practice violates the Taft-Hartley Act.

Presser was fined $12,000 but was not jailed because he pleaded ill health.

In the 1960s he did serve a six-month jail term after being convicted of obstructing justice by destroying union records sought by the government.

Criminal records never have been a barrier to high Teamsters officers. However, Presser was forced to step down in 1975 as a trustee of the pension fund because of new federal regulations on the qualifications of those who govern pension funds.

His place on the board was filled by his son, Jackie. That probably kept in the family most of the $29,000 in allowances collected in 1974 by William Presser from the pension fund, part of a personal income of at least $125,500 he gained from five union jobs that year, according to Labor Department reports. [Jackie did well that year too, collecting $177,000 from his assorted union positions.]

But the federal regulation excluded Presser from serving as a fund trustee only for five years following his last conviction. He quietly returned as a trustee earlier this year, Shannon admitted to The Tribune.

Moreover, the fund's executive director indicated an allegiance to the nefarious Presser. "For what it is worth, I wouldn't be here if it wasn't for Bill Presser," Shannon declared. "When I first came here [to the fund] in 1973, there was great consternation about the new kid on the block and what he was doing. Presser said: 'He stays.' If it wasn't for his gesture, I'd be gone today."

Shannon described Presser as "a hard working individual."

The Central States fund also is struggling with a tax problem that poses a major threat to its future. Charging the fund had been improperly managed, the Internal Revenue Service in late June revoked the fund's tax-exempt status retroactive to January, 1965.

Theoretically, the ruling may mean that the IRS won't allow employers to continue deducting expenses for pension contributions, that it will tax employes for contributions made by their employers, and that it will take a big tax bite out of the fund's already meager earnings.

The IRS, after negotiations with the fund's attorneys, agreed it would not apply the tax ruling on employers and employes until at least Aug. 31. But efforts to tax earlier earnings of the fund's assets may continue.

The ruling was based on a conclusion from IRS audits that the fund has not been operated for the "exclusive benefit" of employes, a strict requirement for maintaining tax-exempt status. In other words, the IRS seems to be supporting allegations the fund has been operated illegally for the benefit of Teamsters officials and their friends.

A settlement of the IRS charges probably will require the union to accept radical reforms, including possible changes in control of the fund, in its investment policies, and other practices that haven't benefited employes. The fund's trustees are fighting the ruling, charging it is "both legally and factually erroneous."

A negotiated settlement that would restore the "exclusive benefit" status is possible, but sources say the fund hasn't yet demonstrated a willingness to take the drastic steps necessary. In any event, it may be some time before the fund's muddy tax status is clarified.

16 DECIDE WHERE THE MONEY GOES

The rich, powerful, and aggressive International Brotherhood of Teamsters is the country's largest and most controversial union.

It represents 2.3 million workers in jobs encompassing the spectrum of American life—from hospital maternity workers to funeral directors, from bubble gum manufacturers and airline clerks to teachers and policemen.

But the union's power base remains the trucking industry, where it consistently has won favorable wages and benefits for its members. Pension and health benefits usually are administered through funds organized by the union and supported by employer contributions.

The largest of about 200 Teamster pension funds is the huge Central States, Southeast, and Southwest Areas Pension Fund. It covers most of the country's truckers—about 480,000 active and retired workers.

Each week nearly 16,300 trucking firms set aside as much as $25 for each of their active employes to pay pensions, disability, and death benefits. The money pours into the coffers of the Central States fund at a rate of $24 million a month—more than $400 million a year.

Assets of the fund, established Feb. 1, 1955, exceed $1.4 billion, according to Daniel J. Shannon, executive director. It is the largest union-operated pension fund in the United States.

In the 12 months ended Jan. 31, 1975, the fund received $283.2 million in employer contributions [the contribution rate was lower in 1974] and had investment income of $51.2 million. It paid out $175.2 million in pension benefits that year. Income exceeded expenditures by $150.9 million.

The fund is run by 16 trustees who have final say on what is done with the money. Eight trustees are Teamster officials, including Frank E. Fitzsimmons, president of the international.

The other eight are executives of trucking companies. Critics have charged these men "rubber stamp" recommendations for fund loans to maintain cozy relationships with the union and to assure favored treatment in labor negotiations.

During the last two decades, the fund has weathered frequent attacks on its policy of making loans to risky real estate ventures, alleged kickbacks, excessive fee payments, and other improprieties. Critics say it has been used mainly to enhance the union's power and to enrich individual union officials and their "friends," including many with unsavory reputations.

In addition to Fitzsimmons, the other Teamsters trustees of the pension fund are William Presser, Cleveland; Roy L. Williams, Kansas City, Mo.; Odell Smith, Little Rock, Ark.; Robert Holmes, Detroit; Donald Peters, Chicago; Frank H. Ranney, Milwaukee; and Joseph Morgan, Dallas.

The employer representatives are Thomas J. Duffey, Milwaukee; Herman A. Lueking, Jr., St. Louis; Albert Matheson, Detroit; William J. Kennedy, St. Louis; Andrew Massa, Bridgeview, Ill.; Jack A. Sheetz, Dallas; John Spickerman, Atlanta; and Bernard S. Goldfarb, Cleveland.

[From the Chicago Tribune, July 31, 1976]

TEAMSTER HOTEL INVESTMENT HERE SHOWS BIG LOSSES

The Teamster union's Central States Pension Fund stands to lose millions of dollars on its investment in a single real estate project, the McCormick Inn on Chicago's lakefront, a Tribune investigation shows.

Indeed, the fund's potential loss from bankrolling the hotel, once planned as part of a $175-million complex, could be nearly $20 million if the Cook County assessor's current opinion or the hotel's worth proves accurate.

The hotel's owners have protested that the assessor's $11.7-million valuation is "excessive"—even though it is little more than a third of the $31.3-million value at which the pension fund is carrying the hotel property on its books.

The pension fund's big prospective loss isn't the only item of interest in the McCormick Inn story. Other parts of the tale include a luxury private jet purchased at pension fund expense from Frank Sinatra and possible conflicts of interest related to the inn's financing by Donald Peters, president of a Chicago Teamster local, and Allen Dorfman, a shadowy power figure in the Teamster union and its pension fund for more than two decades.

The ill-fated financing of the hotel project is a classic example of the poor investment judgment demonstrated repeatedly by the Central States Pension Fund, formed in 1955 to administer pension benefits for most of the nation's truck drivers. Although the fund's assets have grown to $1.4 billion, making it the largest union-operated pension fund in the United States, its investment portfolio is riddled with bad real estate loans like those on McCormick Inn.

The fund faces the possibility of having to take big writedowns in its assets to account for the losses anticipated on many of its real estate ventures. It apparently started that process last year when it established a $50-million reserve for such losses.

The McCormick Inn investment, the fourth largest real estate commitment the pension fund has nationally and the largest in the Chicago area, is one of the many deals being probed by a joint Labor and Justice department federal task force that's been investigating the controversial Central States Fund since last fall.

The pension fund loaned $21.8 million between 1971 and 1973 to McCormick City Ltd., which built the 25-story, 640-room hotel, a check of land records shows. But the developers encountered financial problems and the loans had to be restructured.

As a result, they owed the fund $26.2 million Jan. 31, 1975, fund records obtained by The Tribune show. In addition, the fund listed a $5.1-million value for 17 acres of air rights it now owns under and adjacent to the hotel. The Teamsters were forced to purchase those rights from the developers as part of the loan restructuring.

Thus the McCormick Inn project is carried by the fund as a $31.3 million asset. But the hotel, by the admission of its developers, has been a financial flop since it opened in April 1973.

They put much of the blame on the failure to build the apartments and offices that were to make up McCormick City. Prospects for reviving the project in the foreseeable future are remote, they concede. So, too, are chances the hotel can turn profitable without the activity in the area the other buildings would have generated.

Further, lawyers for the project now claim the Teamsters' undeveloped air rights around the hotel and over the tracks of the Illinois Central Gulf Railroad are worth almost nothing, largely because of zoning problems that are preventing construction planning.

"The only reason I don't walk away from the whole project now is that I have never walked away from anything," says Eugene Heytow, president of Amalgamated Trust and Savings Bank and one of the three original general partners in McCormick City, a limited partnership.

Another of the general partners in McCormick City is Dr. Martin Gecht, chairman of Amalgamated, 100 S. State St. When the McCormick Inn financing was arranged, a director and shareholder of Amalgamated was Donald Peters, president of Teamster Local 743 in Chicago.

Peters also is on the pension fund's board of trustees, which approved the loan to the inn's developers.

During the period the loans were granted, Peters was receiving substantial fees from the pension fund—as much as $41,480 in 1973—for his role in investigating loan opportunities for the fund. Repeated efforts by The Tribune to reach Peters for comment on the McCormick Inn financing were unsuccessful.

In an interview with the Tribune, Heytow discounted Peters' possible conflict of interest as insignificant.

Another peculiar feature of the McCormick Inn loans involves Allen Dorfman, a one-time consultant to the pension fund. Justice Department sources say Dorfman dominates fund affairs to this day, as he has since its inception, whether or not he had an official title with the fund. [Dorfman denies current involvement with the fund.]

Dorfman was a $60,000-a-year consultant to the fund in charge of processing loans when the fund made its initial 25-year loan of $18.1 million at 8 per cent interest to McCormick City in January, 1971.

Barely a year later, in February 1972, Amalgamated loaned Dorfman $700,000 to help him pay for a $3-million, 12-seat Grumman Gulfstream II private jet he purchased from Frank Sinatra.

Dorfman had leased the jet to the Central States Pension Fund, pocketing for himself the big personal tax savings from depreciation on the plane.

Two weeks after signing for the aircraft loan, which actually went to Union Insurance Agency, a partnership of Dorfman and his mother, Dorfman was found guilty of accepting a $55,000 kick-back for arranging another loan from the fund. He eventually served a nine-month prison term on the charge.

The sleek Gulfstream, considered the Cadillac of private jets, served Dorfman well when he and other Teamster officials used it frequently for trips to places like Rancho La Costa, the union's posh Southern California resort development. What role the jet played for the pension fund isn't clear. The lease on the plane eventually was canceled by the Teamster fund because of bad publicity about the arrangement, and Dorfman sold it in 1974.

Dorfman and Heytow firmly deny that the bank's help in financing the plane for Dorfman constituted a kickback. Dorfman told The Tribune he couldn't remember details of the financing but asserted "that [the plane loan] was not the reason they got a pension fund loan."

"I didn't get any financial benefit out of the airplane," Dorfman said. "I never intended to have a jet. I bought it for the utilization of the pension fund. The jet was a tremendous savings to the fund for travel expenses.

"I bought the jet instead of the fund because the depreciation meant nothing to the fund. All I got was the depreciation." [The fund would have been unable to use tax credits generated by the plane because of its tax-exempt status, now being challenged by the Internal Revenue Service.]

Heytow told The Tribune he saw nothing wrong with the Gulfstream loan: "If the Teamsters pension fund came in for an airplane loan, there isn't a major bank in Chicago that wouldn't loan to them." The bank executive noted Continental Illinois National Bank and Trust Co. had financed the remaining $2.3 million of the jet's purchase price.

Reminded that it was Dorfman and not the union that signed the loan, Heytow said: "A loan on an airplane with a Teamster lease on it is a good loan . . . I wish I could get 10 more loans like that. The credit behind the loan was the Teamster credit, not Dorfman's."

"I don't know what one thing would have to do with another," Heytow said. "The bank has many different stockholders and the property has many different partners. You are trying to show something that is not true by putting two facts together."

The banker also said "It was nearly three years from the time we got a commitment from the pension fund for the [McCormick Inn] project until the airplane loan was made."

Shortly after the airplane loan went through the inn's developers found themselves in financial difficulties and went back to the pension fund for more help. They got it in the form of an additional $3.1-million loan granted in December, 1972, also at 8 per cent, and secured by a second mortgage on the property.

Further aid came in June, 1973, when the pension fund gave McCormick City an additional $600,000 at 8½ per cent interest, secured by a third mortgage on the hotel.

It was while this additional financing was being arranged that the pension fund acquired the 17 acres of air rights from McCormick City as part of the loan restructuring. At least one moratorium on repayment of the loans has been granted, according to Daniel J. Shannon, executive director of the pension fund.

If the fund had foreclosed on the developers, it wouldn't have been in any position to get its money back. "We are staying in there to keep faith with the lender," Heytow told The Tribune.

"The Teamsters had no choice but to cooperate by buying the air rights and refinancing the loan," he said. "It was either that or take over the hotel."

Shannon was vague when discussing the

McCormick Inn loan with The Tribune, saying he didn't know details of the refinancing and purchase of the air rights because he had no role in supervising the fund's assets until last year.

"I prefer not to get into details of specific loans until September when we expect to have prepared lists of our loans and other investments," Shannon said. He said he is having McCormick Inn and about 50 of the fund's other major real estate loans appraised to get their fair market value.

The McCormick City project has been troubled from its inception. Plans for developing the air rights over the Illinois Central tracks were first announced in 1959. However, construction didn't start until 1971 because of a lack of financing [which the Teamster fund resolved], the burning of the original nearby McCormick Place convention hall, and legal questions surrounding the air rights.

"Our plans are now in limbo for developing the rest of the project," Heytow said. "Right now that land can't be used for anything."

McCormick City originally purchased three parcels of air rights from Illinois Central Railroad for $5.4 million. [Although the Teamster fund is carrying them at a $5.1 million valuation, Heytow said the fund had paid his group the full $5.4 million when it acquired the air rights in the loan restructuring.]

The hotel was built on one of the three parcels but the other two apparently will be vacant for a long time. Part of the problem is the city's long delay in zoning the air rights, Heytow said.

"The McCormick Inn was never built with just one hotel in mind," he said. "It would be a great hotel spot if something else were up there. The proposed condominiums and nearby office buildings would have helped make the hotel a success."

At the time McCormick bought the air rights, the city of Chicago and the railroad were working on a plan to develop the whole lakefront area between 11th and 31st streets. "But those negotiations fell apart," Heytow said. "Today we couldn't even get a building permit on the two vacant parcels."

As a result, and because the city isn't moving to set zoning for the site, "we are thinking of suing the city and the IC," he said. "Our rights are being taken away."

The developers say the city hasn't even undertaken a study of the area that would be a necessary prerequisite for creation of a comprehensive plan.

Once such a plan was adopted, the Chicago Planning Commission and the city council would have to approve the property as a planned development before any construction could begin. All this would take years to complete.

The city also has failed to follow up on a promise to build a subway to McCormick Place, Heytow said.

These problems plus the recent economic recession and collapse of the real estate market have blocked further work on the project, Heytow says.

Meanwhile, his group has been losing money on McCormick Inn. The hotel had only a 52 per cent occupancy rate last year and suffered a net loss of $943,543 before depreciation, according to an income statement based on 10 months of actual operating figures and two months of estimated results.

The owners have protested to the assessor's office that the 1975 tax assessments on the hotel which put its fair market value at $11.7 million are too high, even though the Teamsters are carrying the same property on the pension fund's books at the $31.3 million total.

"Although the developer may have paid more to build a project, we try to assess a property on the fair market value, or what a buyer would pay for the property now," a spokesman for the assessor's office told The Tribune.

In protesting the assessment, the developers said one of the two parcels of air rights adjacent to the hotel should be valued at nothing even though they had paid $2.1 million for them.

The properties are "non revenue producing" and will be for some time, the complaint said.

[From the Chicago Tribune, Aug. 1, 1976]

TEAMSTER FUND GOOD TO DORFMAN; HE'S "PROUD"

A great many officials of the International Brotherhood of Teamsters have managed to earn a comfortable living through salaries, commissions, allowances, fees, and other forms of remuneration paid them by the pension and health and welfare insurance funds set up by the union ostensibly for the sole benefit of its members.

It's likely that no one has managed a more comfortable income from these funds than Allen Dorfman, whose personal financial machinations have been closely interwoven for years with the business dealings of such Teamster funds. These dealings have made Dorfman a millionaire many times over.

For example, in the last nine years Dorfman's companies have received $21.5 million in commissions and service fees from just one Teamster health and welfare fund, a Tribune investigation into the union's operations has discovered.

These payments are only a portion of the income Dorfman has derived over the years from various Teamster dealings, however. The intricacies of Dorfman's complex and far-flung financial empire, in fact, would awe the chairman of the board of any giant corporate conglomerate.

The problems of running the empire, composed of insurance companies, condominium developments, resorts and other assorted projects, frequently have kept him busy jetting between stops at homes he maintains in suburban Chicago, Wisconsin, Florida, California, and any one of several Las Vegas hotels financed with Teamster pension money.

All of this frequently draws attention to Dorfman, who Justice Department investigators say has been the second most powerful figure in the Teamsters for two decades, though he has rarely held any official position with the union.

Much of this attention has been in the form of unfavorable publicity, particularly since he was convicted in 1972 and served part of a one-year prison sentence for accepting a $55,000 kickback to arrange a loan from the Teamster Central States, Southeast, and Southwest Areas Pension funds.

Dorfman says he's sick of reading "all this crap in the press" about himself and the troubles of the Central States Fund. Because of a large number of questionable real estate loans on which it faces big losses and other charges, the fund is the subject of major federal government investigations into its affairs.

In an interview with two Tribune reporters—"The first one I've given in over 10 years," he says—Dorfman says he's proud of the investment record of the pension fund.

The fund has an investment portfolio that includes $900 million of outstanding loans to hotels, motels, gambling casinos, and other real estate ventures, many of doubtful value.

"The Teamsters are building for the American people," he boasts. "The American people are the beneficiaries of all these Teamsters loans."

Dorfman also insists the $1.4 billion pension fund has done a "magnificent job" for the nation's truck drivers. "It can stake its record against any fund in the country," he says. "Can you name one union or one employer that pays the pensions the Teamsters do?"

Dorfman's aggressive defense of the pension fund throughout the interview sounded somewhat strange for a man who insists he hasn't had anything to do with the pension fund for 3½ years. Throughout the session, he referred to the fund as "we," however.

The interview was conducted in Dorfman's luxurious office suite on the second floor of the 10-story Teamsters-owned office building at 8550 W. Bryn Mawr Av..

The building houses the headquarters of the pension fund and the union's health and welfare fund, which have common trustees and the same executive director, Daniel J. Shannon, a one-time political protege of Mayor Daley.

It is the Central States Health and Welfare Fund that has paid Dorfman's companies the $21.5 million in the nine years ended Jan. 31, 1975, according to documents inspected by The Tribune. The records showed $3.2 million of the payments were commissions and the remaining $18.3 million were service fees.

Earlier this year, the fund became self insured and Dorfman's firms lost the commissions. However, his firms continue to receive service fees from the Teamsters.

When asked about these payments, Dorfman says he was shocked that they amounted to that much, but quickly defended them. "We've got 300 employes [in his insurance service companies] and the most sophisticated computer systems for processing claims in the U.S.," he says. "And the Teamsters are one of our bigger clients."

Dorfman was attacked for taking excessive commissions from the Teamster funds. The late Robert Kennedy, who headed a Senate rackets committee staff in the late 1950s, said the committee established that over an eight-year period Dorfman and his mother, Rose, a partner in the firm, had collected $1,650,000 in "excessive fees" from the union, all of it constituting a payoff to them from "money coming out of Teamter members' pockets."

After the Senate investigation, the Dorfmans lost the right to do business in the state of New York.

Dorfman got his start with the Teamster union when Jimmy Hoffa gave Dorfman's fledgling insurance company the Teamster health and welfare account in 1950, allegedly in return for Hoffa's introduction to important figures in the crime syndicate by Dorfman's father, federal officials said.

Hoffa, until his disappearance a year ago, had been a constant defender of Dorfman, despite many charges against him and his dealings with the union's welfare funds. In the interview, Dorfman refused to discuss Hoffa's disappearance.

While Hoffa ran the union, Dorfman was known as the No. 2 man in power in the Teamsters. He is said to have maintained that position under Frank E. Fitzsimmons, who succeeded to the presidency of the union after Hoffa went to prison in March, 1967. At the time, Hoffa was quoted as saying, "When Dorfman speaks, he speaks for me."

Dorfman was named a consultant to the Central States Pension Fund a few days after Hoffa went to prison for jury tampering. From then until late 1972 Dorfman processed all loans made by the $1.4 billion fund and was responsible for arranging many of the major loans still on the fund's books.

Although he told The Tribune he misses being involved with the fund, he insists he has had nothing to do with it in years. Shannon, the executive director of both the pension fund and the health and welfare fund, also told The Tribune that Dorfman's only role now is with the latter fund.

Yet Justice Department sources insist Dorfman continues to be the power behind the pension fund, too, calling all the shots on moves it makes.

The sources also told The Tribune that Dorfman has close ties with the crime syndicate. Terrorists Anthony "Tough Tony" Spilotro and Joseph "The Clown" Lombardo, both members of the old Felix "Milwaukee

Phil" Alderisio gang, were codefendants last year with Dorfman in a trial in which they were accused of defrauding the Central States Pension Fund of $1.4 million in loans secured by an insolvent Deming, N. M., factory.

Another defendant was Irwin Weiner, a Chicago bail bondsman and crime syndicate associate said by government sources to be "the brains behind Dorfman because he [Dorfman] isn't that smart." The defendants were acquitted. A key witness in the case was killed in gangland style shortly before the trial began.

Of Spilotro and Lombardo, Dorfman told The Tribune: "I never met them until I walked in the courtroom and was arraigned. They seemed like two real nice guys. I don't know anything bad about them but what I read in the newspapers.

Of Wiener, a longtime associate of the Alderisio gang, Dorfman says: "I've known Irv Wiener all my life and if he is organized crime, then I'm the pope."

Dorfman blames the government charges for causing the pension fund's loss on the New Mexico plastics factory. "Had there not been interference, they would have preserved the assets," he says. "They would have made a viable entity out of it. Instead, all you media people did was harass them."

Discussing the 16 trustees of the Central States Pension Fund, the men who approve the fund's loans, Dorfman says: "I've worked alongside them. You couldn't find a more dedicated group of fellows. I don't know of any trustees up there who are fools."

He says "they are pretty astute businessmen and labor leaders" who would never intentionally make any bad loans. "Why do you want to fault them for helping in the progress of the nation?" he asks.

Several of the trustees are partners with Dorfman in various of his enterprises and two of them also were codefendants in the Deming fraud trial.

Continuing his defense of the pension fund, Dorfman insists he has done a fine job during his tenure as a $60,000-a-year consultant.

He says his role "was to preserve the pension fund's assets." Only $45 million of the fund's $900 million in real estate loans are delinquent, he says.

"Show me a major lending institution in this country which can show a loss factor as small as that," he says. "It's better than average for banks and insurance companies.'

Dorfman became extremely defensive when told that his $45 million figure didn't include vast amounts of the pension fund's real estate loans which already have been restructured because their recipients couldn't meet repayment schedules.

"Wouldn't you rather rework a loan than foreclose?" he asks. "The biggest lending institutions in the U.S. recast their loans or give moratoriums. Why do you want to fault bad loans made 10 years ago? Who was going to prejudge that a loan would go bad?"

FUND ILLS "GOOD" FOR LAWYERS

The Teamsters' Central States Pension Fund has been accused of paying excessive fees and commissions to those involved in arranging its real estate loans, which comprise about two-thirds of its $1.4 billion in assets.

Now many of those loans have gone bad and the pension fund is faced with the embarrassment of taking millions of dollars of losses on them.

But one thing seems certain: The lawyers and other agents retained by the pension fund to help resolve its bad loan problems are certain to do well for themselves in the process.

Two who already have are Thomas D. and James Flanagan, politically well-connected brothers who have been retained for the fund by its executive director, Daniel Shannon, a former member of the Daley Democratic machine.

The Flanagans' real estate and insurance firm, Heil and Heil Insurance Co., Evanston, once employed Mayor Daley's son, John, and later received nearly $3 million insurance business from several government bodies under Daley's control.

Thomas Flanagan has an arrangement with the fund under which he is handling tax appeals on Teamster properties in return for fee of 25 per cent of the first year's tax saving on any reduction he wins for the pension fund, according to a spokesman for the fund.

Earlier this year, in a case involving the Canterbury Shopping Center in Markham, Flanagan apparently earned a fee of $33,750 for getting the shopping center's taxes reduced by $135,000. He won from the County Board of Tax Appeals a drop in the financially ailing center's assessed valuation of $1,284,199 from $2,399,625—a cut of more than $1.1 million from the 1975 assessment.

But the pension fund stands to lose at least $1.7 million on the property, which it now owns after being forced to foreclose last year on its mortgage loans to the center.

A second corporation involving James Flanagan, Terracom Development Group, Inc., is attempting to sell the shopping center. With the property valued at $1.5 million according to an appraisal done for the pension fund last December, sale of the property could bring a fee of more than $100,000 at a 7% commission rate.

In an unrelated transaction handled by James Flanagan, Heil and Heil received a reported $25,000 commission on the sale last year by the Teamster fund of the Sheridan Plaza Hotel, 4607 N. Sheridan Rd. The commission amounted to more than 31 per cent of the $80,000 sale price for the decrepit hotel, a rate considered unusually high by real estate experts.

According to records filed in Washington by the fund, James Flanagan, who is not a lawyer, also received a $35,000 "legal fee" in the year ended Jan. 31, 1975, from the fund. Officals of the fund said that payment must have been for court-ordered receivership fees for the Sheridan Plaza.

Court files indicate only that on June 30, 1975, Flanagan was paid a $12,500 fee for handling the hotel.

The Flanagan brothers couldn't be reached for comment on their fee arrangements.

The Canterbury Shopping Center offers a case study of the risks involved in shopping center loans. Because real estate loans in general are considered less secure than other investments, less than 2 per cent of the assets of all pension funds in the United States are invested in real estate.

Yet the Teamster fund has put most of its money in real estate, much of it in the riskiest types of real estate.

Although Shannon, the fund's executive director, won't discuss the fund's loss on the property, The Tribune has pieced together the financial history of the project from land records and a copy of the appraisal ordered by Shannon from William McCann & Associates.

The pension fund gave Canterbury, located at 159th Street and Kedzie Avenue, two mortgage loans totaling $4.2 million—one for $3 million in 1960 and another for $1.2 million in 1963.

The pension fund foreclosed on the loans last December, still being owed $3,245,084 in unpaid principal, interest, property tax advances, and court costs. But the appraisal valued the property at only $1.5 million, less than half the Teamsters' remaining investment in it.

"The owners did not even attempt to negotiate a moratorium on principal or interest," said Thomas Flanagan in his tax appeal. "They felt this project was so helpless that they abandoned it by sending the leases and keys to the mortgage holder without any negotiation or warning," he said.

The shopping center's last owner apparently was U.S. Investment Fund, a Bahamas mutual fund. USIF was merged last year into Arlen Realty & Development Corp., New York City.

A spokesman for Arlen said his company had never taken over the Canterbury Shopping Center when it acquired USIF, however. "We looked it over and decided not to take it over because the taxes were too high to make it worthwhile," he said. "We gave the property back to the mortgage holders (the Teamsters' pension fund)."

The McCann appraisal concluded the shopping center's "economic viability" appears to be limited "for the near future." It cited a high vacancy rate in the center and surrounding area and the location nearby of three more modern, enclosed-mall shopping centers. Canterbury doesn't have an enclosed mall.

The appraisal also noted that "real estate values (in Markham) are static to declining due in part to the concentration of economically disadvantaged persons in the community."

Terms of the loans on the property were modified and final payment schedules extended in May, 1968, indicating the pension fund had ample warning of the center's troubles long before it defaulted.

Shannon acknowledged the undesirability of the pension fund's past concentration on real estate loans. He said he would like to diversify its assets to reduce real estate investments to 50 per cent.

But the difficulties it is experiencing in trying to get out of all its bad loan situations will hamper such efforts.

[From the Chicago Tribune, Aug. 2, 1976]

TEAMSTER INN INVESTMENTS TURN SOUR

The International Brotherhood of Teamsters long has had a penchant for investing its members' pension money in Chicago area motels and hotels. But big or small, old or new, most of those they have picked have turned out to be losers.

That pattern holds true whether you look at the sleek newer resting spots the Teamsters have financed, like the 640-room lakefront McCormick Inn or the 915-room O'Hare Hilton Hotel, or at rundown hotels like Uptown's Sheridan Plaza, or at cheap truckers' stops like the Motor World West in suburban Forest View.

For many weeks Tribune reporters, working from a list of the outstanding loans of the union's big Central States, Southeast and Southwest Areas Pension Fund, have been digging through land records, court files, and other documents on these and other real estate ventures of the controversial fund.

Some $900 million of the Central States fund's $1.4 billion in assets is tied in real estate, with Illinois ranking among the top four states as a recipient of the Teamster largesse. Most of the fund's Chicago area loans have gone to hotels and motels. The Tribune study turned up a number of recurring features of these loans:

Loans were doled out with little or no regard for poor histories of the projects involved or for their risky prospects.

Some went to recipients with crime syndicate ties.

Invariably loans went to recipients without credit availability elsewhere for properties which prudent financial institutions were not interested in financing.

The properties usually lost money after receiving Teamster loans, resulting in delinquencies and restructuring of many loans.

Refinanced loans often failed a second time.

Many loans are carried on the fund's books at inflated values because outstanding loan balances are much higher than the property's real worth.

The fund is faced with having to absorb heavy future losses on many of the loans.

The Chicago-based pension fund's curious past loan activity, both in the Chicago area

and elsewhere, is the subject of a joint investigation by the federal Justice and Labor departments. They are exploring extensive charges of mismanagement and wrongdoing in connection with use of its assets.

In Saturday's editions, The Tribune disclosed that the Teamster fund is threatened with a substantial prospective loss on its largest Chicago investment, McCormick Inn, which the Cook County Assessor says is worth only a fraction of the $31.3 million at which the pension fund is carrying the inn and associated air rights on its books.

The inn's developers now say it has flopped financially chiefly because of the failure of the city to come up with plans that would allow future development surrounding air rights and bring more business to the hotel, located at 23d St. and Lake Shore Dr. It had an occupancy rate of only 52% last year and an estimated operating loss before depreciation charges of nearly $1 million. Its owner McCormick City Ltd., says it is worth less than its assessed $11.7 million fair market value.

A Chicago banker consulted by The Tribune said the lack of really firm assurances that the related development would materialize "probably should have warned the Teamsters off" the project in the first place. "Other potential financiers probably were aware that the convention hall [McCormick Place] alone would not provide enough business for a large hotel in that otherwise isolated location," he said.

It is considerations like this that make hotels and motels risky ventures in the eyes of most investors. Most pension funds refrain from investing in them or other forms of real estate, preferring "safer" forms of investment like stocks, bonds, and government securities.

Appraisers who specialize in motels concede they are among the shakiest of all real estate loans. An appraisal of one founder-ing Teamster-funded motel-restaurant, obtained by The Tribune, says the risk in operation of such facilities in a large metropolitan area like Chicago "is considered greater than many other types of real estate properties because of the variables which affect the quantity, quality, and durability of the income stream."

The appraisers, Joseph A. Nowicki and John B. Roadhouse, cited location, management, style and size, physical facilities, habits of travelers, the economic base of the immediate area, and competitive facilities as major variables that can quickly and significantly affect a motel's viability.

A classic example of a Teamster motel loan gone bad is the Motor World West at 5225 W. 47th St., Forest View, a $6-a-night stop for truckers.

The fund's loans on this property went to a borrower, Sam Rantis, with ties to the crime syndicate. The motel already was a bad credit risk, Rantis' R & A Motel Corp. having defaulted on a previous loan. Attempts to "preserve the assets" by lending money to a new owner after Rantis was arrested in 1970 resulted in further loss.

Finally, the property became outmoded and was sold for $350,000 to the Lewis University Endowment Fund at a loss of nearly $350,000 from the $698,415 value at which it was carried on the fund's books. The pension fund is still involved, having loaned all but $25,000 of the purchase price to the buyer. It's the fund's third mortgage loan on the motel.

The first loan on the property was made in 1965 when R & A Motel Corp., headed by Rantis, borrowed $650,000. It was then in default on a 1963 loan of $125,000 from Virginia Corp., which filed suit on the day before the Teamster loan was signed against a guarantor of the loan.

The guarantor, Henry Weber, an assistant corporation counsel for the city of Chicago, says he lost his interest in an Arlington Heights office building because he had signed for Rantis' loan "as a friendship thing."

Rantis used the $650,000 loan to finance a 77-room addition to the original 40-room motel. Investigators say they found it "unbelievable" that Rantis could get such a large loan because of his background.

They say he was an associate of such hoodlums as Manny Skar, Thomas Potenza, Mario DeStefano, Joseph Ferriola, and others.

In 1965, Rantis obtained a federal gambling tax stamp for the motel. In 1970, Rantis and five others were caught counterfeiting $500,000 in $5 bills in the motel. He was sent to jail for 11 months and lost the motel, which had been under foreclosure proceedings since 1968.

By the time the Teamsters got the deed back on the property, R & A owed more than $700,000 in interest, unpaid principal, and court costs. The pension fund then sold the building for $702,000 and provided the new owner, Modern Inns Inc., with a five-year loan at 3½ per cent interest for the full purchase price.

A year later, Modern Inns sold the motel to G. Reamer Loomis, a South Side real estate operator. Loomis paid the company $50,000 and assumed the loan payments which remained in Modern Inn's name.

But in 1975 the new owners defaulted too, despite the favorable terms, after paying only $3,585 of principal and owing the pension fund $729,463 in unpaid principal, interest, and court costs.

The motel was worth only $325,000 according to an apraisal done last year by William A. McCann and Associates Inc. for the Teamsters. "A considerable amount of deferred maintenance has been allowed to accumulate and the property is in rather poor condition," the report said.

The Report, underlining why motels can be risky long-term investments, pointed out that truckers must share washroom facilities in the motel while newer trucker motels have private baths. Most motels have relatively short economic lives due to the nature of their use," the report says. "As lifestyles change, customer acceptance of the older and outdated types of motels also change and, even though they may still have a long physical life, they become functionally obsolete and lose their profit-making ability."

As an aside to the Rantis story, he disappeared on Dec. 7, 1973, and his body was found in the trunk of an auto at O'Hare airport on Feb. 4, 1974.

According to police, he had become involved with two syndicate "juice loan" collectors, Joseph Grisafe and Sam J. Marcello, whose dismembered bodies were found in July, 1974, in 55-gallon drums behind Rantis' sandwich shop. They had been missing since Nov. 24, 1973. Three checks written to them by Rantis that had bounced were found on their bodies.

Police say they believe later slayings of two other men were related to the three deaths.

Another area motel on which the pension fund has run into trouble is the Ramada Inn in Dolton at 154th and the Calumet Expressway. The pension fund has had to foreclose on its one loan on the 142-unit motel and has had to modify repayment terms of a second.

The pension fund took over a mortgage loan on the motel from Continental Illinois National Bank and Trust Co. in 1964, but started foreclosure proceedings a year later. By the time the foreclosure was completed in 1967, the original owners owed the pension fund $2,392,270 in unpaid principal, interest, and court costs.

In 1968, the Central States fund agreed to sell the motel to H. Z. Enterprises for $1,540,000, lending the buyer the money at 5% interest payable in $9,000 monthly installments over 25 years.

Records checked by The Tribune show the principal owed on the property increased slightly between Feb. 29, 1972, and Jan. 31, 1975. Harry Zaidenberg, owner of H. Z. Enterprises and a Chicago attorney, banker and real estate man, told The Tribune he has never missed a payment, however.

But Zaidenberg did concede that during a "rough period" he had worked out a deal with the pension fund to lower his payments to $5,000 a month for a period of three or four years.

Zaidenberg said he agrees that motels are risky "but I happen to like the business and if you like it you're in it."

"If the Teamsters offered me another bad one, I'd look at it," he said. "I'm looking for more land investments."

Zaidenberg was a director of Modern Inns, the firm which defaulted in 1974 on a pension fund loan covering the Motor World West in Forest View.

The Ramada Inn Downtown, once known as the Imperial Inn at 506 W. Harrison St. in the shadows of Chicago's main post office, is still another Teamster-backed motel that has never lived up to its financial expectations.

The pension fund has loaned it $2,350,000. While it hasn't had to foreclose on the loan, at least one six-month moratorium on principal payments has been granted, according to records obtained by The Tribune.

The motel, built in 1962, has had financial difficulties from the start. In March, 1963, it reported it had recorded a mere 42% average occupancy rate and "prospects for an immediate future increase [in the occupancy rate] are dim."

Six months later the Teamster fund loaned the motel $2 million. It added another $350,000 loan in 1966, although the assessor has never placed more than $1.6 million fair market value on the motel.

The motel affiliated with the Ramada Inn chain in 1968 in the hope of improving business but by 1973 the motel owner had to ask for the repayment moratorium. In 1972, the motel's food and drink concessionaire backed out mid-way in a 10-year contract "because of the distressed condition [of the motel] and the inability of the lessee to sustain its operation." In 1974, the motel complained "the decline of the area in which it is located" was hurting business.

The pension fund has bankrolled a former Chicago strip joint operator in his ownership of the Mart Inn at 125 W. Ohio St.

"It was one of the good loans they made," Harry Boshes, president of Trans-American Construction Co., owner of the motel, told The Tribune.

Maybe so, but that's not the tune being sung by the motel's attorney who has told a tax hearing the property "consists of a very old structure which was remodeled into a motel several years ago." The facilities and amenities are such that the motel "is at a competitive disadvantage with new and more modern facilities," he said, adding it is in "a very poor area for a business."

Boshes, who operated several North Clark Street and South State Street strip joints in the 1940s and 1950s and had a few scrapes with the police during that time, borrowed 1.7 million from the pension fund in 1966. After recent losses on the motel's operation, he obtained last year a 12-month moratorium on principal repayments.

Almost $1.3 million is owed the pension fund on the motel loan but the property today is worth only $850,000, not including its parking garage, according to a complaint filed with the Board of Tax appeals by Boshes' attorney.

The pension fund, after a 13-year struggle, has taken a loss of about $800,000 on the Sheridan Plaza Hotel at 4607 N. Sheridan Rd.

The fund made and foreclosed on two mortgages on the aging structure—the first a $600,000 loan in 1962 and the second for $650,000 in 1967. During the entire period neither borrower made any significant repayments and the fund had to pay nearly $200,000 in taxes and other expenses.

The hotel had been hit by several fires and continually plagued with uncorrected building code violations that by 1973 reduced its permissible capacity to 132 rooms from an original 407. In 1974, a Teamster attorney estimated it would cost $595,000 to bring the property up to building code standards.

The rundown hotel, now boarded up, was sold at auction last year for $80,000.

The pension fund seems headed for trouble with its $16 million loan on the big O'Hare Hilton Hotel, although payments on the loan are current. The loan is the fund's second largest in the Chicago area, exceeded only by the McCormick Inn financing.

The hotel, located on city property at the airport and opened in June, 1973, has been a heavy loser for its owner, Midwestern Hotel Inc., a subsidiary of Madison Square Garden Corp. According to records filed with local government bodies, the hotel had losses before taxes of $2.9 million in 1974 and $710,000 in the first five months of 1975.

Madison Square Garden Corp., which has been unsuccessfully seeking a buyer for the hotel, has told the Securities and Exchange Commission the hotel has lost money since its opening and will again this year.

The pension fund hasn't been totally unsuccessful at salvaging some of its bad loans, however.

In 1974, the fund foreclosed on a $1.75 million note it held on the Flying Carpet Motor Inn, 6465 N. Mannheim Rd., Rosemont. It was still owed $1.34 million in principal at the time but the 176-room motel was sold at auction last year for $2.13 million, with the new owners assuming the Teamster mortgage.

[From the Chicago Tribune, Aug. 3, 1976]

RISKY TEAMSTER LOANS OFTEN GIVEN TO CRONIES

When Melvin Woldorf and Maurice Kay bought a $43,000 condominium in Florida in 1971, they obtained it from their friend, Allen Dorfman, who just happened to have one for sale in a North Miami Beach development he was promoting.

That Woldorf and Kay, co-owners at the time of a Skokie car dealership, should be dealing with Dorfman was perfectly normal and proper, all three men say.

But other businessmen might not agree. That's because just a few months before the condominium transaction, Dorfman, then a $60,000-a-year consultant to the big Central States Pension Fund of the International Brotherhood of Teamsters, had processed a $650,000 loan from the fund that bailed his two friends out of a serious financial jam.

Dorfman long ago pocketed the benefits of his dealings with Woldorf and Kay. The 485,000 beneficiaries of the pension fund are still waiting. The fund's $650,000 loan, along with two others it gave Woldorf and Kay, is under a moratorium on principal payments and is not being repaid.

That persons getting loans from the $1.4-billion fund should end up doing some personal business on the side with Dorfman is not the least bit unusual, however. Throughout most of the 21-year history of the fund that's the way it's been done.

A long Tribune investigation of the controversial fund's peculiar loaning practices has turned up numerous examples that indicate transactions of the fund generally involved a high degree of cronyism. Borrowers from the fund, Dorfman, trustees of the fund, and others closely associated with it have been deeply enmeshed in personal business transactions that were closely related to official fund business.

Where the fund is concerned, friendship with principals regularly replaced normal criteria for determining the soundness of a loan. As a result, millions of dollars of trucking employes' pension money has been lost or jeopardized by risky and bad loans extended to motels, hotels, gambling casinos, real estate developments, and other businesses with shaky outlooks.

Allegations that the pension fund's administrators have played free and easy with the vast sums entrusted to their care are at the heart of current federal investigations of the fund, known formally as the Central States, Southeast, and Southwest Areas Pension Fund.

The story of the Woldorf-Kay dealings with the Teamster fund begins in October, 1967, when the two received their first loan from the fund, also $650,000 secured by the car dealership, Public Pontiac, and newly built office space at 3120–60 W. Ogden Av.

"I just don't remember how we got involved with the fund," Woldorf says now. "I know a lot of people that know other people at the fund."

However, in a court deposition Woldorf has said his "initial contact" at the fund was Dorfman, whom he had known previously.

"I've found Mr. Dorfman to be a first-class gentleman," Kay says. He said he first met Dorfman after filing of the first loan application with the fund.

"I've sold his family cars and leased cars to his insurance agency," Kay said. "His Amalgamated Insurance Agency is a very good customer."

[Amalgamated is one of several firms Dorfman operates primarily to do business serving Teamster funds. He has collected more than $21.5 million in fees and commissions from such business in the last nine years.]

Ten months after getting the first loan, Kay and Woldorf agreed to purchase for $1.4 million the real estate, personal property, and accounts receivable of Peter Epsteen Pontiac, 7501 N. Lincoln Ave., Skokie.

"We had a marvelous business on Ogden until the riots began on the West Side," Kay said. They moved Public Pontiac to the Skokie location.

Terms of the Epsteen purchase gave the partners 18 months to come up with $620,000 to be applied to the purchase of the real estate portion of the package.

But the two defaulted on the due date [March 6, 1970], blaming among other things "the general nonavailability of mortgage financing, the rise in interest rates, and the general decline in the new and used automobile business."

A new sales agreement was reached but Kay and Woldorf defaulted again, the matter ending up in court with the sellers trying to gain an eviction and the buyers charging the profitability and assets of the purchased Peter Epsteen dealership were misrepresented.

Kay and Woldorf charged, among other things, that the net operating profits of Peter Epsteen Pontiac had been represented as being $367,265 in 1967 and $137,921 in the following seven months, when in fact they were less than $25,000 and $20,000, respectively.

Reached at a Las Vegas hotel, Epsteen, who has moved to the West Coast, told The Tribune "there was nothing to any of those claims."

Epsteen drew criticism in 1968 from the Chicago Crime Commission for his alleged association with hoodlums. Also, he is an associate of Harold Gibbons, a Teamster vice president and head of the union's St. Louis operations who once was regarded as the likely heir to Jimmy Hoffa as international president.

In the middle of the litigation fight, Kay and Woldorf suddenly came up with a letter of commitment from the Teamster pension fund for a $650,000 loan at 9.5 per cent interest over 20 years to cover the remaining purchase price. The court suits were dropped and the deal completed in December, 1970.

Four months later, Kay and Woldorf bought their condominium in the Canongate Apartments in North Miami Beach from American & Overseas, Inc., according to Dade [Fla.] County records. American & Overseas is a Dorfman-controlled company operating out of his office in the Teamster pension fund building at 8550 W. Bryn Mawr Ave., Chicago, near O'Hare International Airport.

"I was involved in Canongate," Dorfman said in an interview.

Dorfman and several of his Teamster cronies developed Canongate, a 137-unit project that Dorfman modestly calls "the most beautiful apartment ever built in Florida."

Dorfman, Kay, and Woldorf all denied the condominum purchase was related to the fund's granting of the bail-out loan for Public Pontiac.

"I know the timing sounds bad but it wasn't anything like that," Kay said.

"What pathetic thinking," Dorfman said, contending that he couldn't have been forcing loan recipients into dealing with his own development because owners of Canongate condominiums who have resold them have "doubled their money."

Woldorf said the condominium was purchased through Al Baron, not Dorfman. He said he had heard about the condominum "from many people" and went down to Florida to look at it. "I liked it. . . . I like to golf," he said.

The condominium is located on the grounds of Sky Lakes Country Club which was financed with Central States pension fund money.

Baron at the time was a pension fund lawyer involved in processing loan applications. He had helped with the Kay-Woldorf applications. After Dorfman was convicted in February, 1972, of accepting a $55,000 kickback in return for arranging a pension fund loan, Baron took over as the man in charge of the fund's assets and loan processing.

Baron left the fund in March of last year. A federal grand jury reportedly is investigating charges by a California businessman that he had to pay Baron $200,000 in kickbacks to get a $1.3-million pension fund loan.

Baron has been a protege of Dorfman's involved in many of Dorfman's business deals. He served as a director of Dorfman's Amalgamated Insurance Service Agency, Inc., for years.

Two more Dorfman associates who helped develop Canongate were Cal Kovens and Zachary Strate, both of whom were convicted along with Hoffa in 1964 on charges of diverting more than $25 million from the pension fund.

Other Canongate condominium owners have included Frank Fitzsimmons, Teamster international president, and William Presser, a pension fund trustee who returned to the board earlier this year after being forced to step out temporarily because of a previous criminal conviction.

"I never met Presser but I think Woldorf once rented him a car," Kay told The Tribune. "But you are wrong if you are under the impression that there was any hanky-panky. There never was any kind of payoff or finders fees for us getting the Teamster loans. And you're not the first to ask those questions. . . . The IRS [Internal Revenue Service] asked questions too."

After moving to the Skokie location, Public Pontiac ran into hard times. In 1974, Kay bought out Woldorf's interest in the auto agency, and Woldorf got the condominium.

Last October, Kay asked for and received from the fund a two-year moratorium on principal payments on the 1970 loan and a subsequent $225,000 loan granted in 1973.

"I was doing very poorly when I asked them to suspend payments," Kay said. "We bought a great big white elephant. I've often regretted we made the move we did."

He blamed the Arab oil embargo and decline of Pontiac's position in the car industry. "In 18 months my business dropped in half," he said. Public Pontiac last year listed and accumulated operating deficit of $316,000. At the time of the moratorium,

Kay owed $799,768 in principal on the Skokie property.

The firm's troubles should not have been too surprising to the lenders. Loans on car dealerships are considered high risks by more typical lending institutions because the facilities usually cannot be used for other purposes and because year-to-year fluctuations in business volumes for individual dealers can vary widely.

Last January, Kay sold the business to another dealer, retaining the real estate that secures his Teamster loan. "The property is worth consirably more than what they loaned me," he said.

Meanwhile, things have not gone well for the original Kay-Woldorf loan on their old Ogden Avenue location. Another car dealer to whom they leased the property abandoned it in 1971. In July, 1972, a fire burned most of the facility.

Kay and Woldorf have gone to court in an attempt to collect their full $358,538 insurance claim in the property. Their insurance company paid only $177,937, contending the full claim was "substantially in excess of the actual loss sustained."

The insurance money went to the pension fund, which still is owed at least $200,000 on the property.

Another "friend" of the Teamsters, Chicagoan Perry Franks, has been involved in two deals that were hatched on golf courses.

Franks said he took over a small shopping center in Mesa, Ariz., from the fund after golfing with Fitzsimmons in 1970.

"He told me the Teamster pension fund had a bad investment in Mesa and asked if I would take it over," Franks told The Tribune. "I didn't make anything out of it. It was a small project, small stores. But I made it turn around and now it is a viable project—not making a lot of money but at least it is paying its mortgage."

Franks used the property itself as his security for a $615,000 loan from the Teamster fund to pay for the purchase, on which the fund previously had foreclosed. The fund renegotiated the deal at least once. Franks said he's no longer involved.

Franks said another golf date with Jay Sarno, owner of the Circus Circus casino in Las Vegas, lead to him taking over the pin ball machine room and bumper car ride concessions in the casino, which has $22 million in outstanding Teamster loans.

Dorfman apparently has done business with Sarno as well. In 1968 Dorfman reportedly got an option to buy 6.3 percent of the Circus Circus stock for $75,000 with an arrangement that the purchase price be paid entirely from dividends on the stock.

Dorfman and Franks are old friends. In 1967, the two were driving to a golf course when two gunman fired four shotgun blasts into Franks' car as they were leaving Dorfman's Riverwoods home in north suburban Chicago.

Justice Department sources believe Dorfman was shot at by crime syndicate figures "to keep him in line."

"I almost lost my life," Franks said. "It cost me a new car and it was an embarrassment. The IRS and others have been on my back ever since. It's harassment and I resent it."

Asked about the propriety of the pension fund's business dealings with his friend Franks, Dorfman said: "So what if I have the availability of a friend to take over a bad loan. What's wrong with it?"

[Editorial from the Chicago Tribune, Aug. 4, 1976]

TEAMSTER PENSION FUND SCRUTINY

In this issue The Tribune's Task Force concludes a five-part series on the Central States, Southeast, and Southwest Areas Pension Fund of the Teamsters union. These articles have detailed numerous investments of money collected from the employers of rank-and-file union members. This fund has 485,000 potential beneficiaries, who hope to derive retirement income from $1.4 billion of nominal assets.

The first article in the series stated in general terms findings of long investigation by George Bliss and Chuck Neubauer of our Task Force. One summary sentence stated: "The investigation shows conclusively that in Illinois, as elsewhere, the pension fund has lost millions over the years in serving as the banker for persons who cannot get loans elsewhere."

Trustees of other people's money cannot be expected to be successful in every investment decision, but the prudence reasonably expected of trustees has been spectacularly lacking in the handling of Central States' money. We have reported in detail one venture after another into real estate of "the riskiest types," one loan after another to borrowers who could find little if any credit except among their buddies among handlers of union money. Our Task Force reports strongly bring into question, for instance, any thought that union members got full value for the $21.5 million paid in the last nine years to Allen Dorfman, influential participant in pension fund decisions.

Members of many unions have tolerated undemocratic and arbitrary government of their unions by a handful of self-perpetuating officers. The typical member has complacently assumed that as long as the union got him ever higher pay he had nothing to worry about. This attitude obviously is irresponsible towards the public and towards employers. But many a member has been unconcerned about what the union did as long as he got his.

Our Task Force study of the Central States pension fund should, however, undermine such complacency. Union officials responsible to no one do not necessarily make the best trustees of pension funds on which union members rely for future income. The sour investments detailed in our series suggest that among the victims of Teamster officials may be the very union members who have been indifferent to what their officials did.

The federal departments of both Justice and Labor have also been investigating the Central States pension fund. Their findings are not expected for some months. When the findings of fact are in hand, there will still be some questions about the powers of the federal government over pension funds, as new legislation in force less than a year has not yet been fully interpreted by the courts. Clearly, government should vigorously prosecute whatever criminal misconduct is discovered.

But irresponsible union officials should fear their own membership, as well as government. It is past high time that union members insist on genuinely contested elections to union office, and on accountability from their officials. Sometime, we hope, monarchical conduct by union officials will cease to be tolerated by union members. Our Task Force report on the Central States pension fund should contribute substantially to this change for the better.

A HANDICAP IS JUST AN INCONVENIENCE

Mr. PELL. Mr. President, one of the truly important events of next year will be the convening of the White House Conference on Handicapped Individuals. In preparation for this conference, each State will hold regional and State conferences on the handicapped to discuss problems and solutions, victories, and continuing frustrations, in the efforts of handicapped individuals to lead full and independent lives.

One real benefit of these statewide conferences is that they bring to our attention the accomplishments of handicapped persons, and show us just what can be accomplished by someone who works hard, with the right kind of support, and with the right kind of motivation.

Margaret and Frank Fusco of Johnston, R.I., are both handicapped, although Frank prefers to refer to his cerebral palsy as an "inconvenience." Frank could not walk until the age of 16, and the Bureau of Motor Vehicles made him wait almost 10 years before they would give him a road test, but today Frank Fusco owns and runs his own landscaping business, drives his own tractor, and Margaret Fusco is the company's secretary and a moving force behind an organization of women, all of whom have polio, cerebral palsy, or other crippling diseases.

A sensitive and moving article by David A. Narsavage about the Fuscos appeared in the Providence Journal, entitled "For Frank Fusco, Infirmity Is 'Inconvenience—That's All,'" and I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

We can certainly all learn from the Fuscos. I am confident that, after these State conferences and the National Conference on Handicapped Individuals have been held, we as a Congress and as a Nation will see, more clearly than ever, that a handicap can also be seen simply as an "inconvenience."

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

[From the Providence Journal, Aug. 31, 1976]

FOR FRANK FUSCO, INFIRMITY IS "INCONVENIENCE—THAT'S ALL"

(By David A. Narsavage)

JOHNSTON.—The way Frank Fusco tells it, he was born with an "inconvenience." Because that's his definition of handicapped people—"those born with an inconvenience. Simple. That's all it is."

An inconvenience, his cerebral palsy. Simple, the fact that he entered a hospital at the age of two and didn't come out until he was 10. That's all it was, for a boy who was never supposed to work, drive, walk and only barely talk, but who did it all any way and has his own landscaping business today. Born with an inconvenience is all.

It just wasn't as easy as it is for others. His crying mother forced him to help himself, staying downstairs while Frank dressed himself from 10 a.m. to 4 p.m. After finally teaching himself to walk in his own halting manner at 16, he helped support himself with a lawnmower, both physically and financially. But cutting neighbors' lawns only earned him a few dollars a week, and he was wearing out a special pair of shoes every two weeks.

After 10 years and about 20 written driving examinations, in all of which he excelled, he was finally allowed the chance at a two-hour-plus road test. He passed, and today he drives his own bulldozer. Despite the fact he's had potential customers slam doors on him, "because they thought I was drunk, or didn't want their children to see me or hear me," he's established enough of a business to "just pay the bills and stay in the red like everybody else." And doctors once said he was helpless.

"The important thing is not whether you can be helped, but whether you want to help yourself. Maybe I'm where I am because I was never given a plugged nickel. And if I can make a success of myself, anyone can."

Because of his "inconvenience" and the way he's worked to live around it, Fusco, 44,

has been asked to help organize one of the regional public forums being held this month by the Rhode Island Conference on the Handicapped. Opinions culled from these forums will be passed along next spring to the White House Conference on Handicapped Individuals, the first national conference of its kind. Fusco, who has been a member of the state Advisory Council for the past eight years, is only too glad to help.

"If anything is to come out of the state conference and the White House conference, I'd like to see it be the means for more representation of the handicapped on state and municipal boards, like the Board of Regents, or the Governor's Council on Unemployment, or anything where such representation could be an education for those who aren't handicapped. Because ignorance is the greatest obstacle we have to overcome."

When Fusco was a child, his father worked two contracting jobs to pay the hospital bills, hoping those long years until finally there was no breakthrough, and medicine could help Frank Fusco no longer. It was up to Fusco and his parents then, and he credits their "hands-off" attitude with his remarkable development.

"They refused to baby me, and I know that was so very hard for my mother. But they were determined to not treat me any different than their three other children, to not give me any special privileges, and to be just as proud of me as they were the others. That requires a lot of work, and the parents have to be very hard, but it pays off for the handicapped in the long run."

In Fusco's case, he escalated from cutting nearby lawns to part-time gardening at the old Elmhurst Academy, first in Providence and then in Portsmouth. After he was laid off, he started his own business in 1964. Although he's capable of performing virtually all the tasks required, he employs two men regularly.

His good friend Frank Rivers started working with him at Elmhurst ("We kept everything in the back of an old beach wagon") and still does today, 22 years later. Fusco's uncle, 76-year-old Mario Impagliazzo, is the other regular employe. "He's a workhorse."

With the winning of his driver's license and the forming of his humble company, two of his three life's goals had been accomplished. He was still determined to share his life with a woman he loved.

His wife, Margaret, had polio as a child and walks with the aid of crutches. They met at a 1959 grade school reunion, both products of the old educational policy of keeping handicapped children apart from their peers, in their own school. They married in February of 1966.

Fusco designed and helped build their attractive Johnston home so that his wife needs no more than seven steps to move from one room to another. She stays home to act as secretary of the landscaping firm, and stays active with the Merriettes, a women's social organization she co-founded 30 years ago. All of its members have polio, cerebral palsy, or other crippling diseases.

Fusco says he is lucky. He can laugh at the way people have misinterpreted his speech and walk, and he can cry at conditions he has seen at the Ladd School. "I've had my laughs there too. I volunteered there once during a strike and it took me two hours to convince two patients, young men, that I wasn't another patient, flopping around the way I was."

It hasn't been as easy as it is for most. "My father once told me he'd be happy if I could just learn to take care of their yard and live my life with them doing that." Fusco smiled and lowered his voice. "But I went a little further." Because he was just born with an inconvenience. That's all it is.

HENRY HAZLITT ON THE REVAMPED IMF

Mr. HELMS. Mr. President, one of the most illustrious names in traditional economics is that of Prof. Henry Hazlitt. A long-time economic commentator and author of important texts on monetary matters, Professor Hazlitt was an early critic of the International Monetary Fund set up under the Bretton Woods international monetary system, which collapsed several years ago.

The Senate will be asked soon to approve a revised IMF. It is basically a stamp of approval for international monetary anarchy. The new IMF substitutes paper reserves—which are worth exactly the same as politicians' promises—for reserves which represent real resources. In the past, the real resources used were gold.

Under a stable system of international monetary exchanges, foolish policies would lead to direct, measurable costs to the Nation debasing its currency. Today, the offending nations risk only the frowns of international bankers. The currencies now "float" so that inflation is made easy and the international marketplace is left without a stable measure of value.

Mr. President, I ask unanimous consent that Professor Hazlitt's statement on the IMF bill 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 BY PROFESSOR HENRY HAZLITT ON H.R. 13955, A BILL TO AMEND THE BRETTON WOODS AGREEMENT

I am gratified by the privilege of submitting testimony to this distinguished committee on the present proposed amendments to the IMF agreements.

My name is Henry Hazlitt. I am the author of fifteen books, most of them on economic subjects, and one of them specifically on What You Should Know About Inflation. From 1934 to 1946, I was a member of the New York Times Editorial Board, and wrote most of that publication's economic editorials. From 1946 to 1966, I wrote the signed weekly "Business Tides" column for Newsweek magazine. From 1966 to 1969, I wrote a twice-a-week internationally syndicated column for the Los Angeles Times Syndicate. My book on foreign aid, Will Dollars Save the World?, published in 1947, was condensed to 5,000 words by the Reader's Digest and published in all twenty of its international editions. I testified on the original foreign aid proposals at that time at the request of both the House and Senate Commitees in charge of the implementing legislation.

The bill before your committee might most appropriately be labelled: "A Bill to Promote Further American and World Inflation and Increasing International Economic Chaos, and to Make it Almost Impossible for the World or Any Individual Nation Ever To Restore a Sound Monetary System."

This is not its actual title. Officially it is a bill "to provide for amendment of the Breton Woods Agreements Act, and for other purposes." It is advocated by the Treasury Department. Secretary Simon, testifying in its favor, called it "the single most important piece of legislation in the international monetary spere since the Bretton Woods legislation itself." In one sense he was right. It would work more havoc in that sphere than any legislation passed by Congress since it accepted the Bretton Woods Agreements of 1944.

To view these latest proposals in perspective, it will help to recall a little histroy. Thirty-two years ago, a group of officials from some forty nations, under the leadership of Lord Keynes of England and Harry Dexter White of the United States, decided to set up a monetary system that would be a huge improvement, they thought, over the classic gold standard because it would drastically reduce the monetary role of gold. Only one currency, the U.S. dollar, would have to be convertible into gold—and even then no longer at the demand of anybody who held dollars, but only at the request of foreign central banks. All the other currencies were to be kept convertible merely into the dollar. With the dollar anchored to gold, and all the other currencies tied to the dollar, stability would be assured, and the need for gold reserves would be minimized.

The system seemed to relieve every other country but the United States from strict monetary discipline. If any country got into trouble it was assured almost automatic loans and credit to bail it out. The agreement also provided that any nation could at any time devalue its currency by up to 10 per cent, and explicitly stipulated that "the Fund shall raise no objection." The real but unstated and unacknowledged purpose of the Bretton Woods Agreements, as the present writer pointed out at the time (in The American Scholar, Winter 1944–45) was "to make resort to inflation easy, smooth, and above all respectable."

As early as 1949 the system started breaking down. The British pound was devalued 30 per cent on Sept. 18 of that year—from $4.03 to $2.80. Twenty-five other countries devalued within the following week. In succeeding years there were hundreds of devaluations of currencies in the Fund.

What had been overlooked from the beginning was the enormous increase in the burden and responsibility that the Bretton Woods arrangements put upon the United States. For the other countries could hold dollar reserves on the assumption that this was just as good as holding gold reserves. But their curency stability was, in fact, made dependent on the soundness of the dollar.

Yet successive U.S. governments remained completely oblivious of the gravity of the responsibility we had assumed. Our officials kept undermining the dollar—by foreign aid, huge domestic spending, chronic and mounting budget deficits, and by pushing down domestic interest rates and increasing the money supply. By 1968 we had practically ceased keeping the dollar convertible into gold, even by central banks. And on August 15, 1971 we abandoned the gold standard even officially.

Our repudiation of our solemn commitment was followed by mounting inflation, devaluations, and monetary disorganization everywhere. There seemed no longer any point in maintaining fixed exchange rates. There was not even any agreement on what they could be fixed to.

So what is our government now proposing as the cure? It is proposing to intensify everything that caused the disease.

The chief effect of the International Monetary Fund from the beginning has been to serve as an engine of inflation. The IMF is to be continued. Not only that; it is to be given more resources to play with. The United States is to be asked to turn over enough more dollars to increase its quota in the Fund by the equivalent of 1,705 million Special Drawing Rights (SDRs). And the IMF is to have its powers of inflation increased still further by being allowed to create more SDRs and by the relaxation of certain rules to make the SDR "a more usable asset."

What is an SDR? It is paper money—a

credit on a book—and it is to be issued as a "reserve" against national paper currencies. What is an SDR worth? That's an interesting question. When originally created in 1968, it was defined in terms of gold—though never convertible into it. It is now defined "in terms of a weighted basket of the market exchange rates of 16 major currencies, with the dollar representing approximately one-third of the basket." So even the nominal value of the SDR is changing every day and even every hour. But suppose you wanted to convert it into something definite? Something you could measure, weigh, feel, touch, or bite. What is par? You still don't seem to get the idea. It has no par. And the basket of currencies in terms of which it is defined has no par. The American dollar, one-third of that basket; is no longer to have any par. Nor any other currency. Now do you understand?

And yet, Secretary Simon tells us, the U.S. and other members under the new legislation accept "an obligation . . . to collaborate with the Fund toward the objective of making the SDR the principle reserve asset of the international monetary system." It is not only to be "an asset" but the "unit of account."

How can it serve as an asset and a unit of account when its own value is constantly fluctuating, and has to be recalculated every minute? Tomorrow, say, the German mark in terms of the dollar and the dollar correspondingly declines in terms of the mark. Has the mark risen or the dollar fallen? In olden days, when we had par values and a gold standard, the answer was easy and immediate, and suggested who should take the appropriate corrective steps. But now? Ah yes, we have the SDR, the "unit of account." But the value of the SDR is itself determined by the value, among other currencies, of the mark and the dollar, and has just been changed by the change in their value. Talk about relativity! Which is measuring which? Which is the image and which the mirror. Have we entered Wonderland? Or a lunatic asylum?

What is to happen to gold, which for centuries served this international unit-of-account function among others? Gold is to be treated as if it were something far more dangerous than heroin. We quote from the summary of Secretary Simon: "The new provisions of the IMF Articles of Agreement also promote the process of phasing gold out of the system—by abolishing the official price of gold and gold's role as common denominator of the system, by eliminating all requirements to use gold in transactions with the Fund, and by providing specific authority for future disposal of the Fund's gold holdings."

That isn't all. Not only must gold continue to be dumped on the market, depressing the price so that our monetary mismanagers can avenge themselves on the "gold bugs"—that is, on the people who seek a refuge for their otherwise evaporating paper money sayings—but government or central bank buyers must be prevented from entering the market as buyers.

As Secretary Simon says elsewhere, in addition to the present proposed legislation, "important side arrangements have been agreed among the Group of Ten—the major gold-holding nations—to assure that gold does not re-emerge as a major international monetary asset." Their understanding provides that participating nations "will not act to peg the price of gold" and 'will agree not to increase the total stock of monetary gold." That is, they will agree not to be buyers, no matter to what tempting low levels the IMF sales reduce the price of gold.

The Fund is to be "prohibited from accepting gold except by specific decision, by an 85 percent vote." It is to be "empowered to dispose of its remaining gold holdings," and it is to be turned in effect into another giveaway agency. The proceeds of its gold sales are to be "used for the benefit of developing countries." Let us remember that it is the American people's gold that is to be simply given away.

This is madness. Currencies are depreciating and in chaos everywhere because the world's monetary managers and officeholders, and specifically our own, did not have the integrity to abide by the requirements of the gold standard. So now, instead of acknowledging that this was mainly if not solely the result of their own bad faith and endless issuance of excessive paper money, they seek to make the gold standard itself the scapegoat, and to get legislation passed that would immensely increase the harm already done and tend to perpetuate international currency chaos.

If we ask what should be done instead, the first and main part of the answer is simple. Abolish the IMF. It has been from the beginning mainly an engine promoting international inflation. Whatever stabilizing function it may once have served ceased completely on August 15, 1971, when the U.S. openly abandoned gold convertibility for the dollar. The IMF's continuance now is inexcusable.

Gold, the only real asset of the Fund, should not be sold, but should be returned to the individual nations that originally turned it over to the Fund. It should be given back in proportion to each nation's present quota in the Fund. No further printing of SDRs should be permitted. Outstanding SDRs should be cancelled, and their holders compensated in gold at approximately the closing open market price of that metal (in terms of SDRs) on the day before the decision is reached and announced. This gold would be deducted pro rata from the amounts each country would otherwise receive back from the Fund in proportion to its quota.

Then each country would be on its own, and once more fully responsible for the soundness of its own currency. If it got into trouble, it could claim no automatic credit from other countries, but would be obliged to turn to private creditors. That might do something to restore discipline.

Inflation in most individual countries would no doubt continue for a while, but countries would at least cease exporting their inflations to each other.

For a variety of reasons, government return to a gold standard would probably not for a long time be practicable. But what Congress can and should do immediately is to provide that contracts calling for payment in gold (or, for that matter, in silver, platinum, or what not) voluntarily entered into by private parties, shall not only be legal but enforceable in the courts. When governments can no longer compel everybody to do business in their depreciating paper currencies, the prospects for monetary reform will be appreciably nearer.

MISLEADING INDUSTRY PROPAGANDA ON OUTER CONTINENTAL SHELF LEGISLATION

Mr. JACKSON. Mr. President, I expect that Congress will soon be sending to the President the Outer Continental Shelf Lands Act Amendments (S. 521) which has been passed by both the Senate and the House of Representatives and is now in conference. I am aware that the oil and gas industry is exerting every effort to prevent final congressional action on this legislation. One aspect of the energy industry campaign is a so-called "procedural leasing flow chart" which purports to prove that enactment of S. 521 will cause delays in production of at least 24 months.

This chart, which was sent to every Senator by the National Oceans Industry Association, is extremely misleading. For example, it implies that the requirement that the Secretary of Interior adopt a 5-year leasing program will prevent any leasing between the date of enactment and adoption of the program. This is wrong. The bill expressly provides that leasing can continue prior to the deadline for approval of the leasing program which is 18 months after enactment. The bill even allows leasing to continue after that time if the program is undergoing administrative or judicial review.

The flow chart also indicates that the requirement that the Secretary seek applications for stratigraphic drilling once in each frontier area "may take years." The fact is that the Secretary of the Interior can establish the time period during which he will seek applicants.

The flow chart implies that the review of environmental impact statements by State Governors and regional advisory boards will add 2 months to the leasing process. This is wrong. This review would take place at the same time that general public review would occur as is indicated on the flow chart itself.

The flow chart indicates another 2-month delay for regional advisory board and State Governor reviews on lease sale. It indicates that this period would come after the publication of the sale notice. Once again, this is wrong. This review would take place before the sale notice was published.

Finally, the chart implies that the requirements for a development and production plan and for State Governors review of such plan may lead to a delay of as much as 18 months. There are several errors in this portion of the chart. First, the chart implies that an environmental impact statement would be required on every development and production plan. This is not true. The bill simply requires one impact statement on a proposed development and production in each frontier area. Aside from this, the bill does not change the existing requirements of the National Environmental Policy Act which are applicable under the existing leasing system to development plans.

THE PASSING OF CHAIRMAN MAO TSE-TUNG

Mr. PERCY. Mr. President, the passing of Chairman Mao Tse-tung is the passing of an era in which he won a country, established a unique government, and improved the living standard of his people. Mao's China became a focus of international interest and concern, a nation of growing prestige and influence.

At this time, as millions of Chinese mourn, we should reflect on our relations with the People's Republic and determine that we will continue to do what is necessary to increase understanding and further reduce tensions in the interest of world peace. We want a relationship with China that is based on honest dealings and good will, so that neither will be a threat to the other. We want broader

exchanges of governmental leaders and private citizens, of cultural groups, of business people, of tourists. We want more consultation on the issues which bring us together and the issues that divide us. We want to be more open with each other, talking frankly and talking frequently. We want to fully implement the Shanghai Communique of 1972 between the United States and the People's Republic of China.

As China faces a future without Chairman Mao, we wish our friends there a future of peace.

I concur with the editorial position of the Washington Post:

Poet, revolutionary strategist, political organizer and theoretician, warrior and diplomat, shaper of a nation and molder of a people, Mao Tse-tung strode on a vast stage. Wielding a powerful idea—China's revival—at the historical moment when its time had come, he gathered great power and rallied the energies of a great people. For better or worse, he created a new China, and thereby changed the world.

THE MEANING OF "GROUP" IN THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, critics of the Genocide Convention have often challenged article III of the convention. They claim that because genocide is defined as an act directed toward destroying a group either in whole or in part, individual acts of homicide can be termed genocide.

Article III states that "genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, social, or religious group, as such." The Senate Foreign Relations Committee, in its recommendation to ratify the treaty, declared its understanding of this passage to include only acts committed in such a manner as to effect a substantial part of the group concerned. It is clearly a subversion of the language of the convention to suggest that this definition allows homicide to be construed as genocide.

The convention also carefully excludes any acts that do not arise from an intent to destroy the group as a group. Therefore, lynching, birth control clinics, school busing, harassment of groups, or any acts directed against only one member of a group, though deplorable, are not outlawed by this convention. The Genocide Convention, in clear and unambiguous language, seeks to outlaw only the crime of genocide.

Because genocide is defined to include intent as a necessary component of the crime, it would be very difficult to sustain a charge of genocide against anyone. But by doing this the writers of the convention sought to underscore the seriousness of a crime that is not committed against single individuals but against a specific group of people. Let us also realize the serious nature of this crime and do our small part to prevent the occurrence of it by ratifying the Genocide Convention.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. 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.

RECESS UNTIL 10:45 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 10:45.

There being no objection, the Senate, at 10:25 a.m., recessed until 10:45 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. STONE).

QUORUM CALL

Mr. ALLEN. 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.

ANNOUNCEMENT OF MEETING WITH SECRETARY KISSINGER TODAY

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate, I wish to announce that at 2:45 this afternoon, in S. 207, off the corridor, the Secretary of State, Mr. Kissinger, will meet with as many Senators are are interested to discuss the African situation.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

FOREIGN ASSISTANCE APPROPRIATIONS, 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 14260, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 14260) making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the Senator from New York is recognized for 10 minutes.

Mr. JAVITS. Mr. President, I ask the Chair to notify me when I have used 8 minutes.

Mr. President, I wish to address the distinguished manager of the bill (Mr. INOUYE) respecting that section of the bill which appears at page 6, line 17, to page 7, line 17.

Mr. President, the question of whether the Appropriations Committees of each House should have the authority of acting as if they were, each of them, the respective House which they represent, is a very, very difficult one for me and has been for some years. It is made even more difficult by the fact that I have the deepest personal affection, respect, and confidence in Senator INOUYE and Senator BROOKE. Indeed, I know of no other two Senators in whom I have any more confidence than in these two very distinguished Members. It makes it very difficult for me.

Having been in the position of struggling here all my legislative life to win for the Congress the equality of powers with the President as typified by the war powers resolution, which it is entitled to under the Constitution, I must hold the balance fairly in my own conscience and also act when I think the Congress is itself surrendering powers to a committee which it has no business to do.

Mr. President, we know that this particular measure is in very delicate balance, that it took a long time to work out, and that it would be a disservice to materially rock the boat by starting to struggle over this particular provision at this time. But we all live together here. Therefore, I have sought the opportunity to raise the issue on two levels: One, to pinpoint the fact that the Appropriations Committees of each House are, by this particular section, given the powers of the Congress, because only they are entitled to give approval to a change in any basic program—and they are all specified in this section—respecting foreign aid. So the money which is appropriated, may, with the approval of the two Appropriations Committees, be used for a totally different purpose than was justified by the committees as respects that money and that power is the power of the Appropriations Committees, not the power of the Congress.

Mr. President, this provision is probably subject to a point of order on the ground that it is legislation. We will have a vote on germaneness after considerable debate.

As I say, this matter at the moment is held in such delicate balance that I do not feel it would be a service to carry it on now. But I do feel that that level which I have described, to wit, that of the powers of the Congress, and the second level, which is also very troubling to me, that is, that these are foreign relations and foreign affairs matters, yet the two committees of each House are excluded from these approvals by the fact that they are confined only to the Appropriations Committees.

On one occasion, Senator INOUYE accepted an amendment to include Foreign Relations and the International Affairs Committees but that was very promptly dropped in conference.

This provision is not in the House bill. Theoretically, it could be amended in conference to include the Foreign Relations Committee and the International Affairs Committee. I am not encouraged that it will be included, by previous experience.

Under these very pragmatic questions of principle which I have raised, I would like to ask the manager of the bill the following: Will the manager of the bill undertake to advise the Foreign Relations Committee as to any actions which are taken by the Appropriations Committee of the Senate under this particular section?

If those actions relate to classified

matters, obviously the Senate Committee on Foreign Relations has just as much standing respecting secrecy on foreign aid as does the Appropriations Committee. I address that question to the manager.

I also advise him that at a meeting of the Foreign Relations Committee this morning I was instructed by the committee, in the name of the committee, to make that request of the manager of the bill.

Mr. INOUYE. Mr. President, as chairman of the subcommittee, I would be most pleased to meet with the Senator from New York, or with the Foreign Relations Committee, to establish some procedures, if such procedures are necessary, to see that the Foreign Relations Committee is also made aware of proposed program changes of which we are notified under this provision.

Mr. JAVITS. That is characteristic of the Senator. I knew what his answer would be. I will so inform the chairman and the ranking member. I thank the Senator very much. I thank the Senator for disposing of it at this time.

Mr. President, I ask unanimous consent that I may yield 2 minutes to Senator PERCY, of Illinois.

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

Mr. PERCY. I thank the Senator.

Mr. President, the distinguished Senator from Hawaii and I have discussed the Asia Foundation.

I was concerned to note that the $4 million intended by AID as a general support grant to the Asia Foundation for fiscal year 1977 has been removed from the foreign assistance appropriation bill. It was approved by the House, but has been deleted in the Senate Appropriations Committee. The committee's report recommends that this $4 million be withheld until—

. . . any subsequent request for funding demonstrates that the Asia Foundation will fund at least 50% of its total budget from private sources.

This recommendation was made on two grounds:

First. That Asia Foundation programs did not meet current foreign assistance objectives, and

Second. That a large percentage of cash income of the foundation was from Government sources and, therefore, its status as a private voluntary organization was in question.

Since 1954 the Asia Foundation, a publicly supported, nonprofit organization, has worked in more than a dozen countries of Asia to help the people of Asia to find ways and means to solve the problems of human resource and leadership development in ways that serve both Asian and American mutual interests in an interdependent world. In the post-Vietnam era this type of program would seem all the more in the national interest as we build a stronger relationship with the nations of Asia based upon their own appropriations.

As to its private funding, I would point out that support for the foundation's work has come since its beginning from a combination of private and public funds and contributions in goods—primarily textbooks, reference books, and journals—and services which were always used to supplement the Asian beneficiaries' own efforts and resources, both human and material, on particular projects.

Over the past 7 years the proportion of private input from a wide variety of American and Asian private sources has risen significantly to the point that it can be shown that cash and in-kind private contributions are almost dollar for dollar in value equivalent to U.S. Government cash input: Since 1969 the total of nongovernmental contributions, in cash and in-kind, has amounted to $33,101,808. From 1969 the total value of cash grants from all U.S. Government sources has been $33,351,043. This would demonstrate that the foundation has, in effect, met the 50-percent requirement specified in the committee report. I ask unanimous consent that a chart summarizing 7 years of public and private support for the Asia Foundation be printed in the RECORD.

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

ENCLOSURE 1

THE ASIA FOUNDATION—LEVELS AND SOURCES OF SUPPORT: 7-YR SUMMARY, FISCAL YEARS 1969–75

	State Department	A.I.D.	Other	Total
I. PUBLIC SUPPORT				
1969	$400,000	$2,102,000	$15,617	$2,517,617
1970	500,000	3,116,440	12,636	3,629,076
1971	750,000	3,825,000	17,984	4,592,984
1972	775,000	3,786,000	86,200	4,647,200
1973	850,000	6,036,000	11,000	6,897,000
1974	950,000	5,317,166		6,267,166
1975	900,000	3,900,000		4,800,000
Total	5,125,000	28,082,606	143,437	33,351,043

II. PRIVATE SUPPORT	Corporations	Foundations/ organizations	Individuals/ others	Total
A. Private sector cash contributions to operating fund:				
1969	$36,387	$6,822	$28,291	$71,500
1970	102,947	128,700	2,054	233,701
1971	56,056	134,172	35,953	226,181
1972	158,230	46,533	29,750	234,513
1973	113,403	303,050	7,010	423,463
1974	355,036	172,585	30,003	557,624
1975	129,706	138,761	11,678	280,145
Total	951,765	930,623	144,739	2,027,127

	Annual ending balance	Draw down of principal	Trustees' gifts	Interest earned
B. Private sector cash contributions to, and income from, endowment fund:				
1969	$3,707,154		$91,777	$144,970
1970	2,890,227	$1,038,122	37,650	177,954
1971	2,375,875	777,954	43,473	219,639
1972	1,946,386	694,639	51,550	199,664
1973	2,218,871		47,544	126,618
1974	2,543,421		43,665	162,666
1975	2,817,520	245,000	61,828	195,542
Total		2,755,715	377,487 +	1,227,053
			1,604,540	

	Books and journals	Equipment	Other	Total
C. Private sector contributions-in-kind:				
1969	$3,126,587			$3,126,587
1970	6,561,861		$300	6,562,161
1971	3,226,423	$559,130	300	3,785,853
1972	4,023,531		2,050	4,025,581
1973	4,500,063	20,000	300	4,520,363
1974	3,286,616	10,000	10,980	3,307,596
1975	4,142,000			4,142,000
Total	28,867,081	589,130	13,930	29,470,141
Grand total				33,101,808

	Amount
Total public sector support	$33,351,043
Total private sector support	33,101,808
Grand total	66,452,851

Mr. PERCY. Mr. President, a redoubled private fundraising effort is underway, and the foundation's goal is to add each year new corporate and foundation donors to its list of private supporters. But it will still be necessary for the Asia Foundation to continue to seek funds from the U.S. Government as well.

The congressional mandate of the current foreign assistance program in Asia focuses upon food and nutrition, population planning, intermediate technology, as well as the broader ranges of education and human resource development. The emphasis is on delivery of the benefits of development to the poorest sectors of developing societies. Much of the foundation's effort is directly aimed at this sector, and supplements larger bilateral and multilateral efforts in these fields.

I would also like to mention the Asia Foundation's books for Asia program and its special Bicentennial Year project, which will send more than one million high-quality American textbooks, reference books, classics and scientific, technical and academic journals to Asian users as gifts. These donations are from all parts of the United States, from people of all walks of life. The books are estimated to be worth almost $5 million. Books for Asia has supplied books to

dozens of libraries, to thousands of students and teachers, where the need exists.

In a recent message, U.S. Ambassador to Indonesia, David Newsom, expressed the view that we would be doing Indonesians and ourselves a disservice if Asia Foundation programs were reduced. By sustaining our support for Asia Foundation we will be supporting an organization with an established record of excellence in identifying and carrying out programs which are responsive to some of Indonesia's critical development needs.

In my discussion with the distinguished Senator from Hawaii, I was reassured to learn that if the Asia Foundation continues to meet in the future 50 percent of its total budget by cash and in-kind contributions from private sources, it would be in compliance with the previously quoted provisions of the Senate report. I concur that this matching requirement is a worthy one.

Mr. President, the Asia Foundation is a valuable asset which should be strongly supported because it demonstrates how, in very concrete ways, the United States can assist Asians through an experienced organization which brings into play the public and private sectors. I trust that this unique private organization can continue to receive the essential Government funding so necessary to keep the foundation alive.

Mr. President, I concur completely with the objectives of the distinguished Senator from Hawaii because we do wish to move the Asia Foundation as far as we can toward being a private foundation. It has a totally private board. It is operated as a private activity. It has a stepped-up program to increase its cash contributions.

The provision in the Senate bill, which is not incorporated in the House bill, says that any subsequent request for funding demonstrate that the Asia Foundation will fund at least 50 percent of its total budget from private sources.

A tremendous amount of the work of the Asia Foundation is in the education field. Through the years they have worked out arrangements with publishers who have contributed to them the very texts that they would have to buy.

Requiring them to achieve a 50-percent level from private sources in cash and in kind is an objective that this year can be met and will be met. If it were all cash, it would simply be impossible to meet that objective. It would mean the Asia Foundation program, which is an extraordinarily valuable program, would collapse.

Certainly, post-Vietnam these are the very kinds of things we ought to be carrying on in Asia to keep our contacts strong, and to let Asia know we do not intend, because the war is over, to lose our interest in that very important part of the world.

I am delighted that the chairman of the subcommittee of the Foreign Relations Committee (Mr. MANSFIELD) is in the Chamber today.

I would ask confirmation of the conversations I have had with my distinguished colleague from Hawaii, that the Foundation would comply with the wording of the report if 50 percent of their private contributions in cash and in kind have been achieved.

Mr. INOUYE. If the Senator will yield, I will try to speak to his concerns. The committee was faced with this situation: The Asia Foundation in the last fiscal year raised 11 percent of its financial needs, while the U.S. Government provided 89 percent of the Foundation's budget. We felt this ratio of 89 percent to 11 percent was so disproportionate as to call into question the Asia Foundation's qualification as a private volunteer organization.

We realize that the Asia Foundation has endeavored to receive collections in kind, but we have been told that the value of some of these in-kind contributions have been a bit inflated. Some book companies have apparently been providing contributions of so-called surplus books of undetermined value. I am not suggesting there is fraud being committed, but I believe that the Asia Foundation and, indeed, all other voluntary organizations, should make an extra effort to increase cash revenues from private sources. I must ask how can the Asia Foundation be called a private volunteer organization, when the Federal Government is providing up to 89 percent of the Foundation's cash requirements? That is our major concern.

Mr. President, I ask unanimous consent that an earlier letter which I sent to the distinguished Senator from Illinois regarding this matter be printed in the RECORD at this point.

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

JULY 19, 1976.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR CHUCK: Thank you for your letter with reference to the pending foreign assistance appropriations bill as it relates to fiscal year 1977 funding of The Asia Foundation.

I share your support of utilizing Private and Voluntary Organizations to support our foreign assistance efforts. Nonetheless, I do not believe that any organization which receives nearly eighty percent of its cash resources from the United States government is properly classified in this category.

The Committee will, therefore, be most interested in the forthcoming report of the Canham Panel and has asked to see a draft of its findings at the very earliest possible date. I am hopeful that the Panel's report will address the concerns raised by the Committee in its fiscal year 1977 Report on foreign assistance appropriations.

You are quite correct in noting that this matter will be an item in conference and I can assure you that I will keep your views in mind as the conference proceeds. I must say, however, that I do not believe it unreasonable to expect private organizations to raise fifty percent of their cash needs from private sources.

Sincerely,

DANIEL K. INOUYE,
Chairman, Subcommittee on Foreign Operations.

Mr. PERCY. I concur. I have talked with a number of trustees, such as George McGee, the former ambassador. They do have a very distinguished board. A strong effort is being made to increase the cash contributions. The objective is a worthy one.

The board has, as I understand, no quarrel with it; it is just a matter as to whether or not their program can be fulfilled.

The PRESIDING OFFICER. The time of the Senator from New York has now expired.

Mr. INOUYE. Let me assure the Senator from Illinois that this matter will be discussed in conference, and his viewpoint will be made known to the conferees.

ADDITIONAL STATEMENTS

Mr. MUSKIE. Mr. President, the Senate is now considering H.R. 14260, the foreign assistance and related programs appropriation bill for fiscal year 1977. I support this bill. I would like to comment briefly on its relationship to the Senate-passed second budget resolution for fiscal year 1977.

H.R. 14260 appropriates funds for bilateral economic development assistance, the Peace Corps, development assistance through multilateral banks, security supporting assistance, and military assistance. This bill provides $5.4 billion in budget authority and $6.3 billion in outlays for fiscal year 1977, including $4 billion in outlays from prior year appropriations.

The foreign assistance appropriation bill is consistent with the assumptions made in the second budget resolution functional ceilings for National Defense and International Affairs within which this bill falls. When the full Appropriations Committee revises its allocation to the Subcommittee on Foreign Operations pursuant to section 302(b) of the Congressional Budget Act, the outlay overage of $0.1 billion shown on page 29 of the latest Senate Budget Scorekeeping Report, September 7, is likely to disappear.

Mr. President, while there are several possible requirements not covered by this bill which may require later funding, we believe that they can be accommodated within levels provided in the second budget resolution. This does not signal, however, an open-season for floor amendments and supplemental requests—the budget is very tight, particularly on the outlay side. It will be essential for us to approach any possible later requirements with great restraint if we are to stick to the second budget resolution spending ceilings.

I wish to extend my appreciation to my good friend, the distinguished Senator from Hawaii, Senator INOUYE, chairman of the Subcommittee on Foreign Operations, for his efforts in bringing before us a bill which is consistent with the second budget resolution. I believe the bill funds adequately our several essential development assistance—both bilateral and multilateral—programs.

I note that Senator INOUYE has included language in this bill, as he did in last year's bill, that would require Appropriations Committee approval of new projects not previously justified, or increases in previously justified projects. I strongly support this congressional control; it is an important asset to the congressional budget process. I ask unanimous consent that a memorandum on this subject from the chairman of the subcommittee be printed in the RECORD at this point.

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

U.S. SENATE,
Washington, D.C., June 30, 1976.

DEAR COLLEAGUE: I want to call to your attention a most important administrative or "housekeeping" amendment to the fiscal year 1977 Foreign Assistance and Related Programs Appropriation Bill which restores to the Congress control over administrative reprogrammings of appropriated funds. Under the present schedule this bill will be taken up on the Floor on Thursday, July 1.

The Administration has historically contended that its annual presentation of foreign assistance to the Congress is only "illustrative" and therefore, once approved, can be altered at will between countries and projects. We saw this happen a few years ago with worldwide Public Law 480 programs being concentrated into Southeast Asia when appropriations for programs in that area were reduced. We saw it again last October when the Administration sought to push through a $22.7 million loan to Zaire as an addition to its fiscal year 1976 program.

The bill before you includes the same provision as the fiscal year 1976 bill and simply requires the Appropriations Committee's approval of new projects or increases in projects not previously justified to the Committee. If we are to control the ultimate allocation of the funds we appropriate, we must control reprogrammings. I am convinced this provision is both a reasonable and effective means of dealing with this age-old problem.

Any Member of the Senate who believes in Congressional control over spending can enthusiastically support this provision. I personally urge you to do so.

Sincerely,

DANIEL K. INOUYE,
Chairman, Subcommittee on Foreign Operations.

U.S. INVESTMENT OPPORTUNITIES IN BOTSWANA

Mr. PERCY. Mr. President, recent news from southern Africa has focused on the very tragic political developments in that region: civil war in Angola, racial strife in South Africa, and escalating guerrilla warfare in Rhodesia. However during my trip to southern Africa in April, I had the opportunity to visit the Republic of Botswana, the one nation in that volatile region without racial problems or political strife, and where recent mineral discoveries offer the promise of a prosperous future. Its progress is timely to note while considering the Foreign Assistance Act of 1977 that has important new provisions for southern Africa.

Recently, Botswana was judged the most democratic nation in Africa by New York's Freedom House. Yet, despite its enormous size and economic potential, Botswana has been largely ignored by the world press. Perhaps this lack of attention is because good news is all too often no news; and I can assure you Botswana definitely is good news. Under the able leadership of President Sir Seretse Khama—one of Africa's most respected leaders—Botswana is distinguished for its record of democratic, multiracial government, political stability, and rapid economic growth. I would like to take this opportunity to encourage the American business community to examine the excellent climate for American investment and trade that Botswana offers.

On September 30, Botswana will celebrate its first decade of independence. During the past 10 years, this traditionally poor, landlocked, Texas-sized nation, with a population of 700,000, has undergone a remarkable transformation. In 1968, the discovery of diamonds and a large copper-nickel deposit dramatically changed Botswana's prospects. The subsequent development of the mining industry, as well as the continued expansion of livestock farming, is turning Botswana into an economically viable nation with a gross domestic product now approaching $200 million at a recent annual rate of 15 percent.

The economic advantages derived from the country's raw materials are enhanced by the government's commitment to austerity and efficient planning which has given Botswana an excellent reputation for effective administration. Since independence, there has been a strong emphasis on planning and a system of 5-year rolling plans has been adopted. The basic strategy of Botswana's current 1973–1978 National Development Plan is to maximize the benefits of intensive capital investment in mining and to spread them as widely as possible over 90 percent of the population in the rural areas. Thus, as a result of the encouraging developments in the mining sector and competent government planning, Botswana has taken impressive first steps on the road to real economic and social development.

For geographical and historical reasons, Botswana's economy remains closely linked with that of South Africa. However, Botswana rejects South Africa's political system of apartheid, is firmly on the side of majority rule in Southern Africa, and has been actively working with Tanzania, Zambia, and Mozambique in an attempt to find negotiated solutions to the political problems in southern Africa. Firmly committed to a democratic, multiracial society, Botswana is seeking to reduce its economic dependence on South Africa by developing its trade links with African nations to the north and by diversifying its sources of foreign investment. Consequently, Botswana is actively seeking American investment and trade, and currently offers excellent opportunities for American business.

To accomplish its economic expansion and to develop its mineral resources, Botswana will need to rely heavily on imports of capital goods and construction equipment. According to a recent assessment by the Department of Commerce, therefore, trade opportunities for U.S. firms appear promising in avionics, telecommunications, energy systems, electricity transmission equipment, construction machinery, and transportation. Investment opportunities are equally attractive, and Botswana has recently focused on infrastructure development to encourage foreign investment.

Firmly committed to the free enterprise system, the Botswana Constitution specifically prohibits nationalization except by the express provision of legislation approved by the National Assembly. Prompt payment of adequate compensation is guaranteed, and provision is made for appeal to the High Court in case of a dispute. American investors in Botswana can be protected under the 1968 Investment Guarantee Agreement between Botswana and the United States. In 1971 the Overseas Private Investment Corporation—(OPIC), which insures U.S. private investors against political risk in developing countries, approved a resolution pledging to make a special effort to promote U.S. investment in Botswana.

U.S. investment in Botswana is currently over $22 million, but this figure represents less than 10 percent of total foreign investment. Except that all foreign investment proposals must be approved by the Botswana Government, there are no restrictions on private foreign investment, and no limitation on the guaranteed repatriation of profits. In addition, Botswana has two unique advantages which should be seriously weighed by any firm considering an investment in southern Africa. By virtue of its membership in the South African Customs Union, Botswana goods have access to the markets of South Africa, Swaziland, and Lesotho—Africa's largest and most highly developed industrial market.

American firms can thus obtain access to the South African market while avoiding involvement in South Africa's system of apartheid. Moreover, Botswana goods have access to all of the continent north of the Zambesi River, and this northward trade is likely to increase in importance with the completion of the Botswana-Zambia road which is being constructed with U.S. assistance. Also of special interest to potential U.S. investors, the Customs Union Agreement provides for infant industry protection in Botswana and common external tariffs to protect industries of major importance.

American firms should also be alert to opportunities in Botswana's rapidly growing mining sector where the future promises excellent opportunities for the establishment of chemical and petrochemical industries. Botswana also offers investment potential in cattle raising, crop agriculture, tourism, leather, and the processing of raw materials.

It has been the express policy of the U.S. Government to encourage U.S. investment in Botswana, and to encourage Botswana in its efforts toward independent economic development. The United States fully supports the nonracial policies of Botswana and, in part, sees it as a model in southern Africa of how multiracial nations might peacefully develop. Progress in that area will enable Botswana to play a more independent role with respect to its white-ruled neighbors.

In his historic policy statement in Lusaka, Zambia, Secretary of State Henry Kissinger emphasized the U.S. interest in working with the nations of southern Africa to help them achieve the economic progress that will give meaning to political independence. Botswana has all the conditions for development progress in which private American enterprise can make a constructive contribution, and I feel that increased U.S. business involvement in Botswana can serve as a model for cooperative economic relations between the

United States and the developing nations of Africa.

The PRESIDING OFFICER. Under the previous order, the hour of 11 a.m. having arrived, the Senate will now proceed to vote on the amendment (No. 2280) of the Senator from Hawaii (Mr. INOUYE).

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the second vote there be a 10-minute limitation. That is on the vote on final passage.

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

The question is on agreeing to the amendment of the Senator from Hawaii. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from UTAH (Mr. MOSS), the Senator from Illinois (Mr. STEVENSON), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Missouri (Mr. EAGLETON), and the Senator from Indiana (Mr. HARTKE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea".

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

On this vote, the Senator from Ohio (Mr. TAFT) is paired with the Senator from South Carolina (Mr. THURMOND).

If present and voting, the Senator from Ohio would vote "yea" and the Senator from South Carolina would vote "nay."

The result was announced—yeas 67, nays 10, as follows:

[Rollcall Vote No. 578 Leg.]

YEAS—67

Abourezk	Cranston	Johnston
Bartlett	Culver	Leahy
Bellmon	Domenici	Long
Bentsen	Durkin	Magnuson
Biden	Fong	Mansfield
Brock	Ford	Mathias
Brooke	Glenn	McClellan
Bumpers	Griffin	McGovern
Burdick	Hart, Gary	McIntyre
Byrd, Harry F., Jr.	Haskell	Metcalf
Byrd, Robert C.	Hatfield	Morgan
Cannon	Hathaway	Muskie
Case	Hruska	Nelson
Chiles	Huddleston	Nunn
Church	Inouye	Packwood
Clark	Jackson	Pastore
	Javits	Pearson
Pell	Schweiker	Stone
Percy	Scott, Hugh	Symington
Proxmire	Sparkman	Talmadge
Randolph	Stafford	Weicker
Ribicoff	Stennis	Young
Roth	Stevens	

NAYS—10

Allen	Goldwater	McClure
Curtis	Hansen	Scott, William L.
Fannin	Helms	
Garn	Laxalt	

NOT VOTING—23

Baker	Hart, Philip A.	Moss
Bayh	Hartke	Stevenson
Beall	Hollings	Taft
Buckley	Humphrey	Thurmond
Dole	Kennedy	Tower
Eagleton	McGee	Tunney
Eastland	Mondale	Williams
Gravel	Montoya	

So Mr. INOUYE's amendment (No. 2280) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on passage of H.R. 14260.

The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. Moss), the Senator from Illinois (Mr. STEVENSON), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

On this vote, the Senator from Ohio (Mr. TAFT) is paired with the Senator from South Carolina (Mr. THURMOND).

If present and voting, the Senator from Ohio would vote "yea" and the Senator from South Carolina would vote "nay."

The result was announced—yeas 51, nays 26, as follows:

[Rollcall Vote No. 579 Leg.]

YEAS—51

Abourezk	Glenn	Muskie
Bartlett	Griffin	Nunn
Bellmon	Hart, Gary	Packwood
Bentsen	Haskell	Pastore
Brock	Hatfield	Pearson
Brooke	Hathaway	Pell
Bumpers	Huddleston	Percy
Cannon	Inouye	Ribicoff
Case	Jackson	Schweiker
Chiles	Javits	Scott, Hugh
Church	Johnston	Sparkman
Clark	Leahy	Stafford
Cranston	Magnuson	Stevens
Culver	Mathias	Stone
Domenici	McGovern	Weicker
Durkin	McIntyre	
Fong	Metcalf	
Ford	Morgan	

NAYS—26

Allen	Hansen	Proxmire
Biden	Helms	Randolph
Burdick	Hruska	Roth
Byrd, Harry F., Jr.	Laxalt	Scott, William L.
Byrd, Robert C.	Long	Stennis
Curtis	Mansfield	Symington
Fannin	McClellan	Talmadge
Garn	McClure	Young
Goldwater	Nelson	

NOT VOTING—23

Baker	Hart, Philip A.	Moss
Bayh	Hartke	Stevenson
Beall	Hollings	Taft
Buckley	Humphrey	Thurmond
Dole	Kennedy	Tower
Eagleton	McGee	Tunney
Eastland	Mondale	Williams
Gravel	Montoya	

So the bill (H.R. 14260) was passed.

Mr. INOUYE. I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 14260.

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

Mr. INOUYE. I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. INOUYE, Mr. PROXMIRE, Mr. MCGEE, Mr. CHILES, Mr. JOHNSTON, Mr. MCCLELLAN, Mr. BROOKE, Mr. HATFIELD, Mr. MATHIAS, and Mr. YOUNG conferees on the part of the Senate.

EXTENSION OF TIME FOR REPORTING BILL

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Arizona yield me 30 seconds?

Mr. GOLDWATER. I am happy to.

Mr. ROBERT C. BYRD. Mr. President, at the request of Mr. CANNON, I ask unanimous consent that the Committee on Rules and Administration have until Monday, September 20, to report S. 2925, the sunset legislation.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

MEDICAL CARE FOR CERTAIN MEMBERS OF ALLIED WARTIME FORCES

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 71, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 71) to amend title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I and World War II.

UP AMENDMENT NO. 440

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona is recognized to call up an amendment on which there is to be 30 minutes of debate, to be equally divided and controlled.

Mr. GOLDWATER. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. GOLDWATER) proposes unprinted amendment No. 440. At the end of the bill insert the following new section:

SEC. . Any person who served during World War II as a member of the Women's Air Force Pilots shall, by virtue of such service, and upon satisfactory evidence thereof, be entitled to hospital and domiciliary care and medical services under chapter 17 of title 38, United States Code, to the same extent as if such service had been performed in the active military service.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, this will not take long.

The amendment I have ordered would provide surviving members of the WASP—The Women's Air Forces Service Pilots—veterans benefits comparable to what the bill would provide to veterans of the Czech or Polish armed forces.

Mr. President, these women are U.S. citizens who served with our Army Air Corps during World War II and I believe it would be the height of discrimination if women citizens serving with our forces are not given at least the same medical and hospital benefits as we give to veterans of foreign nations.

Now, I know a little bit about this group. When I was attached to the Second Ferrying Group in Wilmington, Del., at New Castle Air Force Base, I had the pleasure of flying with the first volunteer women who came on duty. In fact, a number of them were in my squadron when I was in the ferrying command in 1943 at the place I have noted.

I have the greatest respect for them and believe that the time is long overdue when our women pilots should be given recognition for their services to their country.

The first women military pilot's program was activated in September of 1942 by the formation of a volunteer squadron of experienced women pilots to do ferry work in the Air Transport Command and by initiation of a training program for women pilots. In 1943, these two programs were merged into one organization, known as WASP.

It was headed, Mr. President, by that famous woman pilot, Jacqueline Cochran, with the rank of colonel. In Sweetwater, Tex., young ladies who desired to enter the Air Service were trained, given the same training, practically, as the men, at the same time.

In all, there were about 1,102 women assigned to ferrying duties flying both fighters and bombers. During the war, they flew 60 million miles for the Army Air Forces—equal to some 2,500 times around the globe. Their performance was equal in every way to that of male pilots, and was better than men's in some instances, such as towing targets for male pilots who were using live ammunition on the targets that were towed.

Mr. President, we used to hear the argument that a woman was not strong enough to fly military aircraft. I have personally flown with young ladies in every fighter plane that we made during the war. I remember, one day, flying a P-47 group from the factory on Long Island out to California for delivery to the Pacific. The woman who flew on my wing wanted to fly with me, under the hood, as it was called, which means they put the hood up and they could not see where they were going, but they flew by instruments. She flew it across the United States. We tried to get them into overseas assignments, but General Arnold of the Air Corps would not agree to that.

They had to meet stringent standards before they could join—and flew the same route and same aircraft that all male pilots did within the United States and Canada. Although they were hired as civilians, they did not enjoy freedom as civilians. As far as the Air Corps was concerned, they were in the Air Corps. They were paid military scale salaries, slightly less than a second lieutenant. They lived at Air Corps bases. They ate in mess halls. They were under military discipline and subject to all military rules and regulations.

However, they received no veterans benefits, nor Government insurance. The plain fact is these women were discriminated against because they were women, even though 38 of them gave their lives in the performance of military flight duty for their country. In my opinion, it is outrageous to deny the surviving women who rendered this service—and who probably do not number over 900—entitlement to at least medical and hospital benefits.

The recognition of their service is the important thing, not the small amount of benefits that a few women would receive under the amendment. This group of women was shunted aside by the country they served; and it is better that we should correct a past wrong now, rather than leave the record blemished.

Mr. President, I ask unanimous consent that a fact sheet on the amendment be printed in the RECORD.

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

FACTSHEET ON WASP AMENDMENT

The first women military pilot's program was activated in September of 1942, in two steps, (1) by the formation of an experimental squadron of experienced women pilots to do ferry work in the Air Transport Command, and (2) by the initiation of a training program for women pilots. On August 5, 1943, the women pilot trainees and the Women's Auxiliary Ferrying Squadron were merged into one organization, known as WASP—Women Airforces Service Pilots.

In all, 1830 women pilots were accepted for women pilot training and 1074 eventually graduated. In addition, 28 of the original WAFS's joined the WASP program without taking the training course. The Army Air Forces employed these ladies as federal civil service employees.

The women pilots flew approximately 60 million miles on operational duty for the Army Air Forces. There were 38 fatalities in the service of their country. They were paid military level pay, instead of higher civilian scale salaries. They lived on AAF bases and ate in mess halls. Yet they received no veterans benefits.

The Air Forces used them in the Air Transport Command, where they flew all types of airplanes used by the AAF, both fighters and bombers, including the Superfortress (B-29), from factories to modification centers, to depots, and to other destinations within the United States.

Women pilots also were used to tow targets for male pilots who were using live ammunition, for searchlight missions, simulated strafing, smoke laying and other chemical missions, engineering test flying, and utility flying in the weather wing. Tests also were started to see to what extent the women pilots could be used in the training command.

Of these roles, the main one was in the ferrying of combat aircraft, both fighters and bombers, within the United States during the war. For example, one of the WASPS was presented an air medal for flying during a period of only 5 days, a P-51, two P-47's, and a C-47, delivering all of them to their destination, covering distances in excess of 8,000 miles.

A bill, H.R. 4219, was reported by the House Committee on Military Affairs in March of 1944 to incorporate these women pilots into the Air Forces. The bill provided that women pilots appointed under the legislation shall be commissioned into the Army and shall be entitled to the same rights, privileges and benefits as members of the officer's reserve corps of the Army.

The bill was considered on the House Floor on June 21, 1944, but was rejected by 19 votes. Both a committee report recommendation and the House debate make clear that no objection was made to the commission of existing women pilots and the extension to them of benefits, in accordance with the duties they were performing. Instead, a question was raised about the open-ended possibility of the program being enlarged to bring in up to 5,000 additional women pilots. Also, opposition to that bill was developed by members who wanted to add special provisions authorizing male civilian pilots, trained under the C.A.A. program, to be admitted to the Air Forces.

Many of the C.A.A. trainees had physical disabilities since it had not been necessary for them to measure up to the physical re-

quirements of men going into combat. Thus, the Air Corps had opposed lowering standards to accommodate these male trainees into the military. This fact was not known to the House of Representatives. Nor was the House aware of the fact that many of the male civilian contract pilots had knowingly side stepped military service because contract work was more lucrative. The truth is every male contract flyer was offered duty with the Army Air Corps, but many turned it down or were physically unfit. The ignorance in the House of Representatives of these basic facts resulted in the defeat of the WASP bill in 1944, not on its own merits, but due to extraneous matter.

After defeat of the House Bill, recruitment and training of the WASP's ceased. On October 1, 1944, each WASP received an announcement that the program would be deactivated. Inactivation occurred on December 20, 1944, leaving the WASP's without any rights, Government insurance or veteran's benefits.

The Goldwater amendment would provide long overdue recognition to the WASP for their valuable service with the military in wartime by having their duty with the Army Air Corps considered active for purpose of medical and hospitalization benefits administered by the VA.

Mr. GOLDWATER. Mr. President, I will reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Florida.

Mr. STONE. Mr. President, the majority on this bill accepts the amendment as a valid, meritorious, and worthwhile amendment. I refer to the Republican side for their position.

Mr. HANSEN. Mr. President, I would like to join with my good friend from Florida in expressing my pleasure in accepting this amendment and to take this opportunity to congratulate the Senator from Arizona for his awareness, because of personal involvement, of a great injustice that has been done these wonderful women who served this country so gallantly in World War II and who have been denied any consideration as veterans ought to deserve because of the fact that they were women.

I heartily agree with my friend from Florida in saying it is a very meritorious amendment.

Mr. PASTORE. Mr. President, will the Senator yield to me?

Mr. HANSEN. I am happy to yield to the Senator from Rhode Island.

Mr. PASTORE. I associate myself with the manager of the bill and the Republican representative in the fine things they have said about my good friend from Arizona. Not only is he a wonderful human being, a great Senator, but he has proved again that he is a man of great chivalry, and I congratulate him.

Mr. GOLDWATER. I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back? The question is on agreeing to the amendment of the Senator from Arizona.

The amendment was agreed to.

Mr. STONE. Mr. President, yesterday the distinguished hardworking chairman of the Senate Veterans' Committee (Mr. HARTKE) spoke on behalf of H.R. 71, medical care for certain members of Allied Wartime Forces. However, action on the bill was delayed until today in order to provide our colleague from Arizona (Mr. GOLDWATER) the opportunity to present an amendment to the bill. Unfortunately, Senator HARTKE was unable to be here today to manage this most meritorious legislation.

Mr. President, let me briefly describe what is included in H.R. 71. The bill would extend to certain citizens of the United States eligibility for Veterans' Administration hospital, domiciliary and medical services on the same basis as any eligible veteran of the U.S. Armed Forces.

Mr. President, I think it important that we know who will benefit from this legislation. The beneficiaries are American citizens who served honorably during either World War I or World War II as a member of an armed force of a government which was allied or associated with the United States. To qualify, the beneficiary would also have had to serve under the command of France or Great Britain during either war. Subsequently, the veteran would have had to have immigrated to the United States and become a naturalized American citizen—and a citizen of at least 10 years duration. Thus, we are talking about men and women who have immigrated to our country and elected to become American citizens—we are talking about fellow Americans.

Let me briefly explain why this bill is necessary. The Veterans' Administration is presently authorized to provide medical care to veterans—whether they be American citizens or not—of nations allied with the United States in World War I or World War II. Service is rendered to eligible allied veterans in the same manner as medical care is rendered to eligible veterans. However, such benefits are only granted in those instances where the veterans' government has agreed to reciprocate and provide care for American veterans in their country. However, the countries under which flag these veterans fought are now behind the Iron Curtain and have refused to enter into a reciprocal agreement. Are we to penalize those who fought by our side and subsequently chose to become citizens of this great Nation? Are we to allow these American citizens to once again be victims of the Communist takeover in countries that were once our allies? I think not.

Mr. President, let me emphasize that no eligible veteran will be displaced from VA hospitals by this extension of eligibility to these allied veterans. There are approximately 40,000 of these worthy people who will qualify for benefits. If past experience can be a guide, only 10 percent of those who qualify will seek assistance from the VA. Costs for this bill are estimated to be not more than $5.6 million for fiscal year 1977 and for each of the next 4 years.

I support this legislation and urge the support of my colleagues.

Mr. STONE. Mr. President, I ask unanimous consent that a statement by the Senator from South Carolina (Mr. THURMOND) be printed in the RECORD.

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

The statement follows:

STATEMENT BY SENATOR STROM THURMOND

While I have always been in favor of maintaining the integrity of our system of Veterans' Administration hospitals for use exclusively by the veteran, I think a valid distinction can be drawn in this instance.

It is clear that the individuals intended to be benefited under this bill were our fighting allies in World War I or World War II. Furthermore, they have been U.S. citizens for at least 10 years and any entitlement to medical or hospital care in their own countries has been cut off by virtue of their governments' being Communist dominated.

For the foregoing reasons I shall favor the passage of this bill.

Mr. WEICKER. Mr. President, the passage of H.R. 71 marks a happy day for thousands of gallant Americans who served in allied forces during the First and Second World Wars.

My State of Connecticut is proud to number among its citizens numerous defenders of freedom who, as members of the Polish and Czechoslovakian allied forces during the World Wars left their marks on the history of this century. Thousands of the brave soldiers of the Polish army-in-exile, famed for their significant role in the battle of Monte Cassino, populate the city of New Britain, where much of the army settled after the war. Their heroism, so well described by the British general, Lucian Truscott, merits remembrance:

The fighting men of Poland were in the vanguard of that battle fighting with the same tenacious purpose that had ever made the name of Poland a byword among liberty-loving people.

Mr. President, I commend the Senator from Indiana for his efforts on behalf of this legislation, and I welcome the opportunity to give it my full support.

Mr. HANSEN. Mr. President, I rise in opposition to H.R. 71, which would provide hospital and medical care to certain members of the Armed Forces of Nations allied or associated with the United States in World War I or World War II who have been U.S. citizens for 10 years; namely, those from Poland and Czechoslovakia.

I have significant reservations about the wisdom of expanding the eligibility for admission to VA hospitals, particularly since the VA is currently under attack for not providing quality care to our own veterans.

Mr. President, let me briefly discuss some of the potential problems that enactment of H.R. 71 would entail.

I. OTHER PRIORITIES

Currently, the Committee on Veterans' Affairs has before it substantial questions dealing with adequate funds and personnel for the staffing of VA hospitals. At the insistance of some members of the committee, the National Academy of Sciences is preparing a report on the adequacy of staffing in these hospitals. In my view, expanding the eligibility requirements for veterans medical care at this point in time will only exacerbate the problems which already exist.

II. COST ESTIMATE

Unfortunately, there are practical fiscal constraints which we should consider before we enact legislation of this kind.

I have asked the Veterans' Administration for cost estimates on this bill, and am told that it is not possible to estimate the cost since neither the VA nor the committee has information as to how many individuals may qualify for these benefits; or once they qualify, how many individuals may take advantage of this new eligibility.

III. BAD PRECEDENT

Approval of this legislation would establish a bad precedent. While H.R. 71 limits eligibility to veterans of the Polish and Czechoslovakian forces under the British and French command during World War I or World War II who have been citizens of the United States for 10 years, it is fair, I think, to keep in mind that 52 governments were allied with the United States during World War I and World War II. Additionally, we have had other allies in Korea and Vietnam. If we take action to extend benefits to veterans of the Polish and Czechoslovakian forces, it is my feeling that we logically set in motion additional requests for other allied veterans for equal treatment.

The general rule for granting veterans benefits is to extend benefits only to those who have served in our Armed Forces. Let me quote from a letter from the Administrator of Veterans' Affairs, dated September 4, 1974, to the chairman of the Veterans' Affairs Committee which succinctly puts this policy in its proper perspective:

It would be an unwise departure from the well-established policy that veterans benefits should be granted only to those who served in our Armed Forces. Moreover, we do not believe that residents of the United States who are non-veterans of this government should be provided medical care benefits at the expense of the taxpayers of this country, solely because of a period of lawful residence in the United States, and especially when the majority of United States citizen taxpayers are not entitled to the same benefits for themselves.

Mr. President, once we open the door to nonveterans of the U.S. Armed Forces, it is my feeling that other groups will have a legitimate request before the Congress to further expand eligibility for benefits.

IV. ADDITIONAL LEGISLATION

I have a list of legislative proposals which would extend veterans benefits to persons not in the U.S. Armed Forces and which have been introduced in the Congress. For the benefit of my colleagues, I think we ought to carefully consider the potential problems which we are creating by passing this legislation. Mr. President, I ask unanimous consent that this list be printed at this point in the RECORD.

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

ADDITIONAL LEGISLATIVE PROPOSALS EXTENDING VETERANS BENEFITS TO PERSONS NOT IN U.S. ARMED FORCES, BUT CLOSELY ASSOCIATED THEREWITH

H.R. 13506, 93d Congress, Veterans education and home loan benefits to individuals who perform alternative service under selective service laws.

H.R. 5841, 92d Congress, Extend veterans reemployment benefits to individuals performing alternative civilian service.

H.R. 4634, 78th Congress, Grant conscientious objectors with an honorable discharge from the armed forces of the U.S.

S. 2154, 93d Congress, authorize wartime veterans benefits to veterans of Philippine Jolo Jolo campaign and Cuban Pacification Campaign, and their widows and children.

H.R. 16612, 93d Congress, Provide VA medical and hospital care to persons who served in the Local Security Patrol Force of Guam during WW II.

S. 3250, 90th Congress—Identical.

H.R. 10769, 86th Congress, Extend WWI veterans benefits to persons serving in Haiti, July 25, 1915–April 6, 1917.

H.R. 4302, 80th Congress, to Compensate certain Puerto Rican citizens for services rendered U.S. in WW I.

H.R. 12957, 93d Congress, Provide veterans benefits for service of females as telephone operators in Signal Corps.

H.R. 9834, 93d Congress, Provide women veterans maternity care in VA facilities.

H.R. 192, 93d Congress, Provide that service in Women's Army Auxiliary Corps be active duty for veterans benefits.

S. 2235, 86th Congress, Provide veterans benefits to persons graduated from Air Force Reserve Officers Training Corps in 1954 and served on active duty for training in the Air National Guard before February 1, 1955.

H.R. 5405, 89th Congress, Provide veterans benefits for members of the units of the Students' Army Training Corps at Alva and Edmond, Okla. during WWI.

H.R. 1778, 88th Congress, Provide veterans benefits for members of units of Students' Army Training Corps at Plattsburgh, N.Y., Presidio of San Francisco, Calif., and Fort Sheridan, Ill., during WWI.

S. 7481, 77th Congress, To provide veterans benefits for the services of the civilian officials and employees, citizens of the United States, engaged in and about the construction of the Panama Canal.

H.R. 7984, 76th Congress, Granting pensions to certain American Red Cross ambulance drivers of the World War.

S. 2970, 83d Congress, To provide certain benefits for persons who served on the United States revenue cutter Bear during its Arctic rescue cruise in 1898.

H.R. 7843, 81st Congress, To extend veterans' benefits to persons who served as members of State Guards during World War II.

H.R. 1834, 76th Congress, Extending the benefits for veterans of the Spanish-American War, including the Philippine Insurrection and the China Relief Expedition, to contract veterinarians.

S. 1626, 79th Congress, To provide certain services for persons who incur disabilities while serving as members of the American field service.

S. 947, 79th Congress, To provide for hospitalization and treatment of accredited war correspondents in Army, Navy, and Veterans' Administration hospitals.

S. 740, 78th Congress, Extending the provisions of the National Service Life Insurance Act of 1940 to American war correspondents.

H.R. 2535, 82d Congress, To provide hospitalization and flag burial for merchant marine veterans of World Wars I and II.

H.R. 6389, 77th Congress, Providing NSLI for certain civilians employed outside the continental U.S. in the maintenance and repair of military or naval equipment, aircraft, and aircraft pursuant to contracts entered into by the Secretary of War or the Secretary of the Navy.

H.R. 6287, 77th Congress, Conferring a military status upon certain civilian employees of the Engineer Department, United States Army.

H.R. 8582, 68th Congress, To extend pension benefits to certain persons who served in the Armed Forces of the U.S. in Honduras during the period of January 1, 1908 to December 31, 1911, and to their widows and children.

H.R. 15958, 91st Congress, To amend title 38, U.S. Code, to provide veterans' benefits to individuals who served as contract medical or dental personnel with the Armed Forces during World War I or any period of war thereafter.

H.R. 15538, 91st Congress, To amend title 38, U.S. Code, to provide veterans' benefits to individuals who served as contract surgeons with the Armed Forces during World War II.

S. 3190, 86th Congress, To amend section 106 of title 38, U.S. Code, to provide veterans' benefits for female contract surgeons who served with the Armed Forces during World War I.

S. 389, 85th Congress, To provide certain benefits for persons who served as contract surgeons or contract dental surgeons during the war with Spain, the Philippine Insurrection, or the China Relief Expedition.

H.R. 6072, 76th Congress, Giving civilian clerks, Signal Service at large, the same military status as Army field clerks.

EXAMPLES OF BILLS PROPOSING VETERANS' BENEFITS FOR CIVILIANS ASSOCIATED WITH, BUT NOT IN THE U.S. ARMED FORCES

H.R. 16332, 92d Congress, Women's Airforce Service Pilots.

H.R. 11265, 91st Congress, Aviation Midshipmen.

H.R. 3166, 87th Congress, Merchant Marine Service.

H.R. 1441, 81st Congress, Civilians serving aboard troop ships operated by U.S. Army.

H.R. 4853, 80th Congress, Civil Air Patrol who performed submarine patrol during WW II.

S. 1244, 77th Congress, Civilian employee—Indian Scout, Army.

Following WW I bills were introduced to extend veterans' benefits to following civilians:

Russian Railway Service Corps.
Draftsmen and clerks, Engineer Corps.
Field clerks, Signal Corps.
Postal field clerks, U.S. Army.
Auditors, War Department.
American Red Cross.
Contract nurses with Army.
Contract surgeons with Army.

Mr. HANSEN. Mr. President, once we open the door to members of the Polish and Czechoslovakian armed services, it is my firm belief that we will be asked to make more exceptions to the eligibility requirements for VA hospitalization.

Mr. President, for these reasons, I oppose passage of H.R. 71, and urge my colleagues to join me in opposition.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point a copy of a letter from the Associate Deputy Administrator of the Veterans' Administration to the chairman of the Committee on Veterans' Affairs, U.S. Senate, dated September 5, 1975.

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

VETERANS' ADMINISTRATION, OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D.C., September 5, 1975.

Hon. VANCE HARTKE,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This will respond to your request for a report by the Veterans' Administration on H.R. 71, 94th Congress, a bill "To amend title 38, United States Code,

to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II." H.R. 71 passed the House of Representatives on July 21, 1975.

The subject bill would amend section 109 of title 38, United States Code, to extend to any person who served during World War I or World War II as a member of any armed force of the Governments of Czechoslovakia or Poland, and participated while so serving in armed conflict with an enemy of the United States; and has been a citizen of the United States for at least ten years, entitlement to hospital care and medical services, and domiciliary care under chapter 17 of title 38.

There is some confusion between the eligibility provisions of the bill and proposed paragraph (2) of the new subsection (c), which provides that in order to assist the Administrator in making a determination of proper service eligibility, each applicant shall furnish an authenticated certification from the French Ministry of Defense or the British War Office as to records in either office which clearly indicate military service of the applicant and subsequent service in or with the armed forces of France or Great Britain during the period of World War I or World War II.

The eligibility provision in subsection (c) (1) does not require subsequent service in or with the armed forces of France or Great Britain. Moreover, since the bill would require the Veterans' Administration to furnish care to persons made eligible on the same basis as if service had been performed in the armed forces of the United States, it would appear to present an almost impossible task for VA hospital personnel to determine the extent of the VA medical care which can be provided, as well as determining whether the individual has a service-incurred disability. If the Committee is to give this legislation further consideration, we believe that these provisions should be clarified.

Under the bill, benefits would not be available to a person who is entitled to payment for equivalent care and services under a program established by such foreign government for persons who served in its armed forces during World War I or World War II.

Section 109(a)(1) of title 38 currently authorizes the Administrator, in consideration of reciprocal services extended to the United States and upon a reimbursable basis, to furnish hospital care, medical services, and education, training or similar benefits to discharged members of the armed forces of the government of any nation allied, or associated, with the United States in World War I (except a nation which was an enemy of the United States in World War I, or World War II, if such benefits are authorized by such government for its veterans. Section 109(b) provides that persons who served in the active service in the armed forces of any government allied with the United States in World War II, and who at the time of entrance into such service were citizens of the United States, are, if otherwise qualified, entitled to the benefits of chapters 31 and 37 of title 38 in the same manner and to the same extent as U.S. veterans of World War II, provided he is a resident at the time of filing a claim, and has not received similar benefits from the nation in whose armed forces he served.

The proposals under consideration go much further than the provisions for temporary World War II readjustment benefits. They would include many persons who were not citizens when they served and would provide basic hospital and medical benefits under our continuing program. While the need for medical benefits might appear to be most urgent, the granting of this relief would doubtless be followed by demands for other continuing benefits, such as compensation and pension.

The general policy of Congress, except as to those benefits in section 109(b) of title 38, United States Code, has been to provide benefits solely for veterans who served in the armed forces of the United States and their dependents. The extension of certain benefits (although provided on a reciprocal basis in section 109(a)) to persons who served with governments allied with the United States, but who rendered no service in the United States Armed Forces, would be a departure from this policy.

We not only believe that enactment of legislation in the form of the bill pending before you on this subject would be unwise, but it would be discriminatory and precedential. If medical benefits are provided to veterans of service with the Czechoslovakian and Polish armed forces, it could be argued that equity would require the extension of such benefits to those who served with the armed forces of Bulgaria, Estonia, Hungary, Latvia, Lithuania, Romania, or Yugoslavia, as well as to veterans of other allied forces such as Russia, China, and most of the Latin American countries, who are now United States citizens.

As a matter of policy it would be difficult to explain to nations such as Canada, Great Britain, Australia, New Zealand, and South Africa, why they should reimburse the Veterans' Administration for medical treatment provided veterans who served in their armed forces while we provide such services at no cost for veterans of other allied forces.

Aside from allied veterans, many other groups who have served with, but not in, our own armed forces during war periods have through the years sought to obtain benefits reserved to veterans of the military service. Applying the policy of restricting benefits to those who had military service, legislation to include these civilian groups has generally been rejected. If an exception were made for one or more classes of allied veterans, it might prove difficult to resist demands that similar provision should be made for a variety of civilian groups who served closely with our armed forces or who did alternate service as conscientious objectors.

The President has called for the development of plans for a comprehensive national health insurance system for all Americans. Consonant with that policy, we do not believe that citizens, who are not veterans of service in the armed forces of the United States, should be provided VA medical care benefits based purely on service with some other nation's armed forces rendered prior to becoming a citizen of this country.

Accordingly, we oppose the enactment of H.R. 71.

It is not possible to estimate the cost of the bill, since we have no information as to how many individuals may qualify for benefits.

We were advised by the Office of Management and Budget in regard to a report to the Chairman of the House Committee on Veterans' Affairs on H.R. 71, containing language identical to that in the subject bill, that there was no objection to the presentation of that report from the standpoint of the Administration's program.

Sincerely,

A. J. SCHULTZ, Jr.,
Associate Deputy Administrator.
(In the absence of Richard L. Roudebush, Administrator.)

Mr. HANSEN. Mr. President, I have statements and items which have been submitted by various veterans' organizations. I ask unanimous consent that they be printed at this point in the RECORD.

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

MARCH 31, 1976.

Senator CLIFFORD P. HANSEN,
Senate Veterans' Affairs Committee,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR HANSEN: The Disabled Americans Veterans is greatly concerned over the ability of the VA medical programs to provide for the future needs of America's veterans, and we must therefore oppose the extension of hospital care and medical services to certain allied veterans.

H.R. 71, soon to be considered by the U.S. Senate, would extend to any person who served during World War I or World War II as a member of the armed forces of the governments of Czechoslovakia or Poland and participated while so serving in armed conflict with an enemy of the United States, entitlement to hospital care and medical services under Chapter 17 of Title 38, U.S. Code, to the same extent as if such service had been performed in the armed forces of the United States. To be eligible for such medical care, the person must have been a citizen of the United States for at least ten years, and not be entitled to equivalent benefits from a foregn government.

In our view, the enactment of this legislation would be a departure from the well-established Congressional policy of basing direct Federal benefits solely on service in the armed forces of the United States, and would be highly unfair to our many other World War I and World War II allies who are excluded from its provisions.

We therefore feel that the Senate's favorable consideration of H.R. 71 would be detrimental to the existing programs of hospital and medical care for America's veterans, and we urge the rejection of this legislation which would place an additional burden on the already hard-pressed capacity of the VA medical system.

Sincerely yours,

CHARLES L. HUBER,
National Director of Legislation.

OCTOBER 1, 1974.

Memorandum to Department Service Officers/Rehabilitation Directors, Department Rehabilitation Chairman, Members of National Veterans Affairs, and Rehabilitation Commission.

Subject: Statement of Robert E. Lyngh, Deputy Director, National Veterans Affairs and Rehabilitation Commission, the American Legion, to the Committee on Veterans' Affairs, U.S. Senate, September 26, 1974.

Mr. Chairman and Members of the Committee: Our purpose today is to comment for The American Legion on H.R. 10212 and H.R. 13377, both of which passed the House of Representatives on August 5, 1974.

H.R. 10212 would designate the Veterans Administration Hospital at Columbia, Missouri as the "Harry S. Truman Memorial Veterans Hospital." The American Legion supports the intent of H.R. 10212. The 55th National Convention, by the adoption of Resolution No. 306 (Missouri), expressed support for the designation of the hospital at Columbia as a Memorial to President Truman.

We are cognizant that it is the usual practice of the Veterans Administration to name its hospitals for the locality in which each is located, and not for individuals. This long-standing policy has been based upon the realization that a fair basis of selection would be difficult, that controversy might result in some instances, and that persons or organizations whose candidates were not chosen would be disappointed. Veterans Administration hospitals named by Congress, of course, are not subject to this administrative policy. There is precedent for Congressional action, and four VA hospitals have been named by Public Law.

In the case of the VA hospital at Co-

lumbia, Missouri, The American Legion takes note of the fact that Missouri is the home state of President Truman. Our 33rd President was a combat veteran of World War I. Throughout all of his life, following his military service, he was an active member of The American Legion, a fact which denoted his pride in being a veteran of the United States Armed Forces. Additionally, throughout his long career in public life, President Truman displayed his concern for the welfare of his fellow veterans. His public career was illustrious, and he served with distinction as President of the United States. In all of his life he was a model for emulation by his fellow citizens, and his memory is loved, revered and respected by all Americans. Therefore, we of The American Legion can conceive of no more appropriate Memorial to President Truman than that a veterans hospital, located in his home state, should bear his name.

The American Legion recommends to this Committee, favorable consideration of H.R. 10212.

This organization has given thought and study to H.R. 13377. The purpose of the bill is to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II. Specifically, the bill extends entitlement to hospital and medical care to any person who served during World War I or World War II as a member of any armed force of the governments of Czechoslovakia or Poland, and participated while so serving in armed conflict with an enemy of the United States, and who has been a citizen of the United States for at least 10 years. Benefits would not be available to a person who is entitled to payment for equivalent care under a program established by the foreign government for persons who served in its armed forces during the subject periods of war. The estimated cost of these benefits, should they be provided to the designated class of beneficiaries, is not now available, because at this point, the number of persons who would be favorably affected is not known.

The American Legion perceives no compelling reason why the benefits stipulated in the measure should not be provided. It is not inconsistent, historically, for the United States to be generous to those allied with our cause who helped achieve victory in the contests in which our country engaged.

Should the Congress look with favor on the intent of H.R. 13377, however, we suggest that it should go further, and provide certain benefits, at the same time to veterans of the armed forces of our old and true friend beyond our northern borders, the Dominion of Canada, who now reside in the United States. In support of this concept of extended benefits, The American Legion has Resolution No. 201 (Minnesota), adopted by the 54th National Convention in August, 1972.

In consideration by the Committee of our proposal, we draw attention to the provisions of section 109 of title 38, United States Code, which currently provides the following benefits for discharged members of allied forces. Section 109 reads:

"In consideration of reciprocal services extended to the United States Government, the Administrator, upon request of the proper officials of the government of any nation allied or associated with the United States during World War I (except any nation which was an enemy of the United States during World War II), or in World War II, may furnish to discharged members of the armed forces of such government, under agreements requiring reimbursement in cash of expenses so incurred, at such rates and under such regulations as the Administrator may prescribe, medical, surgical, and dental treatment, hospital care, transportation and traveling expenses, prosthetic appliances, education, training, or similar benefits authorized by the law of such nation for its veterans, and services required in extending such benefits. Hospitalization in a Veterans Administration facility shall not be afforded under this section, except in emergencies, unless there are available beds surplus to the needs of veterans in this country. The Administrator may also pay the court costs and other expenses incident to the proceedings taken for the commitment of such discharged members who are mentally incompetent to institutions for the care or treatment of the insane.

"The Administrator, in carrying out the provisions of this subsection, may contract for necessary services in private, State, and other Government hospitals.

"All amounts received by the Veterans Administration as reimbursement for such services shall be credited to the current appropriation of the Veterans Administration from which expenditures were made under this subsection.

"Persons who serve in the active service in the armed forces of any government allied with the United States in World War II and who at time of entrance into such active service were citizens of the United States shall, by virtue of such service, and if otherwise qualified, be entitled to the benefits of chapters 31 and 37 of this title in the same manner and to the same extent as veterans of World War II are entitled. No such benefit shall be extended to any person who is not a resident of the United States at the time of filing claim, or to any person who has applied for and received the same or any similar benefit from the government in whose armed forces he served."

According to the Canadian War Veterans Allowance Act, as revised, veterans of the Canadian, Commonwealth and *Allied forces* may obtain the benefit of the War Veterans Allowance Act, if their war service, age, residence, and financial circumstances meet the requirements of that Act. The widows and orphans of such persons are also eligible.

In general terms, veterans of the Canadian forces are eligible if:

(a) they served in the theatre of war; or

(b) they are in receipt of pension for wartime disability; or

(c) they served in both World Wars and were honorably discharged from the last enlistment in each; or

(d) they served at least 365 days in Britain during World War I and prior to November 12, 1918; or

(e) they served in the United Nations Forces in Korea.

Veterans of Commonwealth and *Allied forces* must have the service or pension status of (a), (b), or (c) and have been domiciled in Canada when they joined such forces or, alternatively, *have resided in Canada for at least ten years.*

As far as service is concerned, eligibility of a widow or an orphan flows from the eligibility of the veteran concerned.

Allowances may be awarded to male veterans at age 60 and to female veterans or widows at age 55; or to either at earlier ages if they are deemed to be permanently unemployable because of physical or mental disabilities, or are unable to maintain and not likely to be able to maintain themselves due to a combination of economic handicaps and their disabilities.

The eligibility of an applicant also depends upon the financial circumstances, and an allowance may not be awarded if his personal property exceeds $1250 if he is single, or $2500 if he would qualify for the married rate.

Personal property includes cash, stocks and bonds, nonessential motor vehicles, and his interest in certain real property, other than his residence.

The maximum monthly allowances are $121 for a single recipient and $201 for one at the married rate. The rate for one orphan child is $69, for two $121, and for three or more orphans of one veteran, the rate is $163.

The amount awarded, however, depends upon the other income, exclusive of exempt income, that the recipient has; and the combination of other income and allowance may not exceed the relevant annual income ceiling. These ceilings are—

Single recipients	$1,932
Married recipients	3,252
One orphan	1,116
Two orphans	1,800
Three or more orphans	2,280

The ceiling is increased by $120 if the recipient or his spouse is blind.

Single war veterans allowance recipients may have exempt casual earnings of up to $800 a year and married recipients up to $1200. Casual earnings are defined as income from full-time employment of not more than four consecutive months in any one year, or part-time work for any period.

Earnings of both the recipient and his spouse are taken into account and the recipient must report all earnings and changes in income of his spouse as well as his own.

Medical and hospital treatment regulations provide that, under certain conditions of service and economic circumstances, veterans in receipt of award under the War Veterans Allowance Act may be granted medical treatment in Canada only for any conditions in accordance with the veterans treatment regulations.

According to these treatment regulations, the treatment privileges of United States veterans who receive the War Veterans Allowance include hospital and medical care, prosthetic appliances, hearing aids, dental care, and the provision of drugs. Domiciliary care for the elderly or chronically ill may also be provided where available.

Mr. Chairman, The American Legion is concerned about the welfare of those Canadian Armed Forces members, many of whom are United States citizens, or who, having served in the wartime Canadian forces, have since become residents of the United States, and who, by reason of illness or old age, are suffering distress. It is true that in many instances, assistance may be available to them through Federal, State or Community resources. However, The American Legion believes, in regard to this category of veteran, as it does about the veterans of our own armed forces, that they are indeed entitled to a measure of additional consideration because of their wartime service. The Dominion of Canada has recognized this special entitlement in its Canadian War Veterans Allowance Act. In our judgment, the United States, in so many ways the most generous nation on earth, should do no less.

In consideration of H.R. 13377, The American Legion urges that it be amended to include revision of section 109 of title 38, United States Code, so as to extend entitlement to pension and medical and hospital services to those Canadian Armed Forces veterans who have resided in the United States for ten years or more and who had wartime service such as would be required to qualify for these benefits under the Canadian War Veterans Allowance Act.

Thank you for receiving the views of The American Legion on this pending legislation.

FACT SHEET

Re H.R. 71—Medical care for certain members of Allied Wartime Forces.

1. INTENT OF LEGISLATION

This bill would extend to any person who served in the first or second World War as a member of the Armed Forces of Czechoslovakia or Poland, and has been a citizen for

ten years, entitlement to VA hospital and medical care benefits.

2. ADMINISTRATION'S POSITION

The Administration opposes this bill on the following grounds.

(a) Would be a departure from policy that VA benefits should be granted only to those who served in U.S. Armed Services.

(b) No way to estimate costs. See attached.

(c) Extension of these benefits would be on a nonreciprocal basis.

3. VETERAN'S ORGANIZATION OPINIONS

A. D.A.V. See attached.

B. American Legion. See excerpts attached from testimony given on these issues.

C. V.F.W. See excerpts attached from testimony on these issues.

WASHINGTON, D.C.
September 4, 1974.

Hon. VANCE HARTKE,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This will respond to your request for a report by the Veterans Administration on H.R. 13377 and S. 3890, identical 93d Congress bills "To amend title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II."

H.R. 13377 was passed by the House of Representatives on August 5, 1974. Each of the subject bills would amend section 109 of title 38, United States Code, to extend to any person who served during World War I or World War II as a member of any armed force of the Governments of Czechoslovakia or Poland, and participated while so serving in armed conflict with an enemy of the United States, and has been a citizen of the United States for at least ten years, entitlement to hospital care and medical services, and domiciliary care under chapter 17 of title 38.

Benefits under the subject bills would not be available to a person who is entitled to payment for equivalent care and service under a program established by such foreign government for persons who served in its armed forces during World War I or World War II.

Section 109(a)(1) of title 38 currently authorizes the Administrator, in consideration of reciprocal services extended to the United States and upon a reimbursable basis, to furnish hospital care, medical services, and education, training or similar benefits to discharged members of the armed forces of the government of any nation allied, or associated, with the United States in World War I (except a nation which was an enemy of the United States in World War II), or World War II, if such benefits are authorized by such government for its veterans. Section 109(b) provides that persons who served in the active service in the armed forces of any government allied with the United States in World War II, and who at the time of entrance into such service were citizens of the United States, are, if otherwise qualified, entitled to the benefits of chapters 31 and 37 of title 38 in the same manner and to the same extent as U.S. veterans of World War II, provided he is a resident at the time of filing a claim, and has not received similar benefits from the nation in whose armed forces he served.

The general policy of Congress, except as to those benefits in section 109(b) of title 38, United States Code, has been to provide direct benefits solely for veterans who served in the Armed Forces of the United States and their dependents. The direct extension of certain benefits (although provided on a reciprocal basis in sec. 109(a)) to persons who served with governments allied with the United States, but who rendered no service in the U.S. Armed Forces, would be a departure from that policy.

While the provision requiring each applicant to furnish an authenticated certification from the French Ministry of Defense or the British War Office as to service would make either of the subject bills more administratively feasible than similar purpose bills introduced in past years, we are still of the opinion that enactment of either H.R. 13377, or S. 3890 would be an unwise departure from the well-established policy that veterans' benefits should be granted only to those who served in our Armed Forces. Moreover, we do not believe that residents of the United States who are nonveterans of this Government should be provided medical care benefits at the expense of the taxpayers of this country, solely because of a period of lawful residence in the United States, especially when the majority of U.S. citizen taxpayers are not entitled to the same benefits for themselves.

Accordingly, we oppose the enactment of either H.R. 13377, or S. 3890.

It is not possible to estimate the cost of the subject bills should either be enacted, since we have no information as to how many individuals may qualify for benefits.

We were advised by the Office of Management and Budget in regard to a basically identical report to the Chairman, House Committee on Veterans' Affairs, on H.R. 13377, that there was no objection to the presentation of that report from the standpoint of the Administration's program.

Sincerely,

DONALD E. JOHNSON,
Administrator.

VFW

The Veterans of Foreign Wars has no official position on the specific bills before you which propose veterans medical care by the Veterans Administration for certain members of Allied Wartime Forces. The Veterans of Foreign Wars, however, does have positions of long standing which address themselves to the integrity of veterans programs and the definition of who is a veteran or his dependent. The central question to be asked by the proposal in H.R. 13377 and S. 684 by Senator Stevenson of Illinois is—Who is a veteran? The bills before you propose to expand the definition of a veteran to include persons who did not serve in the U.S. Armed Forces. The beneficiaries of the proposed legislation could have served in the Armed Forces of their respective national governments long before the United States entered World War I or World War II. This is because the dates of service for these allied veterans for entitlement to veterans assistance would be 1914 to 1918 for World War I and 1939 to 1945 for World War II.

No one denies that these veterans who would benefit by approval of this legislation fought valiantly on our side. We all know that after the war was over they found that their own countries had been taken over by alien regimes and they subsequently emigrated to this country by the hundreds of thousands, where they continue to live in the tranquility and freedom for which they fought.

Notwithstanding, there are thousands of U.S. citizens who consider themselves veterans, who are not entitled to one dime of veterans benefits. The most notable group from World War I are those Americans who went to France before America got into that war in 1917. They formed what is called the Lafayette Escadrille, whose record many believe was never surpassed. However, we have never done a thing for them.

During World War II another group who served with the Armed Forces was the Women's Army Auxiliary Corps. This group, too, has never received a dime of veterans benefits.

There are thousands of other Americans who have served in our Armed Forces, or been an integral part of the Armed Forces, such as female telephone operators who served with our Signal Corps during World War I, who have never been recognized for any veterans benefits.

Another fact to keep uppermost in mind is the estimate that there are 52 governments who were allied with the United States during World War I and II. The bill before you is limited to veterans of the Polish and Czechoslovakian forces under British and French commands. It is true that a ten-year citizenship period is necessary to qualify for veterans hospital care. Approval of this legislation, however, will establish a precedent. Once the precedent has been established, it logically follows that other Allied veterans will be asking for equal treatment.

Mr. Chairman, we all know the problems of having adequate funds and personnel recommended and approved for Veterans Administration hospitals. During the past several years the struggle for adequate funds for veterans medical care has been a number one issue of the Veterans of Foreign Wars. The bills before you to extend veterans medical care to allied veterans will certainly not relieve this situation.

Again, I hasten to add that these Allied veterans probably, more than most of us, realize what a precious possession freedom really is. These Allied veterans have made a great contribution to America. Regretfully, however, it must be emphasized that a principle is involved here, which should be looked at very carefully by this Committee and the Congress. If this legislation is approved it will expand the definition of a veteran entitled to veterans benefits by the U.S. Government for the millions who may have fought on our side during World War I and World War II.

AMERICAN LEGION TESTIMONY, SEPTEMBER 26, 1974

The purpose of the bill is to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II. Specifically, the bill extends entitlement to hospital and medical care to any person who served during World War I or World War II as a member of any armed force of the governments of Czechoslovakia or Poland, and participated while so serving in armed conflict with an enemy of the United States, and who has been a citizen of the United States for at least 10 years. Benefits would not be available to a person who is entitled to payment for equivalent care under a program established by the foreign government for persons who served in its armed forces during the subject periods of war. The estimated cost of these benefits, should they be provided to the designated class of beneficiaries, is not now available, because, at this point, the number of persons who would be favorably affected is not known.

The American Legion perceives no compelling reason why the benefits stipulated in the measure should not be provided. It is not inconsistent, historically, for the United States to be generous to those allied with our cause who helped achieve victory in the contests in which our country engaged.

Should the Congress look with favor on the intent of H.R. 13377, however, we suggest that it should go further, and provide certain benefits, at the same time to veterans of the armed forces of our old and true friend beyond our northern borders, the Dominion of Canada, who now reside in the United States. In support of this concept of extended benefits, the American Legion has Resolution No. 201 (Minnesota), adopted by the 54th National Convention in August, 1972.

In consideration by the Committee of our proposal, we draw attention to the provisions

of section 109 of title 38, United States Code, which currently provides the following benefits for discharged members of allied forces. Section 109 reads:

"In consideration of reciprocal services extended to the United States, the Administrator, upon request of the proper officials of the government of any nation allied or associated with the United States during World War I (except any nation which was an enemy of the United States during World War II), or in World War II, may furnish to discharged members of the armed forces of such government, under agreements requiring reimbursement in cash of expenses so incurred, at such rates and under such regulations as the Administrator may prescribe, medical, surgical, and dental treatment, hospital care, transportation and traveling expenses, prosthetic appliances, education, training, or similar benefits authorized by the laws of such nation for its veterans, and services required in extending such benefits. Hospitalization in a Veterans Administration facility shall not be afforded under this section, except in emergencies, unless there are available beds surplus to the needs of veterans of this country. The Administrator may also pay the court costs and other expenses incident to the proceedings taken for the commitment of such discharged members who are mentally incompetent to institutions for the care or treatment of the insane.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

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

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on final passage of H.R. 71 without intervening motion, amendment, or debate.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Illinois (Mr. STEVENSON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. BUCKLEY), the Senator from Ohio (Mr. TAFT), and the Senator from South Carolina (Mr. THURMOND) would each vote "aye."

The result was announced—yeas 50, nays 25, as follows:

[Rollcall Vote No. 580 Leg.]

YEAS—50

Bentsen	Hathaway	Pastore
Biden	Hruska	Pearson
Brooke	Huddleston	Pell
Bumpers	Inouye	Percy
Burdick	Jackson	Proxmire
Case	Javits	Randolph
Chiles	Johnston	Ribicoff
Clark	Long	Roth
Culver	Magnuson	Schweiker
Durkin	Mathias	Scott, Hugh
Fong	McClellan	Sparkman
Glenn	McIntyre	Stafford
Goldwater	Metcalf	Stevens
Griffin	Muskie	Stone
Hart, Gary	Nelson	Talmadge
Haskell	Nunn	Weicker
Hatfield	Packwood	

NAYS—25

Abourezk	Cranston	Leahy
Allen	Curtis	Mansfield
Bartlett	Domenici	McClure
Bellmon	Fannin	McGovern
Brock	Ford	Morgan
Byrd, Harry F., Jr.	Garn	Scott, William L.
Byrd, Robert C.	Hansen	Symington
Church	Helms	Young
	Laxalt	

NOT VOTING—25

Baker	Hart, Philip A.	Stennis
Bayh	Hartke	Stevenson
Beall	Hollings	Taft
Buckley	Humphrey	Thurmond
Cannon	Kennedy	Tower
Dole	McGee	Tunney
Eagleton	Mondale	Williams
Eastland	Montoya	
Gravel	Moss	

So the bill (H.R. 71), as amended, was passed.

Mr. STONE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PUBLIC WORKS EMPLOYMENT APPROPRIATIONS, 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 15194, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 15194) making appropriations for public works employment for the period ending September 30, 1977, and for other purposes.

The Senate proceeded to consider the bill which had been reported by the Committee on Appropriations.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination reported earlier in the day.

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

DEPARTMENT OF STATE

The legislative clerk read the nomination of Ralph E. Becker, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Honduras.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I request the President be notified.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to and the Senate resumed the consideration of legislative business.

PUBLIC WORKS EMPLOYMENT APPROPRIATIONS, 1977

The Senate continued with the consideration of the bill (H.R. 15194) making appropriations for public works employment for the period ending September 30, 1977, and for other purposes.

Mr. MANSFIELD. Mr. President, it is hoped we will be able to work out a time agreement on the pending bill. Whether or not we will succeed, the effort will be made.

Furthermore, I would like to emphasize to the Senate that the Secretary of State, Dr. Kissinger, will be meeting with all interested Senators in S. 207 at 2:45 this afternoon.

TIME LIMITATION AGREEMENT

Mr. PASTORE. Mr. President, if agreeable to the other side, I would like to make a unanimous-consent request.

I would like to request that we have a time limitation on amendments and motions in the usual form of 30 minutes to be equally divided, and 1 hour on final passage.

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

Mr. PASTORE. Mr. President, this is a task I am performing on behalf of our distinguished chairman (Mr. MCCLELLAN) to explain H.R. 15194, which is the bill before us now, which was passed by the House of Representatives on August 25.

The next day the Senate Committee on Appropriations acted on this measure and reported it to the Senate on August 27.

The bill includes a grand total of $3,952,433,000 in new budget authority including appropriations of $2 billion to the Economic Development Administration of the Department of Commerce for grants for various State and local public

works projects: $1,250,000,000 to the Department of the Treasury for an antirecesssionary program of revenue sharing and $700 million to the Environmental Protection Agency for additional waste treatment works construction grants. Also included in the bill is a total of $2,433,000 in new budget authority for certain related administrative expenses.

Mr. President, the recommendations of the committee represent the full amount authorized. The only change in the bill as passed by the House involves the appropriation to the Environmental Protection Agency for the waste treatment construction grants in fiscal year 1977. The committee amendment provides $700 million—the full amount authorized—which is $500 million more than the total approved by the House.

In view of the committee's decision to provide the total authorization, the language included in the bill by the House giving the agency the authority to allot funds only to States for which currently authorized funds are no longer available is superfluous and has been stricken. The committee has also deleted language indicating that no State can receive more than its full authorized allotment. The language is no longer required because the authorization act becomes controlling with the deletion of the above mentioned allotment authority language.

In preparing this bill, the committee utilized its existing subcommittee structure. The $2 billion appropriation for the Economic Development Administration was handled by the State-Justice-Commerce-Judiciary Subcommittee. The appropriation for the Environmental Protection Agency as well as the so-called antirecessionary appropriation was handled by the HUD-Independent Agencies Subcommittee chaired by the distinguished gentleman from Wisconsin (Mr. PROXMIRE), who will answer any questions on those programs.

Mr. President, the enactment of this legislation, in spite of the vetoes, is one more step in the achievement of the recommendations of the Congressional Program for Economic Recovery and Energy Sufficiency which was developed at the outset of the first session of the 94th Congress.

The bill is also within the budget resolution.

Now, Mr. President, I have a statement which explains the $2 billion for the EDA, the full amount authorized, for local public works projects.

The program will be administered by the Economic Development Administration of the Department of Commerce.

Seventy percent of the funds will be targeted for areas which have unemployment rates exceeding the national average, which now stands at 7.8 percent of the workforce. Thirty percent of the funds will be given to areas where unemployment is below the national rate but above 6.5 percent. In this way, funds will be targeted to those areas which are suffering from high and persistent unemployment and which are truly in need of Federal assistance.

Mr. President, it is clear that the funds are needed.

Unemployment is up to 7.9 percent in August, compared with 7.3 percent in May. This means that 646,000 more people have been added to the unemployment rolls in the last 3 months alone. Unemployment in the construction industry stands at 17.1 percent. Nationally, 7.5 million workers are now unemployed.

This will cost the country $17 billion this year in unemployment benefits, including $5 billion in Federal contributions to the unemployment trust fund.

The purpose of chapter 1 is to divert a portion of the budget to provide job opportunities that put people back to work constructing facilities of lasting value to the community, rather than passively continuing to pour more and more Federal funds into the unemployment trust fund. In other words, we are going to have to appropriate these funds one way or another. It seems to me that this bill represents the compassionate and sensible approach.

I do not think we need a lot of debate on this matter. The mandate of the Congress is clear. When the President vetoed the authorizing legislation, the Senate overrode the veto by a vote of 73 to 24.

A few days ago, the House passed this appropriations measure by a vote of 311 to 72.

I sincerely hope that my colleagues in the Senate will support the committee recommendation and provide the full $2 billion for chapter 1.

If there are any questions with reference to this title, I will be only to happy to explain it.

Mr. President, at this time I ask unanimous consent that the committee amendments be considered and agreed to en bloc, and that the bill as thus amended be regarded for the purpose of further amendment as original text.

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

The amendments agreed to en bloc are as follows:

On page 3, in line 7, strike out "$200,000,000" and insert "$700,000,000".

On page 3, at the end of line 8, strike out the colon and lines 9 through 15.

Mr. PASTORE. I yield to the Senator from Wisconsin.

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. PASTORE. Whatever time he needs.

Mr. PROXMIRE. Mr. President, as chairman of the HUD-Independent Agencies Subcommittee I would like to summarize the action taken by the subcommittee as well as the full Senate Appropriations Committee on chapter II of H.R. 15194, the Public Works Employment Appropriations Act. This chapter of the bill contains $1,250,000,000 for an antirecession assistance program to be used for the maintenance of basic services by State and local governments and $700,000,000 for waste treatment construction grants. Administrative expenses are also included within total chapter II funding of $1,952,433,000.

The total amount provided is $500,000,000 above the funding approved by the House in passing H.R. 15194. This results from the committee's decision to provide the full $700,000,000 authorized for waste treatment construction grants rather than the $200,000,000 included in the House version of the bill. This committee decision followed on the heels of testimony by the Environmental Protection Agency to the effect that it would be an administrative nightmare to distribute the $200,000,000 provided by the House on the basis of an authorization entitling various States to $700,000,000.

The antirecession portion of this chapter provides emergency Federal assistance to State and local governments hard hit by recessionary pressures, in the form of general payments to State and local governments, beginning July 1, 1976, and covering 5 calendar quarters. The authorizing legislation allows appropriations of $125 million for each calendar quarter in which the national seasonally adjusted unemployment rate reaches 6 percent, plus an additional sum of $62.5 million in each quarter for each one-half percentage point above the 6 percent unemployment level. One-third of the payments would go to eligible States and two-thirds would be for eligible units of local government—a total of $1,250,000,000 overall.

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

Mr. PROXMIRE. I yield.

Mr. PASTORE. Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. The bill before us today provides the full $1.25 billion authorized, with $312.5 million allocated for the transition quarter and the balance of $937.5 million targeted for obligation in fiscal year 1977.

The waste treatment grant funding in chapter II provides $700,000,000 for additional waste treatment construction grants in fiscal 1977 to be distributed to 37 States and Territories that did not previously receive the full amount to which they would have been entitled under an allocation formula based on a 1974 needs survey. The 1974 formula was not used in February 1975 to distribute $9 billion in previously impounded funds and consequently the funding to be provided here is meant to partially redress an inequity that arose from the distribution of previously authorized funding on the basis of an outmoded formula. In other words, this money is directed toward ironing out inequities in the formula for the construction grant program rather than creating immediate employment opportunities for those seeking jobs.

Mr. President, I believe that the Congress was ill-advised to pass the authorization and am compelled to oppose the appropriation of these funds.

Let us consider the specifics. There is no evidence that the EPA water and sewer funds contained in title III will attack unemployment quickly or in the areas of greatest need. As Assistant EPA Administrator Alm pointed out in testimony before the Appropriations Committee on August 26, many States with serious unemployment problems, such as New York, California, Rhode Island, and Massachusetts, are excluded. Furthermore, it will take a year just to obligate the first third of the funds authorized. Outlays creating jobs will take even longer.

Title II is very much a makeshift program. It pumps money into States and localities for the hiring of public employees without any effective controls over the way the money is to be used. It is conceivable that a community could utilize all the money at its disposal just for pay raises. In such a case the funds would not add a single man or woman to the employment rolls. Furthermore, there are substantial questions in my mind as to the degree to which title II funds will get to the highest unemployment areas in view of the large degree of error that may be inherent in some of the unemployment figures with which the Treasury Department will be dealing.

Not only are the programs this legislation funds costly and ineffective, they may result in the creation of jobs at a time when the Nation is confronted by inflationary pressures rather than recessionary problems. As I have already pointed out, jobs will not be created under title III for at least a year. The Treasury Department has made it clear that it will take a substantial amount of time to provide interim regulations and process assurance forms under title II of the act. Here again the funds may be disbursed at a time when their economic impact is a negative one.

For all of these reasons, as well as the excessive price tag of almost $4 billion attached to this legislation, I must cast my vote against the bill. I do this with the knowledge that it will in all likelihood pass the Congress and prevail over a Presidential veto, should there be one. I also recognize that many States and communities will be delighted to receive the substantial additional Federal funding contained in this measure. Yet in the face of a deficit for fiscal 1977 that may mount to more than $50 billion I believe most strongly that a "nay" vote is the only responsible course of action.

Mr. President, I thank the distinguished Senator from Rhode Island for yielding me time, and I yield the floor.

Mr. MATHIAS. Mr. President, I think it is appropriate that the Senate addresses itself to this bill in the week in which we come back from the Labor Day recess, because on Labor Day we celebrate what the working people of America have done to create the tremendous country that we now enjoy, and we draw attention to the great privilege that it is to be able to work.

But for anyone to be able to work, he has to find a job, and it is a distressing thing to me that we have 7.8 percent of our work force unable to find jobs in America today. That is really what this bill is all about.

The committee looked at the problem with a view to finding a way for every American to enjoy the privilege of work, to be able to make a contribution to the country through work, and we feel that this is a much better approach than the dole—a much better approach—and therefore this bill looks to substantial public works for ways in which people can contribute on meaningful, lasting projects for the Government.

There are some objections which I feel obliged to call attention to in the minority section of the report, of people who have raised the question that these jobs will be a long time coming on the line. I agree with that, but the committee has done the best it can, and we feel this gives us reassurance that the jobs will be created, and that meaningful contributions to the Nation will result from this bill.

Mr. JAVITS. Mr. President, I call attention to that section of the report dealing with antirecession financial assistance funds.

Mr. President, the reference I make is to the sentence in the report, on page 9, which reads as follows:

> The funds are to be used for the maintenance of basic services ordinarily provided by State and local governments, such as police and fire protection and sanitation services.

It is to be borne in mind that this money will go to the communities in the country hardest hit by the recession. As the recession eases, it will be phased out, but a new factor has emerged that Senator PASTORE has in mind, and it is necessary to have it on the public record, or I would have just filed my statement.

Yesterday, we concluded the conference on CETA, and one of the points of settlement on CETA, which is the public service employment program, was a provision—if I may have the attention of the Senator, because it is really important.

One of the provisions of the conference related to what will happen to jobs which are the subject of attrition now occupied under CETA. There are something in the area of 320,000 such jobs. The attrition, we decided—with some conditions, but they are not important here—would be divided 50–50 between municipal rehires for public health and safety purposes only and targeting to the long-term unemployed.

When the Senator has his conference on this bill, I hope he will have before him the text of the other bill. We are always accused of doing something with the right hand and not knowing what the left hand has done. I am informing the Senator that these two ideas and these two pots of money have to be related to each other and coordinated, because they both concern precisely the same thing.

One of the reasons for the 50–50 deal which I proposed was the contemplation of this very bill and this very appropriation. That would give more flexibility, depending upon what was available in each pot. But they must be coordinated, because they propose to do almost precisely the same thing..

Mr. PASTORE. Will the Senator yield on that very point?

Mr. JAVITS. I yield.

Mr. PASTORE. Does the Senator not think it would be a good idea, speaking of the point that is being made now by the Senator from New York—whom I consider to be a great human being—if he would put that in writing in a letter?

Mr. JAVITS. I will.

Mr. PASTORE. Then we can transmit that to the administrator of these programs, because I think that the problem that he sets forth, if his legislation does pass, is an administrative one more than a legislative one. I think that that ought to be taken into account.

Here we are, trying to create jobs, and as CETA goes out of operation, we are going to find those people out of work and they will not be getting the same jobs, for the reason that one is a public works program and the other is a public service program.

Mr. JAVITS. CETA, you see, is in business. If it passes, we put it in business for another year, we extend it for another year, and we have made allowance for precisely what the Senator has made allowance for in his bill.

But what we will need, may I say to the Senator—and I will get our conferees to do the same thing—is the two different administrators' problem——

Mr. PASTORE. Write to both.

Mr. JAVITS. That is correct. Notice to these administrators that we expect them to see the money is treated as a unit so that a municipality is not going to profit from one and lose in one or the other, or vice versa.

Mr. PASTORE. Has the Senator's bill been reported out of the committee?

Mr. JAVITS. The conference report was signed yesterday between House and Senate, so it is well on its way, and we think the President will sign the bill. And, of course, on this one we are so unanimous that again we may have to pass it over a veto, and we will, so this is not a real problem.

Mr. PASTORE. I hope we will not have to do that again. I hope the President of the United States will be conscious of the fact that his veto of the authorization bill was overridden, and I do not think we ought to go through this agony twice.

Mr. JAVITS. I do not think President Ford is a bad sport. I hope very much he signs this.

Mr. PASTORE. I know he is a good sport. He used to play football, and I would expect him to do the right thing. [Laughter.]

Mr. JAVITS. I thank the Senator.

ADDITIONAL STATEMENTS

Mr. MUSKIE. Mr. President: The Senate is considering H.R. 15194, the public works employment appropriations bill. If this bill is enacted, it will provide full funding for the Public Works Employment Act of 1976.

The Senate has time and again reviewed the need for the job stimulus programs which this bill would provide. In recent months, we have so often voted in favor of its purpose and provisions that I hesitate to comment on its substance at any length.

I do want to point out, however, that in spite of protestations that the economy is fast on the way to recovery, the need remains great for this bill and for the 300 thousand jobs it will create.

In my own State of Maine, for example, unemployment in July rose more than a full percentage point over the June rate, to a rate of 8.9 percent. July unemployment rose nationally as well, although not as dramatically.

In Detroit, we are seeing a chilling example of what happens when a city is forced by an unprecedented budget crisis

to reduce its law enforcement effort below the level at which public safety can be maintained.

Clearly, Mr. President, if the economy is finally improving in some parts of the country, the recovery still needs a push in others.

A principal purpose of this legislation it to provide a quick stimulus to the construction industry, and to individual State and local governments where the painful impact of the recession lingers on.

So I want to commend the distinguished chairmen of the two subcommittees involved, Senator PASTORE and Senator PROXMIRE, and the distinguished chairman of the committee, Senator MCCLELLAN, for their dedicated effort in bringing this bill so quickly to the floor. The programs funded by this bill represent a major congressional priority. Full funding of this appropriation bill was assumed in the second budget resolution which the Senate yesterday passed overwhelmingly.

Certainly, this bill reflects the high priority Congress has placed on reducing the Nation's unacceptably high unemployment rate, and it should be passed. I am confident that the Senate can achieve the goals of the second budget resolution which included this important initiative.

Mr. RANDOLPH. Mr. President, today the Senate is considering the appropriations bill for the Public Works Employment Act of 1977 which was enacted on July 22, 1976, over the veto of the President. More than a year ago, the Committee on Public Works began developing legislation to combat our serious unemployment problem. We were prompted by concern for the American economy and the challenge to create new job opportunities for millions of unemployed Americans.

I am gratified that the Senate Appropriations Committee has recognized the problem and recommended full funding for the act. We need a new infusion of strength into the American economy and I believe that a broad-based public works program will provide such a stimulus. Our economy continues to suffer even though we hear daily optimistic predictions that it will soon right itself. I hope these predictions are true for we have suffered the consequences of economic downturn for too long a period. We continue to be faced with a severe downturn and the highest unemployment since the Great Depression of the 1930's. With unemployment currently at 7.9 percent, millions of American workers are unemployed. The unemployment rate has actually increased in recent months, giving further urgency to the need for positive action that will result in new jobs. The official statistics indicate that approximately 7 million Americans are without jobs. This is not the real unemployment. It is even higher because many have been driven by discouragement from the job market.

The appropriation of $3.95 million recommended in H.R. 15194 will commit funds to three important activities authorized by the Public Works Employment Act. First, $2 billion will be provided for the construction of local public works facilities. This program will provide jobs for skilled workers in the construction industry where unemployment remains at about double the national average. In addition, the creation of public facilities whose usefulness extends for many years beyond the life of the program will result. Second, $1.25 billion in countercyclical revenue-sharing assistance to States and communities will be provided. This money will be of great value to public bodies whose local revenues continue to be depleted by adverse economic conditions. Third, the bill funds the $700 million additional authorization for the waste water treatment construction grant program authorized by the Public Works Employment Act. These funds will enable many communities to move forward to eliminate water pollution problems while creating needed jobs.

The appropriations provided in this bill will be invested by State and local governments to create jobs. This employment is not only direct employment but will create jobs in related fields which supply and service the construction industry.

Mr. President, I am appreciative, as our colleagues, of the speed at which the Appropriations Committee has moved to approve funds for the Public Works Employment Act. One of the most carefully conceived provisions of the act was to require that this bill provide employment as quickly as possible. It was in this vein that we wrote the bill specifying that projects be funded which could begin within 90 days. Speed is of the essence if we are to create meaningful jobs for the unemployed workers of this country.

Mr. President, we know that in the past year there has been progress in the recovery from the recession in this country. This recovery, however, is incomplete. I repeat, with unemployment in the labor force increasing over the past several months to 7.9 percent, we cannot consider the economy healthy. We must move forward to provide the funds which will create jobs, jobs of lasting benefit to all Americans. I believe the Congress will support the recommendation of the Appropriations Committee to provide full funding for the Public Works Employment Act of 1976.

Mr. HUDDLESTON. Mr. President, I am pleased to support H.R. 15194, the Public Works Employment Appropriations Act, which is designed to provide an immediate economic stimulus in those areas which continue to experience unemployment levels that are far too high.

The overall national employment rate currently stands at 7.8 percent. That represents some improvement over the earlier high figure of 9.1 percent which we experienced during February, March, and June of 1975. For the 7.4 million Americans who remain out of work, however, the improvements in the figures mean little. The statistics mask the all too real situation of no work, no jobs. This situation is particularly acute in selected industries, such as the construction one, where unemployment runs about 17 percent.

The pending legislation will address the problem of selected areas which have high unemployment rates. It will focus on immediate assistance, which should help overcome the lull in economic recovery we have apparently entered, but should not extend over such a long period as to be stimulative when, if economic predictions are correct, such a stimulus will not be required. Furthermore, the legislation concentrates on tangible, productive work—on construction of projects which in many cases have already been determined to be of value and given some priority in local, State and Federal planning for future expenditures.

Title I of the legislation, for example, will focus on public work projects, such as schools, roads, libraries, water and sewer lines, and health and education facilities. Seventy percent of the funds will be spent in areas which have unemployment rates above the national average; 30 percent will go to areas with unemployment above 6.5 percent. Grant applicants will have to insure that onsite labor can begin within 90 days of approval. Surely, this reflects the intent to put dollars where they are needed in terms of worthwhile construction and in terms of reducing unemployment. Surely, these provisions reflect the intent that the funds be used as soon as possible so that there will be an immediate attack on unemployment.

If there is a problem with title I—and I think that there may be—it relates to the unemployment figures which are being used to determine eligibility. At the State and the sub-State level, where the latter are available, the figures being used are those which the Bureau of Labor Statistics has accumulated. These figures are not seasonally adjusted, and that has raised some justifiable fears among State and local officials, especially in areas where agriculture and tourism are significant. In the summer months, unemployment figures, if not seasonally adjusted, will be lower in these areas and may not adequately reflect the longer term situation. I pursued these matters with Assistant Secretary of Commerce for Economic Development, John Eden, when he appeared before the Subcommittee on State, Justice, and Commerce of the Senate Appropriations Committee; and I shall ask that a copy of our exchange appear at the end of this statement. I understand the problem which BLS and EDA face regarding the lack of seasonally adjusted data which can be used. But, I also hope that BLS and EDA will continue to be aware of the problem and, to the extent possible, be flexible in dealing with areas where the statistics may not adequately reflect the true situation.

While title I is generally referred to as the construction section, title II is generally considered the people section, for this section provides funds to the States for the maintenance of basic services such as police, fire protection and sanitation, which may have been curtailed or eliminated because local revenues could not support the services at previous levels. Again, funds are to be distributed according to unemployment rates.

Finally, title III provides additional

funding for wastewater treatment construction in States which did not receive the full amount which they would have been entitled to under an allocation based on a 1974, rather than an earlier, needs study.

While these funds may not be obligated as quickly as funds provided in titles I and II, it is important that these funds be provided so that States and localities can move ahead with projects whose need has already been recognized and so that those States whose need had grown but who did not see that need reflected in the disbursement of previously authorized funds can be compensated. I believe that it is only fair to provide these funds and that now is the best time to do it.

Unfortunately, the House provided only $200 million of the $700 million authorized. At the subcommittee level in the Senate, we were able to restore a full funding; and I hope that we will be able to retain the higher figure in conference in order to overcome the disadvantage to which some 33 of our States have been subjected.

Mr. President, I believe the bill is a timely one. I urge its adoption. I hope that it can be moved through the conference process and enacted into law promptly and that the funds provided can be expeditiously distributed so that we have the benefit of this legislation during this slowdown in economic recovery.

Mr. President, I ask unanimous consent that the material to which I have referred may be printed in the RECORD.

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

Senator HUDDLESTON. What three-month period is being used to determine the unemployment rate?

Mr. EDEN. We would use the most recent period of three consecutive months for which data was available for that project area at the time of application. The period would be different depending on when the application is submitted and what data is available for the project area.

Senator HUDDLESTON. Does EDA now have a list of those areas with unemployment above the national average and which, thereby, fall into the 70-percent category and above the 6.5-percent level which fall into the 30-percent category? If so, please supply. If not, when will they be available?

Mr. EDEN. This list is being made available to our Regional Offices so that they may advise localities of eligibility. We expect them to have this material by the middle of next week.

We plan to update this listing monthly.

Senator HUDDLESTON. What is EDA's source of unemployment data?

Mr. EDEN. We will rely primarily on BLS statistics but will also accept state employment data if the BLS data is not available.

Senator HUDDLESTON. Your regulations on page 5 seem to suggest that States and localities cannot question the data base being used or submit data of their own if they are in an area for which BLS has figures. I had understood that localities would be able to submit additional data. What is the policy?

Mr. EDEN. If BLS data is available, it prevails, except when a locality within a jurisdiction to which the BLS data applies, chooses to use State agency data. BLS data must be used if the project area is a jurisdiction which is on the BLS list.

Senator HUDDLESTON. How can additional data be submitted?

Mr. EDEN. The applicant would obtain statistics from the State Employment Security Agency and include the data as part of the application.

Senator HUDDLESTON. When will localities be able to do this? Will they be given sufficient time so as not to prejudice their applications?

Mr. EDEN. They could begin immediately to check on the availability of the data or to generate data when it is not available.

Senator HUDDLESTON. What kinds of data will be acceptable from localities?

Mr. EDEN. BLS has directed the SESAs to cooperate with localities in generating data where it is not already available in the basic BLS listings.

Senator HUDDLESTON. In cases where State employment or other agencies collect data, will localities still be allowed to submit their own data or question the data being used?

Mr. EDEN. The data will have to come from BLS or SESAs, with the exception of Indian reservations which may supply the data directly.

Senator HUDDLESTON. What data will be acceptable for indicating how an applicant might draw on unemployment persons in adjoining areas?

Mr. EDEN. Applicants may define their project area to include the full area from which they expect to draw employees to work on that project.

Senator HUDDLESTON. What criteria will be used to determine whether or not a neighborhood qualifies, and who will make that determination?

Mr. EDEN. An applicant may further define a neighborhood within a jurisdiction and EDA would consider this valid so long as the unemployment data is certified by the SESA.

Senator HUDDLESTON. Some States, including Kentucky, do not seasonally adjust State-collected unemployment figures. Do you know how many States this is true for?

Mr. EDEN. I do not know how many States do this. However, all data supplied to BLS for use in CETA and other Federal programs is raw data which has not been seasonally adjusted.

Senator HUDDLESTON. Have you made any administrative arrangements to adjust for this so that you will not penalize tourist and agricultural States which have low unemployment during summer months but a very high rate for the rest of the year?

Mr. EDEN. Since projects within a State will be competing with other projects within that State, we feel that impact of seasonality on the distribution of projects within a State would be minimized. There are no plans to make adjustments for seasonality in determining the State allocations because BLS does not have such data.

Senator HUDDLESTON. In your regulations, you propose a regional allocation for funds. Would you explain your formula for these funds?

Mr. EDEN. We are utilizing a State allocation formula. Within the statutory limitations, 65 percent of the funds appropriated will be allocated to the States based on their share of the national unemployment; the remaining 35 percent will be allocated on the basis of the relative severity of the States' unemployment.

Senator HUDDLESTON. Until title X, there was a very uneven substate distribution of funds. What do you propose to do in implementing this Act to assure a balanced, equitable substate distribution of funds?

Mr. EDEN. We feel fairly certain that the various factors in the selection formula will tend to balance the distribution of projects within the States between their urban and rural areas and among the various parts of the State where unemployment is a significant problem.

Senator HUDDLESTON. Section 108(c) of Title I of the Public Works Employment Act of 1976, states in part: "Information regarding unemployment rates may be furnished either by the Federal Government, or the States, or local governments, provided the Secretary determines that the unemployment rates furnished by States or local governments are accurate, and shall provide assistance to States or local governments in the calculation of such rates to insure validity and standardization."

What are you doing and what form will the assistance take?

Mr. EDEN. The SESAs will be working with the localities.

Senator HUDDLESTON. Will it be through EDA grants or Bureau of Labor Statistics personnel being assigned?

Mr. EDEN. There will be no EDA grants for this purpose; all activity will be by BLS and the SESAs.

Mr. NUNN. Mr. President, title III of this bill appropriates funds for the so-called Talmadge-Nunn wastewater treatment construction grant amendment. This amendment was originally attached to the authorization bill in order to correct an inequity in the amount of waste water construction funds distributed to 33 States. That amendment would have redistributed the $9 billion of impounded funds in a fashion that would have resolved the problem at no additional cost to the taxpayers. The first conference committee, however, saw fit to reject the Senate's position and authorize $1.4 billion in new spending to make these 33 States whole.

As you know, the first bill was successfully vetoed and the second Public Works public service jobs bill, as passed by the Senate, contained the compromise title III language which had been developed in the first conference. The House then acted to deprive these 33 States of complete restitution by forcing the Senate to accept a 50-percent cut in authorization to a $700 million level.

The House Appropriations Committee continued the House erosion of the Senate's position by approving a mere $200 million for appropriations in title III, as compared to full funding of titles I and II. This completed a process which saw the House reduce the original Senate-passed bill $1.4 billion, which would have made whole the 33 States disadvantaged by EPA's procedures, to one-seventh its initial level.

The argument which EPA made in the House that the States are not prepared to obligate more than $200 million is simply incorrect. As a matter of fact, EPA has recently retracted that assertion.

Mr. President, fortunately the Senate Appropriations Committee, both at the subcommittee and full committee level, restored the $700 million to the bill. I believe that their action is eminently reasonable and consistent with the twice-recorded position of the full Senate on this matter. In view of the fact that $700 million represents one-half of the amount originally authorized, I believe it should be the bottom line.

Mr. FORD. Mr. President, I was extremely pleased when the Appropriations Committee included in H.R. 15194 the full funding of the $700 million authorization for waste treatment construction grants in fiscal year 1977. I feel that any reduction in this amount would be an error. I realize that the EPA testified in the House that they would obligate only $200 million and the House in its bill acted on this advice. However, I know from personal experience as

Governor that my State can encumber its share of the full $700 million appropriation. My position has been reinforced by the present Governor of the Commonwealth, Julian Carroll, and the secretary of the Kentucky Environmental Agency. I received the same advice from Governors of 10 of the other Southern States. This full funding is what has been needed and what has been awaited by the States.

I urge the Senate in all sincerity not to take action to reduce this amount; and I also hope that if the bill goes to conference, Senate conferees will insist on full funding, for it is right and it is feasible.

Mr. HRUSKA. Mr. President, House and Senate Appropriations Committee hearings on this legislation, (H.R. 15194), support and substantiate the President's July 6 veto of the Public Works Employment Act of 1976. In that veto message, President Ford listed five basic reasons for his action. Let me review those reasons at this time.

First, it created an intolerable addition to the budget.

Second, while the bill's sponsors estimated that it would create 325,000 new jobs, other estimates indicated that at the most some 160,000 work-years of employment would be created over a period of several years.

Third, the bill would create few new jobs in the immediate future.

Fourth, the cost of producing jobs under the bill would have been intolerably high, in excess of $25,000 per job.

Fifth, it would be inflationary because Federal spending would be increased with a resultant budget deficit of $1.5 billion in 1977 alone.

These reasons are equally valid when applied to this appropriations bill.

No one is more concerned over the effects of unemployment than the President. This appropriation will not cure unemployment. As a matter of fact this $4 billion will only reduce unemployment by one-tenth of 1 percent. It will, however, increase demands on the economy and on the borrowing requirements of the Government at a time when those demands are least desirable. Basic to meaningful job creation in the private sector is reducing the ever-increasing demands of the Federal Government for funds.

Passage of this appropriations bill will create an administrative nightmare for the Economic Development Administration of the Department of Commerce. Two billion dollars worth of project decisions will have to be made within 60 days. New bureaucrats, both in the field and in Washington, will have to be hired to cope with the applications and blizzard of paperwork. It has been estimated that EDT could receive 6,000 project applications—that would mean approval of over 100 applications per day for 2 months with each application accompanied by a favorable environmental impact statement. Does any Member of the Senate seriously believe that 6,000 favorable environmental impact statements can be acquired within 60 days? This appropriation is intended to create jobs, and create jobs it will, but far too many of the jobs will be in Washington.

Potential projects that could be funded range all the way from the modernization of tennis courts to the construction of a complex sewer system for a major municipality. Here is the rub. Local officials can delay any projects ready for bid in order to apply for funding under this program. If EDA is unable to make a decision on an application within 60 days, the application is automatically approved. Therefore, this appropriation may not create any new jobs. It may just substitute Federal money for local money, and there is no way EDA can assess how much of that is going to occur.

Mr. President, recent data reported by the Commerce Department shows that construction expenditures have increased more than $2 billion from May to June 1976, to a level prevailing in 1973. The economy, including the construction industry, is expanding rapidly as evidenced by the leveling in the inflation rate, interest rates, and the overall downward trend in unemployment rates. Notably, national employment is at the highest level in our history.

Pump priming the construction industry, as proposed in this appropriation, will provide relatively few jobs for the hardcore unemployed who are generally unskilled. Construction in general has a low degree of labor intensity and generally requires a greater share of skilled labor. Past studies have shown that countercyclical public works programs have been poorly timed, and have provided few employment opportunities for the unemployed. The impact of this appropriation would appear to be supportive of the inflationary policies of this Congress.

Mr. President, this appropriation is economically irresponsible. No new job opportunities are going to be created this year. Instead, the wage earner desperately trying to make ends meet must suffer the inflationary consequences of the Federal Government borrowing more billions of dollars. This appropriation is nothing more or less than a cruel election year illusion.

Mr. President, my objections to this measure will not, I suspect, stand in the way of a majority of my colleagues who will see fit to approve it. Nonetheless, if such a job-creation bill is going to be passed, I would like to draw attention to a much needed area where positive results could be achieved to improve the status of the criminal justice system in this Nation.

I refer specifically to the construction and renovation of jails and correctional facilities.

The unacceptable condition of our Nation's jails and prisons is well documented. In 1973, the National Advisory Commission on Criminal Justice Standards and Goals found that—

> The most striking inadequacy of jails is their abominable physical condition.

A recent General Accounting Office report on conditions in local jails indicates that overall physical conditions of jails and the availability of services remain inadequate. Clearly, our correctional system is facing a crisis.

Evidence recently presented to the Judiciary Subcommittee on Criminal Laws and Procedures and the Appropriations Subcommittee on State, Justice, Commerce, and the Judiciary by acknowledged experts in the field of corrections substantiates the critical nature of the problem which faces us. It has been conservatively estimated that it would cost more than $4 billion to renovate the Nation's jails. Replacement would cost even more. In 1971, Congress took heed of this problem by adding a new part E to the authorizing legislation of LEAA. Since enactment of this extraordinary provision, LEAA has made every effort to realistically meet the situation within the limitations of available funds and the constraints of its legislation. Since fiscal year 1972, LEAA funds for construction have amounted to $170 million. Yet, in light of the magnitude of the problem, it is obvious that much more needs to be done.

Between 1967 and 1973, incarceration of criminal offenders increased by 60 percent. There is every reason to believe that pressure for improved or expanded jail and prison capacity will continue to grow. As crime rates continue to climb, as more crime prone youth continue to constitute a high percentage of our population, as female crime increases, and as police and prosecutors become more effective in bringing criminals to justice, the entire criminal justice system will continue to suffer by the low quality of the Nation's jails and prisons.

Even if the population of those held in jails stabilizes, there is still an obvious need for improved facilities. A jail census funded by the Law Enforcement Assistance Administration found that 25 percent of cells in use were built prior to 1920. The frequency with which both Federal and State judges are beginning to view inadequate and overcrowded facilities as cruel and unusual punishment further suggests an urgent need for both facilities improvement and program reforms. The closing by court order of the Tombs jail in New York City and the ruling of a Federal judge in Alabama requiring the State prison system to meet specific standards within 2 years are prominent examples of recent judicial rulings in this area.

I am gratified to note that the Economic Development Administration's guidelines for the local public works capital development and investment program includes construction, renovation, repair, and other improvements to detention facilities among eligible projects. However, I urge the administrators of the program to give emphasis to such projects. Too often we are faced with priorities which allow the Federal Government to spent four times as much on wastewater treatment as on improvement of the criminal justice system. The desperate condition of the country's corrections facilities mandates that more attention be given to this critical area.

While expanded construction and renovation of correctional facilities is necessary, care must be taken to assure that we do not engage in such construction merely for the sake of construction. To this end, it is important that the Department of Commerce and EDA, in regulations to implement the Public Works Improvement Act published on August 23, 1976, state that projects in-

volving construction of detention facilities must comply with the requirements of part E of LEAA's enabling legislation. Part E places stringent requirements on the construction of jails. The intent of this provision is to encourage planning and program development and assure that any jails and prisons constructed are not patterned on the unsuccessful models of the past.

The National Advisory Commission on Standards and Goals, an LEAA Blue Ribbon Committee on Corrections, the National Council on Crime Delinquency, and the Society of Friends have all urged caution in the construction of new detention facilities. Thus, the LEAA requirements emphasize community based programs and the reasonable use of alternatives to incarceration. Where construction is funded, it must meet guidelines incorporating advanced techniques approved by the National Clearinghouse for Criminal Justice Planning and Architecture. The clearinghouse also provides technical assistance to State and local governments in program planning, architectural designs and development of correctional master plans.

There are today, Mr. President, a large number of construction projects which meet the requirements of the Public Works Employment Act and which have received clearinghouse approval. All that is lacking is money with which to initiate construction or provide matching funds. As I noted earlier, if any public works jobs bill is going to be approved even though I oppose its approval, the administrators of the funds made available under the bill should direct substantial attention to the condition of our jails and prisons and the jobs that could be created in their renovation and construction.

Mr. PASTORE. Mr. President, if there are no further amendments, I suggest we go to third reading.

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

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

Mr. PASTORE. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter that I have just received from John W. Eden, Assistant Secretary of Commerce for Economic Development.

Mr. Eden's letter clarifies a situation that was brought to my attention by Mayor Lynch of Pawtucket, R.I., and others.

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

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., September 10, 1976.

Hon. JOHN O. PASTORE,
Chairman, Subcommittee on State, Justice, and Commerce, the Judiciary, and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: EDA has amended the Local Public Works Act Regulations. The amendments will appear in the Federal Register on Monday, September 13, 1976.

One of the amendments involves the third factor in the project selection formula, which is set forth in Section 316.10(a)(2)(i). It changes this factor from cost per person month to the relationship of labor costs to total project costs. The amendment also provides that projects having labor costs greater than 35% of total project costs will receive the maximum score for this factor. In other words, projects having labor costs in excess of 35% will not receive any additional credit for this factor.

Finally, the amendment provides that projects where labor costs constitute more than 80% or less than 10% of total project costs will be rejected and denied.

EDA believes that this amendment will help the agency maintain a reasonable balance between new construction projects and renovation/repair projects, and thus answer the concern expressed by Members of Congress and the public that the project ranking formula tended to favor "leaf raking" type projects. These amendments articulate the intent of Congress that the program promote the construction of permanent and substantial public facilities.

Sincerely,

JOHN W. EDEN,
Assistant Secretary for Economic Development.

Mr. PASTORE. I yield to the Senator from Florida.

Mr. STONE. Mr. President, I notice with interest that the preliminary estimates of the funds for my State of Florida in this bill exceed $133 million, mainly for sewer and water construction, building public works, pollution control, and meaningful forms of construction employment.

I would like to call to the attention of the Senate the unique situation we have in my State, which is that, at the same time that tourism is doing well in Florida, at the same time that our other major industry, agriculture, is doing well in Florida, so that the two major props to our economy are doing pretty well, at the same time that is taking place, Florida is tied with Michigan—and may now be worse than Michigan—for the highest unemployment rate in the Nation.

Why? Because our building people are out of work. Our building trades people are not working.

The point is that it occurs at the same time that the major elements of our economy are doing well. Therefore, this kind of countercyclical assistance is vital to a State such as mine, and I certainly urge the passage of this good bill.

Mr. MATHIAS. Mr. President, I ask unanimous consent that all Senators who wish to make statements on this matter may insert them in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. Is all remaining time yielded back?

Mr. MATHIAS. Mr. President, I make a point of 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. PASTORE. 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. PASTORE. I ask unanimous consent that a statement on this bill by the Senator from New Mexico (Mr. MONTOYA) be printed in the RECORD.

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

STATEMENT OF SENATOR MONTOYA

As an initial co-sponsor with Senator Randolph of the authorizing bill, I urge my colleagues to support this appropriation measure. The Congress has stated its will in overriding the President's July 6 veto of the Public Works Employment Act of 1976. This is the important money bill to make it a reality.

Once again, we will send this bill to the President with large majorities behind it.

Applications for projects under the public works program are already distributed across this land. Local governments everywhere are now preparing project applications.

The Economic Development Administration under the direction of the recently confirmed Assistant Secretary John Eden has done a creditable job in preparing the guidelines and regulations for the program. Mr. Eden and Secretary Richardson have tried to be responsive to Congress during the important regulation writing phase.

I learned today that a change has been made in one of the criteria in selecting projects—namely the cost per person month of employment on each project. Many of us thought that provision would in fact bias project selection toward renovation and repair projects. But the Congress wished to emphasize construction, particularly new construction.

The change puts a ceiling on the weight for "labor intensity." No project may gain additional weight if the labor costs are estimated to exceed 35% of the project costs. That in my judgment is good news. We assuredly did not want a repeat of the title X experience. No projects will be accepted if the labor costs are less than 10% or more than 80%.

I wish to thank the members of the appropriations committee who have brought out this bill asking for the full appropriations.

I trust and hope President Ford—in the face of a 4-month rise in the national unemployment rate—will sign this money bill into law.

Mr. PASTORE. 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. PASTORE. Mr. President, I ask unanimous consent that the order from the quorum call be rescinded.

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

Is all time yielded back?

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

Mr. MATHIAS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The bill, having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming

(Mr. McGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. Moss), the Senator from Illinois (Mr. STEVENSON), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Illinois (Mr. STEVENSON), and the Senator from Massachusetts (Mr. KENNEDY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Delaware (Mr. ROTH), the Senator from Vermont (Mr. STAFFORD), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

On this vote, the Senator from Ohio (Mr. TAFT) is paired with the Senator from Arizona (Mr. GOLDWATER).

If present and voting, the Senator from Ohio would vote "aye" and the Senator from Arizona would vote "nay."

The result was announced—yeas 60, nays 14, as follows:

[Rollcall Vote No. 581 Leg.]

YEAS—60

Abourezk	Griffin	Morgan
Allen	Hart, Gary	Muskie
Bentsen	Hart, Philip A.	Nelson
Biden	Haskell	Nunn
Brock	Hatfield	Packwood
Brooke	Hathaway	Pastore
Bumpers	Huddleston	Pearson
Burdick	Inouye	Pell
Byrd, Robert C.	Jackson	Percy
Case	Javits	Randolph
Chiles	Johnston	Ribicoff
Church	Leahy	Schweiker
Clark	Long	Scott, Hugh
Cranston	Magnuson	Sparkman
Culver	Mansfield	Stennis
Domenici	Mathias	Stevens
Durkin	McClellan	Stone
Fong	McGovern	Symington
Ford	McIntyre	Talmadge
Glenn	Metcalf	Weicker

NAYS—14

Bartlett	Garn	Proxmire
Bellmon	Hansen	Scott, William L.
Byrd, Harry F., Jr.	Helms	Young
Curtis	Hruska	
Fannin	Laxalt	
	McClure	

NOT VOTING—26

Baker	Gravel	Roth
Bayh	Hartke	Stafford
Beall	Hollings	Stevenson
Buckley	Humphrey	Taft
Cannon	Kennedy	Thurmond
Dole	McGee	Tower
Eagleton	Mondale	Tunney
Eastland	Montoya	Williams
Goldwater	Moss	

So the bill (H.R. 15194) as amended, was passed.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PASTORE. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. PASTORE, Mr. McCLELLAN, Mr. PROXMIRE, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. YOUNG, Mr. HRUSKA, Mr. MATHIAS, and Mr. BELLMON conferees on the part of the Senate.

Mr. JAVITS. Mr. President, I wish to be heard on the bill.

Mr. MANSFIELD. Will the Senator from New York allow me to proceed briefly?

Mr. JAVITS. Yes.

Mr. MANSFIELD. I take this occasion to commend once again the distinguished Senator from Rhode Island (Mr. PASTORE) and his counterpart, the distinguished Senator from Maryland (Mr. MATHIAS). I must say of Mr. PASTORE that I never anticipated in my wildest dreams that a bill of this nature would get through so quickly unamended. It is a great tribute to a man who is probably the best floor manager of bills in this body. I just want the public record to show my high esteem and deep love and great appreciation for the distinguished senior Senator from Rhode Island (Mr. PASTORE) and my gratitude for the way he was able to accomplish what he did within a period of an hour.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for just a minute?

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. JAVITS. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, we have the distinction in West Virginia of having a young man there who was the first to fly faster than sound, Charles (Chuck) Yeager, of a little community in Lincoln County, in the tobacco-growing area of West Virginia—the first man to fly faster than sound. As I have observed JOHN PASTORE, year after year, I do not know of any Member of this Senate who can generate more sound than JOHN PASTORE. But when he manages a bill, literally and figuratively speaking, it moves faster than sound.

Mr. JAVITS. Mr. President, I adopt both statements as my own. They are excellent. I also wish to say that that is precisely why I am on my feet: He moved faster than sound—even my sound. I had a word to say about this bill.

Mr. YOUNG. Will the Senator yield for just a minute?

Mr. JAVITS. I yield.

Mr. YOUNG. I thank the distinguished Senator from New York.

I wish to add my comments to those of the distinguished majority floor leader and the distinguished assistant majority floor leader concerning the Senator from Rhode Island. He is the most effective Member that I know of on the Senate floor and in committee, of any Member that I have known in many years. It is very difficult to argue with him. He is very effective. He is well posted on his subject. He is so persuasive that on this bill, even though I voted against it, I declined even to argue with him but did put my objections in the committee report.

Mr. JAVITS. Mr. President, it is a shame to get back to such mundane things after such flights of speech on a very dear and beloved colleague and friend. They are fully deserved.

VISIT TO THE COMMITTEE ON FOREIGN RELATIONS BY MEMBERS OF THE FRENCH SENATE

Mr. SPARKMAN. Mr. President, on Wednesday, September 8, the Committee on Foreign Relations and the Senate were honored to receive a group of distinguished Senators from France. Many Senators met them at lunch and when they were presented on the floor.

The occasion of their visit was to present two very important gifts from the French Senate to the U.S. Senate to commemorate the U.S. Bicentennial. The gifts presented to the Senate are a beautiful and beautifully framed early 19th century engraving of George Washington's Farewell Address, which for many years was kept at La Grange, the family home of General Lafayette, and a letter written in English by General Lafayette to General Washington on April 19, 1783, which conveyed to Washington that the end of the war was inevitable and imminent.

Mr. President, the occasion also commemorates the bicentennial of unbroken friendship between the Republic of France and the United States of America, a friendship begun with a personal friendship between George Washington and General Lafayette.

Without the support of General Lafayette—who furnished enough money to feed and maintain an entire regiment during the entire period of our Revolutionary War, and who never took any pay—there might not be a United States of America. He convinced his Government to send 8,000 of their best soldiers and the best general on the continent—Rochambeau—to the aid of the fledgling United States.

One can then understand the close emotional ties which all America felt in 1824 and 1825, when General Lafayette visited the United States. He brought with him his son—George Washington Lafayette—and spent an entire year visiting all 23 States of the Union. He traveled to Monticello, Va., to pay his respects to former President Thomas Jefferson. He traveled to Boston, to call on former President John Adams. While in Massachusetts, he was present at the dedication of Boston Commons. He then went to Bunker Hill, where he obtained a large box that he filled with dirt to take back to France.

Mr. President, as a further indication of the gratitude which our country felt for General Lafayette, the Congress did two remarkable things. One, they commissioned a ship to be built and given to Lafayette for his voyage back to France. It was named the *Brandywine*. Second, they invited him to appear before the Senate and House, something which had never been done for a foreigner.

With Henry Clay as host, Lafayette appeared before the Senate in the old Senate Chamber—now-called—on De-

cember 9, 1824. In his address to the Senate he stated:

My obligations to the United States, sir, far exceed any merit I might claim. They date from the time when I have had the happiness to be adopted as a young soldier, a favored son of America. They have been continued to me during almost half a century of constant affection and confidence; and now, sir, thanks to your most gratifying invitation, I find myself greeted by a series of welcomes, one hour of which would more than compensate for the public exertions and suffering of a whole life.

In Senator Daniel Webster's speech in the Senate that day, he referred to Lafayette as "our foreign aid"—the first time that the term was used.

John Quincy Adams was elected President during the year of Lafayette's visit to the United States. In December 1825. President Adams honored Lafayette with a glittering farewell reception at the White House. From the White House reception, Lafayette went directly to the sloop which was to take him to the *Brandywine* which lay at anchor in Chesapeake Bay. As the sloop sailed down the Potomac past Mt. Vernon, General Lafayette asked that he be rowed ashore for what he knew would be his last visit to the grave of his adopted father. As he left Mt. Vernon, according to story—though not proven—he reached down and scooped up a handful of soil.

General Lafayette returned to his home at Chevanac in France. Prior to his death in 1834, his wife had insisted that they be buried in Picpus Cemetery near Paris among the commoners who were beheaded after they had stormed the Bastille.

Mr. President, General Lafayette is buried with the soil from Bunker Hill in his casket, and possibly soil from Mount Vernon. Thus, he is buried in American soil.

The presentation of gifts from the French Senate to the U.S. Senate on Wednesday was made by the Honorable Etienne Dailly, vice president of the Senate of France, and president of the Franco-American Friendship Group in the Senate of France. Senator Dailly's statement on behalf of his colleagues was so eloquent and so moving I want to share it with you.

I should like to quote at this point a portion of Senator Dailly's statement:

STATEMENT OF SENATOR ETIENNE DAILLY OF FRANCE

We should also like to express to you our sentiments regarding the anniversary which you celebrate this year, and to describe to you what the commemoration of the Bicentennial of American independence means to us, the Senators of France.

Mr. Chairman, Senators, Distinguished Guests, there are people, just as there are men, who tend to prick the conscience of other peoples and of other men. They epitomize such an inspiring example of truth, of courage, of hard work and of faith, that the mere facts of withholding approval, of refusing them support in times of tribulation, constitutes moral turpitude, and a lack of character.

This explains what was undoubtedly, and already, the profound motivation of that handful of Frenchmen, who did not for a moment hesitate in offering what proved to be an instrument contribution to the independence of those 13 faraway British Colonies along the northeast coast of the American continent.

Born out of rebellion and hope, the United States of America have justified the confidence of those who once came to their aid, for your nation is today, sometimes in spite of herself, still the advance guard in that eternal battle, the battle for liberty.

Thus, it is with modest pride that France recalls the role she played—while not even yet the Republic of France in the birth of the American nation. And is it not remarkable that the alliance forged in 1778 has survived time's vicissitude without ever once having been reprehended?

But two hundred years have passed, two hundred years during which we have witnessed the development of a nation whose individuality and strength have often appeared overpowering sometimes astonishing, but always fascinating. Two hundred years during which products, techniques and ideas have continued to flow across the Atlantic Two hundred years during which, in two instances, and in multifold repayment of that original debt, Salvation has come from America. There is no French woman there is no Frenchman to forget it, ever.

So beyond historical reminiscences, however flattering they may be for our nation, the Bicentenary of the United States of America's independence, is, for us, and above all, the history of these two centuries, as perceived in the hearts of those who forged that history. The United States Bicentennial is above all, for us, your nation's communal celebration, an expression of your joy at having lived and worked together, of the solidarity which has come as a result of obstacles achievements, accomplished together, by an entire people.

Mr. President, I cannot improve on that expression of friendship between our two countries.

I ask unanimous consent that Senator Dailly's statement, and a copy of the April 19, 1783, letter from General Lafayette to George Washington, be printed in the RECORD.

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

ADDRESS DELIVERED BY ETIENNE DAILLY, VICE-PRESIDENT OF THE FRENCH SENATE, PRESIDENT OF THE SENATE FRANCO-AMERICAN FRIENDSHIP GROUP, DURING PRESENTATION OF GIFTS OFFERED BY THE SENATE OF THE FRENCH REPUBLIC TO THE SENATE OF THE UNITED STATES OF AMERICA IN HONOR OF THE BICENTENNIAL OF AMERICAN INDEPENDENCE

Mr. Chairman,
Mr. Majority Leader,
Mr. Minority Leader,
Secretary,
Distinguished guests,

First of all, I want to express thanks and gratitude of my colleagues and myself for your welcome, Mr. Chairman, and for the reception with which we are honored on this very moment.

We know that this time is difficult for senators because of the election. And that is why we are so grateful to both of you, Mr. Majority Leader, to you Mr. Minority Leader, and to all of you Senators to be present here today.

Your Senate, I imagine, has received many visits in this Bicentennial year, from delegations from all the world. Our delegation has been chosen among all the members of the Franco-American Friendship Group of the Senate of the French Republic.

The Parliamentary Friendship Groups, which I believe have no comparable counterpart in the United States Congress, are a traditional institution in Parliamentary Assemblies in European countries. There are a good thirty such groups in our two Houses but the Franco-American Friendship Group is quite a different one.

First of all, in terms of the number of its adherents. Composed of 136 Senators—practically one out of every two Senators, for our Senate includes 283 members—it is the most important Friendship Group in the Senate, and even on the two Houses of the French Parliament.

Secondly, in terms of the quality of its members. Membership in our Group emanates from all political parties represented in our Senate without any exception. This is evidence that the bonds of friendship which unite the French and American peoples, transcend the complex vicissitudes of our nation's internal policies.

That is why our Senate Franco-American Group intends to act efficiently with a view to promoting contacts and facilitating both the mutual comprehension between our two nations, and the singular comprehension between the American Senators and the French Senators.

This is one of the reasons we are here with you today.

We are also here, on the occasion of your nation's Bicentennial, to offer congratulations, not only on behalf of all our colleagues members of our group, but on behalf of the entire Senate of the French Republic.

For I should like to underscore the fact that this is the first time, that the President and the Board of our Senate have decided to designate a Friendship Group as an official representative of the entire Senate of the French Republic. I consider it of symbolic significance that on the occasion of your nation's Bicentennial, this exceptional honor and privilege has been bestowed upon our Friendship Group.

We wished, as undoubtedly many of your visitors during this anniversary year, to offer to you, in addition to congratulations on behalf of the French Senate and the Nation we represent, three small gifts.

The first is this large frame, in which is displayed a printed copy of George Washington's inspiring farewell message to the American Nation. We do not know how many copies of this document were printed after the death of Washington, although I was told this very morning by the best specialist in this Senate that only two copies of it exist today in the United States. So here is the third original print, which is further more of a special interest because it was sent by Washington's family to La Fayette at his home in France.

La Fayette had the document mounted. He placed it in the grand salon of his home of La Grange, La Grange restored with remarkable care since 1956 by the Chambrun Foundation, La Grange where this document, as it is now framed, remained until last October and where it would be still, had not the President of the Senate and I opened negotiations with the Chambrun Foundation and taken the numerous steps necessary so that it might be placed at our disposal, and so that our Senate could, in honor of this anniversary, offer it to the Senate of the United States of America.

The second gift which the French Senate should like to offer to the United States Senate, and which you see here, displayed in a pivoting frame on this small stand, is a letter written by La Fayette to George Washington, and dated April 19th, 1783. The letter is written in English—a somewhat quaint and curious English. In this letter, La Fayette announced to Washington that Great Britain at last had a government in which the King had five votes against the Rockingham Coterie's four, and that nothing, henceforth, could prevent signature of the treaty, a treaty which would become, a few months after, the Treaty of Versailles.

This letter, which includes an annotation

made by George Washington, was returned by Washington's descendants after his death, to La Fayette. The document's historical interest lies in its own text but is in many ways picturesque, and its message is exceptionally warm. Due to lack of time, I shall read to you only the last lines:

"The dangers of war being over, I know there is no danger of your forgetting to let your best friend hear of your welfare. George's state of health makes me uneasy. I hope the sea may be beneficial. My three children are well and their mother requests her respectful compliments be paid to you and to Mrs. Washington. My most affectionate respects wait upon her and upon you, my dear General, whom I so tenderly love and to whom so long as I can breathe I shall ever be the most grateful, devoted and affectionate friend."

It is my hope that the warmth, the friendship and the trust expressed in this letter will represent for you, as for us, a sign and a symbol of the very special bonds which have united our two nations throughout the years.

The third gift, which, in addition to the two official mementos. We, French Senators, wish to present individually to each of the hundred United States Senators, is a commemorative chest.

This chest is identical to the one which was designed, last year, as a gift to the 283 French Senators on the occasion of the French Senate's Centennial. It contains a number of items relative to our Senate, medallions, philatelic souvenirs, books, etc. For the anniversary which we celebrate today, we have added a folder in which appear the photograph and the text of the presentation of the gifts I was just talking about, as well as the names of each of the French Senators who are members of our Friendship Group.

It is our hope that these mementos shall be also for you a symbol, more intimate and personal, of the special and time-honored bonds which unite our two peoples.

We should also like to express to you our sentiments regarding the anniversary which you celebrate this year, and to describe to you what the commemoration of the Bicentennial of American Independence means to us, the Senators of France.

Mr. Chairman, Senators, Distinguished Guests, there are peoples, just as there are men, who tend to prick the conscience of other peoples and of other men. They epitomize such an inspiring example of truth, of courage, of hard work and of faith, that the mere facts of withholding approval, of refusing them support in times of tribulation, constitutes moral turpitude, and a lack of character.

This explains what was undoubtedly, and already, the profound motivation of that handful of Frenchmen, who did not for a moment hesitate in offering what proved to oe an instrumental contribution to the independence of those 13 faraway British colonies along the northeast coast of the American continent.

Born out of rebellion and hope, the United States of America have justified the confidence of those who once came to their aid, for your nation is today, sometimes in spite of herself, still the advance guard in that eternal battle, the battle for liberty.

Thus, it is with modest pride that France recalls the role she played—while not even yet Republic of France—in the birth of the American nation. And is it not remarkable that the alliance forged in 1778 has survived time's vicissitudes, without ever once having been reprehended?

But two hundred years have passed, two hundred years during which we have witnessed the development of a nation whose individuality and strength have often appeared overpowering, sometimes astonishing, but always fascinating. Two hundred years during which products, techniques and ideas have continued to flow across the Atlantic. Two hundred years during which, in two instances, and in multifold repayment of that original debt, Salvation has come from America. There is no French woman, there is no Frenchman to forget it, ever.

So beyond historical reminiscences, however flattering they may be for our nation, the Bicentenary of the United States of America's independence, is, for us, and above all, the history of these two centuries, as perceived in the hearts of those who forged that history. The United States Bicentennial is above all, for us, your nation's communal celebration, an expression of your joy at having lived and worked together, of the solidarity which has come as a result of obstacles surmounted together, and of the pride in the overwhelming achievements, accomplished together, by an entire people.

Let us set aside then, the questions of history, and the role which France played in the origins of the American Nation.

Let us also set aside the overpowering material successes of your nation. Let us even set aide it extraordinary technological achievement for which those hesitant steps taken on the moon by an astronaut on a certain evening of July 1969, remain a brilliant and unforgettable example.

Let us set aside the economic strength of the United States of America, a strength that has made efforts at economic or monetary organization in Europe singularly dependent on American policy. Let us set aside even American military strength, although it remains the single most effective guarantee of security for Europe and the Free World.

Indeed, let us set all of this aside today, and let us consider only one single element of the American civilization, the remarkable lesson of Democracy which your great Nation's 200 years of existence provide.

First of all, a Democracy of principles . . .

With the Declaration of 1776, the newborn American Nation played an instrumental role in the process, never wholly completed, for the liberation of mankind. Have not these basic rights, which the French people would soon declare "inalienable and sacred" but which the United States had been the first to proclaim, have not these basic rights remained firmly anchored in the societal fiber of the American Nation?

What country has prevailed, as have the United States of America, for 200 years without ever a single year, indeed, without even a single day of dictature, or even of simple authoritarianism? If happiness is no longer, as Saint-Just—one of the significant features of the French Revolution—once proclaimed, "a new idea" what country has prevailed itself, as have the United States of America, of a Constitution which inscribes in its very text the pursuit of Happiness as a finality?

Secondly, a Democracy of institutions . . .

Circumstantial considerations—and they are paramount during electoral periods—stir up in a recurrent fashion the criticisms of those who disparage the American institutional system. But what superb example the one which is given to the world by the ancestor of all constitutions, a Constitution which Tocqueville himself, for all the admiration he held for it, could not believe would long endure.

"Power must be employed to check power", said Montesquieu. What institutions better exemplifies the principle inherent in the United States' Constitution whereby, according to a complex system of checks and balances, all excesses of Presidential power are countered by the powers of a Congress, whereby any attempts on the part of a Congress to depart from its defined role, is curbed by Presidential prerogatives, and eventually doomed to failure?

Finally, and most important, a day-to-day Democracy.

Some observers thought they were witnessing, in the recent great political difficulties we all know, some of which happened here—the dangerous converging signs of amoral decline. And yet, are not these public trials vigorous evidence, on the contrary, of the undefatigable will of a people to leave no aspects of its public life in shadow, even if it must be at the expense of a nation's pride? Are not these public trials proof that the American people's inexhaustible need for truth, can be based on unrestricted freedom of opinion and information?

From the defense of liberty throughout the world to the conquest of space, from the fight against wilderness to the fight against poverty, the American society has never lost its taste for ever-new frontiers. What is true in the lives of peoples is true in the lives of men; it is the youthful years which contribute most to the forging of great themes, which will subsequently animate the lives of nations, and help them to join together and endure the tribulations and the vicissitudes of History.

France stood at America's side from the very first day, and has remained thus for 200 years. Let us then, today, together, you Senators of the United States and us Senators of the French Republic, vow to continue our mightiest efforts, so that this will hold true tomorrow, as it does today. For this, it seems to us, is the best means by which we can work together to defend liberty throughout the world.

OLAINVILLE NEAR PARIS,
April the 19th 1783.

MY DEAR GENERAL,

Having been told by Marquis de Castries at whose country seat I am, that he now is sending a vessel to America, I cannot resist an opportunity to write you a few lines.

My letter's journey by land will be almost as long as in voyage across the ocean, and the New England Porthmouth is very far distant to the banks of the Potowmack for I suppose, my dear General, that you intend spending this summer at home and unless I am prevented by the answers of Congress, I hope before long to partake of your country pleasures.

Our friend, Mr. de Chattelux is just coming in and requests his affectionate respects.

Great Britain having at last got a Ministry, wherein the King has five votes and the Rockingam interest has but four nothing now can put a stop to the definitive treaty. Mr. Laurens has arrived and Mr. David Hartley is hourly expected. The Duke of Manchester is also coming as an Ambassador to France. A bill has been proposed in England which greatly favours the American trade but it now meets with difficulties. I hope France will make alterations in her commercial scheme which in some respects is very foolishly regulated. It is a business to which I will the more earnestly apply as it also immediately concerns the American interest. Upon these points I consult with Mr. Barklay, the Consul, and I hope we may obtain many useful amendments. To my great satisfaction Mr. de Fleury has been obliged to resign. His principles and his views were quite opposed to mine and I hope Mr. d'Ormesson, his successor, will have a more liberal way of thinking.

There has been a quarrel between Russia and Turkey which, had our war lasted, would have made me tremble for its consequences. But now it may be amicably ended and at all events, nothing now, thank God, can affect the great cause of America and mankind. The general opinion is that the dispute I allude to will be friendly compromised.

Doctor Franklin has applied for his recall—who is to replace him? I do not know but in case, as I am told, General Schuyller takes that career, he is of all men the properest I know for an Embassy to France. Hamilton should come out as his secretary and the more I think of this, the more I wish Schuyller may be induced to accept the employment. I do not like to meddle with the foreign choices of Congress but I think you

will serve the public by impressing the hint I take the liberty to given confidentially to you.

Since the letter of which Mr. de Chattelux was bearer not a line of my dear General has come to my hands. But now I hope to be more fortunate and the dangers of war being over, I know there is no danger of your forgetting to let your best friend hear of your welfare.

George's state of health makes me uneasy. I hope the sea may be beneficial—My three children are well and their Mother requests her respectful compliments to be paid to you and to Mrs. Washington—My most affectionate respects wait upon her and upon you, my dear General, whom I so tenderly love, and to whom, so long as I can breath, I shall ever be the most grateful, devoted and

affectionate friend,

LAFAYETTE.

RESOLUTION EXPRESSING THE APPRECIATION OF THE SENATE TO JERRY LEWIS FOR HIS OUTSTANDING CONTRIBUTIONS IN THE FIGHT AGAINST MUSCULAR DYSTROPHY

Mr. PASTORE. Mr. President, I send a resolution to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

S. RES. 542

Whereas Jerry Lewis has for many years been a leader in raising funds to be used in research for a cure for muscular dystrophy and in otherwise providing help and encouragement to individuals afflicted with that disease, and

Whereas as a result of the Jerry Lewis Labor Day Telethon approximately $23,000,000 was pledged to the Muscular Dystrophy Association, Inc., to enable it to continue its work: Now, therefore, be it

Resolved, That the Senate of the United States hereby recognizes and expresses its appreciation to Jerry Lewis for his outstanding contributions in the fight against muscular dystrophy.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Jerry Lewis.

Mr. PASTORE. Mr. President, for the past 2 years I have had the distinct privilege and honor of acting as honorary chairman of this Labor Day telethon in my own State of Rhode Island, so I know firsthand the amount of work that is involved, and the quality of man who has inspired the Nation by his dedication and his ability to raise tremendous amounts of money in the spirit of brotherly love in order to help these afflicted people. I think it would be a wonderful thing if this Senate would so recognize it.

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

Mr. PASTORE. I yield.

Mr. JAVITS. I am all for it. I would like to call this to the attention of the leadership. We do not have enough honors of this kind. There are many people doing great things, and I hope our leadership will be liberal about this kind of situation which is typified by the generous statements which Senator PASTORE has made.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 542) was agreed to.

The preamble was agreed to.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations under "New Reports."

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

DEPARTMENT OF DEFENSE

The second assistant legislative clerk proceeded to read sundry nominations in the Department of Defense.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

U.S. ARMY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Army.

Mr. MANSFIELD. I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Air Force, in the Army, in the Navy, and in the Marine Corps.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I request the President be notified.

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that under "Treaties" beginning with Calendar 9 and going down through Calendar 13, that is, 9, 10, 11, 12, and 13, that they be considered at this time and carried through up to final reading.

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

THE CUSTOMS CONVENTION ON CONTAINERS, 1972, AND INTERNATIONAL CONVENTION FOR SAFE CONTAINERS, EXECUTIVE X, 93D CONGRESS, 1ST SESSION,

THE AGREEMENT ON THE CONSERVATION OF POLAR BEARS, EXECUTIVE I, 94TH CONGRESS, 1ST SESSION,

THE CONVENTION FOR THE CONSERVATION OF ANTARCTIC SEALS, EXECUTIVE K, 94TH CONGRESS, 1ST SESSION,

THE 1976 PROTOCOL AMENDING THE INTERIM CONVENTION ON CONSERVATION OF NORTH PACIFIC FUR SEALS, EXECUTIVE M, 94TH CONGRESS, 2D SESSION,

THE FIFTH INTERNATIONAL TIN AGREEMENT, EXECUTIVE J, 94TH CONGRESS, 2D SESSION

The Senate, as in Committee of the Whole, proceeded to consider the following conventions, agreements, and protocol, which were read the second time:

CUSTOMS CONVENTION ON CONTAINERS, 1972

PREAMBLE

The contracting parties, desiring to develop and facilitate international carriage by container, have agreed as follows:

CHAPTER I

General

Article 1

For the purposes of the present Convention:

(a) the term "import duties and taxes" shall means Customs duties and all other duties, taxes, fees and other charges which are collected on, or in connection with, the importation of goods, but not including fees and charges limited in amount to the approximate cost of services rendered;

(b) the term "temporary admission" shall mean temporary importation, subject to reexportation, free of import duties and taxes and free of import prohibitions and restrictions;

(c) the term "container" shall mean an article of transport equipment (lift-van, movable tank or other similar structure):

(i) fully or partially enclosed to constitute a compartment intended for containing goods;

(ii) of a permanent character and accordingly strong enough to be suitable for repeated use;

(iii) specially designed to facilitate the carriage of goods, by one or more modes of transport, without intermediate reloading;

(iv) designed for ready handling, particularly when being transferred from one mode of transport to another;

(v) designed to be easy to fill and to empty; and

(vi) having an internal volume of one cubic metre or more;

the term "container" shall include the accessories and equipment of the container, appropriate for the type concerned, provided that such accessories and equipment are carried with the container. The term "container" shall not include vehicles, accessories or spare parts of vehicles, or packaging;

(d) the term "internal traffic" shall mean the carriage of goods loaded in the territory of a State for unloading at a place within the territory of the same State;

(e) the term "person" shall mean both natural and legal persons;

(f) the term "operator" of a container shall mean the person who, whether or not its owner, has effective control of its use.

Article 2

In order to benefit from the facilities provided for in the present Convention, containers shall be marked in the manner prescribed in Annex 1.

CHAPTER II

Temporary admission

(a) Temporary admission facilities:

Article 3

1. Subject to the conditions laid down in articles 4 to 9, each Contracting Party shall grant temporary admission to containers, whether loaded with goods or not.

2. Each Contracting Party reserves the right not to grant temporary admission to containers which have been the subject of

purchase, hire-purchase, lease or a contract of a similar nature, concluded by a person resident or established in its territory.

Article 4

1. Containers granted temporary admission shall be re-exported within three months from the date of importation. However, this period may be extended by the competent Customs authorities.

2. Containers granted temporary admission may be re-exported through any competent Customs office, even if that office is different from the one of temporary admission.

Article 5

1. Notwithstanding the requirement of re-exportation laid down in article 4, paragraph 1, seriously damaged containers shall not be required to be re-exported provided that, in conformity with the regulations of the country concerned and as the Customs authorities of that country may authorize, the containers are:

(a) subjected to the import duties and taxes to which they are liable at the time when, and in the condition in which they are presented; or

(b) abandoned, free of all expense, to the competent authorities of that country; or

(c) destroyed, under official supervision, at the expense of the parties concerned, any parts or materials salvaged being subjected to the import duties and taxes to which they are liable at the time when, and in the condition in which they are presented.

2. If, as a result of a seizure, a container granted temporary admission cannot be re-exported, the requirement of re-exportation laid down in article 4, paragraph 1, shall be suspended for the duration of the seizure.

(b) Temporary admission procedures:

Article 6

Without prejudice to the provisions of articles 7 and 8, containers temporarily imported under the terms of the present Convention shall be granted temporary admission without the production of Customs documents being required on their importation and re-exportation and without the furnishing of a form of security.

Article 7

Each Contracting Party may require that the temporary admission of containers be subject to compliance with all, or part of, the provisions of the procedure for temporary admission of containers, set out in Annex 2.

Article 8

Each Contracting Party shall retain the right, when the provisions of article 6 cannot be applied, to require the furnishing of a form of security and/or the production of Customs documents on the importation or re-exportation of the container.

(c) Conditions of use of containers granted temporary admission:

Article 9

1. Contracting Parties shall permit containers granted temporary admission under the terms of the present Convention to be used for the carriage of goods in internal traffic, in which case each Contracting Party shall be entitled to impose one or more of the conditions set out in Annex 3.

2. The facility provided for in paragraph 1 shall be granted without prejudice to the regulations in force in the territory of each Contracting Party regarding vehicles either drawing or carrying containers.

(d) Special cases:

Article 10

1. Temporary admission shall be granted to component parts intended for the repair of temporarily admitted containers.

2. Replaced parts not re-exported shall, in conformity with the regulations of the country concerned and as the Customs authorities of that country may authorize, be:

(a) subjected to the import duties and taxes to which they are liable at the time when, and in the condition in which they are presented; or

(b) abandoned, free of all expense, to the competent authorities of that country; or

(c) destroyed, under official supervision, at the expense of the parties concerned.

3. The provisions of articles 6, 7, and 8 shall be applicable mutatis mutandis to temporary admission of component parts, referred to in paragraph 1.

Article 11

1. The Contracting Parties agree to grant temporary admission to accessories and equipment of temporarily admitted containers, which are either imported with a container to be re-exported separately or with another container, or imported separately to be re-exported with a container.

2. The provisions of article 3, paragraph 2, and articles 4, 5, 6, 7 and 8 shall be applicable mutatis mutandis to the temporary admission of accessories and equipment of containers referred to in paragraph 1. Such accessories and equipment may be used in internal traffic under the terms of article 9, paragraph 1, when carried with a container covered by the provisions of the said paragraph.

CHAPTER III

Approval of containers for transport under customs seal

Article 12

1. To qualify for approval for transport of goods under Customs seal, containers shall comply with the provisions of the Regulations set out in Annex 4.

2. Approval shall be granted under one of the procedures laid down in Annex 5.

3. Containers approved by a Contracting Party for the transport of goods under Customs seal shall be accepted by the other Contracting Parties for any system of international carriage involving such sealing.

4. Each Contracting Party reserves the right to refuse to recognize the validity of the approval of containers which are found not to meet the conditions set forth in Annex 4. Nevertheless, Contracting Parties shall avoid delaying traffic when the defects found are of minor importance and do not involve any risk of smuggling.

5. Before it is used again for the transport of goods under Customs seal, any container, the approval of which is no longer recognized, shall be either restored to the condition which had justified its approval or presented for reapproval.

6. Where a defect appears to have existed when the container was approved, the competent authority responsible for that approval shall be informed.

7. If it is found that containers approved for the transport of goods under Customs seal in accordance with the procedures described in Annex 5, paragraph 1 (a) and (b), do not in fact comply with the technical conditions of Annex 4, the authority which granted the approval shall take such steps as are necessary to bring the containers up to the required technical condition or to withdraw the approval.

CHAPTER IV

Explanatory notes

Article 13

The explanatory notes set out in Annex 6 interpret some provisions of the present Convention and its Annexes.

CHAPTER V

Miscellaneous provisions

Article 14

The present Convention shall not prevent the application of greater facilities which Contracting Parties grant or may wish to grant either by unilateral provisions or in virtue of bilateral or multilateral agreements provided that such facilities do not impede the application of the provisions of the present Convention.

Article 15

Any contravention of the provisions of the present Convention, and any substitution, false declaration, or act having the effect of causing a person or an article improperly to benefit from the provisions of the present Convention, may render the offender liable, in the country where the offence was committed, to the penalties prescribed by the laws of that country.

Article 16

The Contracting Parties shall communicate to one another, on request, the information necessary for implementing the provisions of the present Convention, and more particularly information relating to the approval of containers and to the technical characteristics of their design.

Article 17

The Annexes to the present Convention and the Protocol of Signature form an integral part of the Convention.

CHAPTER VI

Final clauses

Article 18

Signature, ratification, acceptance, approval and accession:

1. The present Convention shall be open for signature until 15 January 1973 at the Office of the United Nations at Geneva and subsequently from 1 February 1973 until 31 December 1973 inclusive at the Headquarters of the United Nations at New York by all States Members of the United Nations or members of any of the specialized agencies or of the International Atomic Energy Agency or parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the present Convention.

2. The present Convention is subject to ratification, acceptance or approval by States which have signed it.

3. The present Convention shall remain open for accession by any State referred to in paragraph 1.

4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations.

Article 19

Entry into force:

1. The present Convention shall enter into force nine months from the date of the deposit of the fifth instrument of ratification, acceptance, approval or accession.

2. For each State ratifying, accepting, approving or acceding to the present Convention after the deposit of the fifth instrument of ratification, acceptance, approval or accession, the present Convention shall enter into force six months after the date of the deposit by such State of its instrument of ratification, acceptance, approval or accession.

3. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to the present Convention shall be deemed to apply to the Convention as amended.

4. Any such instrument deposited after an amendment has been accepted but before it has entered into force shall be deemed to apply to the Convention as amended on the date when the amendment enters into force.

Article 20

Termination of the operation of the Customs Convention on Containers (1956):

1. Upon its entry into force, the present Convention shall terminate and replace, in relations between the Contracting Parties, the Customs Convention on Containers, opened for signature at Geneva on 18 May 1956.

2. Notwithstanding the provisions of article 12, paragraphs 1, 2 and 4 containers approved under the provisions of the Customs Convention on Containers (1956) or under the agreements arising therefrom concluded under the auspices of the United Nations,

shall be accepted by any Contracting Party for the transport of goods under Customs seal, provided that they continue to comply with the relevant conditions under which they were originally approved. For this purpose certificates of approval issued under the provisions of the Customs Convention on Containers (1956) could be replaced by an approval plate prior to the expiry of their validity.

Article 21

Procedures for amending the present Convention including its Annexes:

1. Any Contracting Party may propose one or more amendments to the present Convention. The text of any proposed amendment shall be notified to the Customs Co-operation Council which shall communicate it to all Contracting Parties and inform the States, referred to in article 18, which are not Contracting Parties. The Customs Co-operation Council shall also, in accordance with the rules of procedure set out in Annex 7, convene an Administrative Committee.

2. Any amendment proposed in accordance with the preceding paragraph or prepared during the meeting of the Committee, and adopted by a two-thirds majority of those present and voting in the Committee, shall be communicated to the Secretary-General of the United Nations.

3. The Secretary-General of the United Nations shall circulate the amendment to the Contracting Parties for their acceptance, and to the States referred to in article 18 which are not Contracting Parties for their information.

4. Any proposed amendment circulated in accordance with the preceding paragraph shall be deemed to be accepted if no Contracting Party expressed an objection within a period of 12 months following the date of circulation of the proposed amendments by the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall, as soon as possible, notify all Contracting Parties and the States referred to in article 18 which are not Contracting Parties whether an objection to the proposed amendment has been expressed. If an objection to the proposed amendment has been communicated to the Secretary-General of the United Nations the amendment shall be deemd not to have been accepted and shall be of no effect whatever. If no such objection has been communicated to the Secretary-General of the United Nations the amendment shall enter into force for all Contracting Parties three months after the expiry of the period of 12 months referred to in the preceding paragraph, or on such later date as may have been determined by the Committee at the time of its adoption.

6. Any Contracting Party may, by notification to the Secretary-General of the United Nations, request that a conference be convened for the purpose of reviewing the present Convention. The Secretary-General of the United Nations shall notify all Contracting Parties of the request and a revision conference shall be convened by the Secretary-General of the United Nations if, within a period of four months following the date of notification by the Secretary-General of the United Nations, not less than one-third of the Contracting Parties notify him of their concurrence with the request. Such conference shall also be convened by the Secretary-General of the United Nations upon notification of a request by the Administrative Committee. The Administrative Committee shall make such a request if agreed to by a majority of those present and voting in the Committee. If a conference is convened in accordance with this paragraph, the Secretary-General of the United Nations shall invite to it all States referred to in article 18.

Article 22

Special procedure for amending Annexes 1, 4, 5 and 6:

1. Independently of the amendment procedure set out in article 21, Annexes 1, 4, 5 and 6 may be amended as provided for in this article and in accordance with the rules of procedure set out in Annex 7.

2. Any Contracting Party shall communicate proposed amendments to the Customs Co-operation Council. The Customs Co-operation Council shall bring them to the attention of the Contracting Parties and of the States referred to in article 18 which are not Contracting Parties, and shall convene the Administrative Committee.

3. Any amendment proposed in accordance with the preceding paragraph or prepared during the meeting of the Committee, and adopted by a two-thirds majority of those present and voting in the Committee, shall be communicated to the Secretary-General of the United Nations.

4. The Secretary-General of the United Nations shall communicate the amendment to the Contracting Parties for their acceptance, and to the States referred to in article 18 which are not Contracting Parties for their information.

5. The amendment shall be deemed to have been accepted unless one-fifth or five of the Contracting Parties, whichever number is less, have notified the Secretary-General of the United Nations, within a period of 12 months from the date on which the proposed modification has been communicated by the Secretary-General of the United Nations to the Contracting Parties, that they object to the proposal. An amendment which is not accepted shall be of no effect whatever.

6. If an amendment is accepted, it shall enter into force for all Contracting Parties which did not object to the amendment three months after the expiry of the period of twelve months referred to in the preceding paragraph, or on such later date as may have been determined by the Committee at the time of its adoption. At the time of adoption of an amendment the Committee may also provide that, during a transitional period, the existing Annexes shall remain in force, wholly or in part, concurrently with such amendment.

7. The Secretary-General of the United Nations shall notify the date of the entry into force of the amendment to the Contracting Paries and inform the States, referred to in article 18, which are not Contracting Parties.

Article 23

Denunciation:

Any Contracting Party may denounce the present Convention by effecting the deposit of an instrument with the Secretary-General of the United Nations. The denunciation shall take effect one year from the date of such deposit with the Secretary-General of the United Nations.

Article 24

Termination:

The present Convention shall cease to be in force if the number of Contracting Parties is less than five for any period of twelve consecutive months.

Article 25

Settlement of Disputes:

1. Any dispute between two or more Contracting Parties concerning the interpretation or application of the present Convention which cannot be settled by negotiation or other means of settlement shall, at the request of one of them, be referred to an arbitration tribunal composed as follows: each party to the dispute shall appoint an arbitrator and these two arbitrators shall appoint a third arbitrator, who shall be the Chairman. If three months after receipt of a request one of the parties shall have failed to appoint an arbitrator or if the arbitrators shall have failed to elect the Chairman, any of the parties may request the Secretary-General of the United Nations to appoint an arbitrator or the Chairman of the arbitration tribunal.

2. The decision of the arbitration tribunal designated under the provisions of paragraph 1 shall be binding on the parties to the dispute.

3. The arbitration tribunal shall decide its own rules of procedure.

4. Decisions of the arbitration tribunal both as to its procedure and its place of meeting and as to any controversy laid before it, shall be taken by majority vote.

5. Any controversy which may arise between the parties to the dispute as regards the interpretation and execution of the award may be submitted by either party for judgment to the arbitration tribunal which made the award.

Article 26

Reservations:

1. Reservations to the present Convention shall be permitted, excepting those relating to the provisions of articles 1–8, 12–17, 20, 25 and of the present article, and those relating to the provisions contained in the Annexes on condition that such reservations are communicated in writing and, if communicated before the deposit of the instrument of ratification, acceptance, approval or accession, are confirmed in that instrument. The Secretary-General of the United Nations shall communicate such reservations to all States referred to in article 18.

2. Any reservation made in accordance with paragraph 1:

(a) modifies for the Contracting Party which made the reservation the provisions of the present Convention to which the reservation relates, to the extent of the reservation; and

(b) modifies those provisions to the same extent for the other Contracting Parties in their relations with the Contracting Party which entered the reservation.

3. Any Contracting Party which has communicated a reservation under paragraph 1 may withdraw it at any time by notification to the Secretary-General of the United Nations.

Article 27

Notification:

In addition to the notifications and communications provided for in articles 21, 22 and 26, the Secretary-General of the United Nations shall notify all the States referred to in article 18 of the following:

(a) signatures, ratifications, acceptances, approvals and accessions under article 18;

(b) the dates of entry into force of the present Convention in accordance with article 19;

(c) the date of entry into force of amendments to the present Convention in accordance with articles 21 and 22;

(d) denunciations under article 23;

(e) the termination of the present Convention under article 24.

Article 28

Authentic texts:

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations who shall communicate certified true copies to all States referred to in article 18.

In witness whereof the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

Done at Geneva this second day of December one thousand nine hundred and seventy-two.

AGREEMENT ON THE CONSERVATION OF POLAR BEARS

The Governments of Canada, Denmark, Norway, the Union of Soviet Socialist Republics, and the United States of America,

Recognizing the special responsibilities and special interests of the States of the Arctic Region in relation to the protection of the fauna and flora of the Arctic Region;

Recognizing that the polar bear is a significant resource of the Arctic Region which requires additional protection;

Having decided that such protection should be achieved through coordinated national measures taken by the States of the Arctic Region;

Desiring to take immediate action to bring further conservation and management measures into effect;

Have agreed as follows:

ARTICLE I

1. The taking of polar bears shall be prohibited except as provided in Article III.

2. For the purpose of this Agreement, the term "taking" includes hunting, killing and capturing.

ARTICLE II

Each Contracting Party shall take appropriate action to protect the ecosystems of which polar bears are a part, with special attention to habitat components such as denning and feeding sites and migration patterns, and shall manage polar bear populations in accordance with sound conservation practices based on the best available scientific data.

ARTICLE III

1. Subject to the provisions of Articles II and IV, any Contracting Party may allow the taking of polar bears when such taking is carried out:

(a) for bona fide scientific purposes; or

(b) by that Party for conservation purposes; or

(c) to prevent serious disturbance of the management of other living resources, subject to forfeiture to that Party of the skins and other items of value resulting from such taking; or

(d) by local people using traditional methods in the exercise of their traditional rights and in accordance with the laws of that Party; or

(e) wherever polar bears have or might have been subject to taking by traditional means by its nationals.

2. The skins and other items of value resulting from taking under sub-paragraphs (b) and (c) of paragraph 1 of this Article shall not be available for commercial purposes.

ARTICLE IV

The use of aircraft and large motorized vessels for the purpose of taking polar bears shall be prohibited, except where the application of such prohibition would be inconsistent with domestic laws.

ARTICLE V

A Contracting Party shall prohibit the exportation from, the importation and delivery into, and traffic within, its territory of polar bears or any part or product thereof taken in violation of this Agreement.

ARTICLE VI

1. Each Contracting Party shall enact and enforce such legislation and other measures as may be necessary for the purpose of giving effect to this Agreement.

2. Nothing in this Agreement shall prevent a Contracting Party from maintaining or amending existing legislation or other measures or establishing new measures on the taking of polar bears so as to provide more stringent controls than those required under the provisions of this Agreement.

ARTICLE VII

The Contracting Parties shall conduct national research programmes on polar bears, particularly research relating to the conservation and management of the species. They shall as appropriate coordinate such research with research carried out by other Parties, consult with other Parties on the management of migrating polar bear populations, and exchange information on research and management programmes, research results and data on bears taken.

ARTICLE VIII

Each Contracting Party shall take action as appropriate to promote compliance with the provisions of this Agreement by nationals of States not party to this Agreement.

ARTICLE IX

The Contracting Parties shall continue to consult with one another with the objective of giving further protection to polar bears.

ARTICLE X

1. This Agreement shall be open for signature at Oslo by the Government of Canada, Denmark, Norway, the Union of Soviet Socialist Republics and the United States of America until 31 March 1974.

2. This Agreement shall be subject to ratification or approval by the signatory Governments. Instruments of ratification or approval shall be deposited with the Government of Norway as soon as possible.

3. This Agreement shall be open for accession by the Governments referred to in paragraph 1 of this Article. Instruments of accession shall be deposited with the Depositary Government.

4. This Agreement shall enter into force ninety days after the deposit of the third instrument of ratification, approval or accession. Thereafter, it shall enter into force for a signatory or acceding Government on the date of deposit of its instrument of ratification, approval or accession.

5. This Agreement shall remain in force initially for a period of five years from its date of entry into force, and unless any Contracting Party during that period requests the termination of the Agreement at the end of that period, it shall continue in force thereafter.

6. On the request addressed to the Depositary Government by any of the Governments referred to in paragraph 1 of this Article, consultations shall be conducted with a view to convening a meeting of representatives of the five Governments to consider the revision or amendment of this Agreement.

7. Any Party may denounce this Agreement by written notification to the Depositary Government at any time after five years from the date of entry into force of this Agreement. The denunciation shall take effect twelve months after the Depositary Government has received the notification.

8. The Depositary Government shall notify the Governments referred to in paragraph 1 of this Article of the deposit of instruments of ratification, approval or accession, of the entry into force of this Agreement and of the receipt of notifications of denunciation and any other communications from a Contracting Party specifically provided for in this Agreement.

9. The original of this Agreement shall be deposited with the Government of Norway which shall deliver certified copies thereof to each of the Governments referred to in paragraph 1 of this Article.

10. The Depositary Government shall transmit certified copies of this Agreement to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized by their Governments, have signed this Agreement.

DONE at Oslo, in the English and Russian languages, each text being equally authentic, this fifteenth day of November, 1973.

I hereby certify that this is a true copy of the original document deposited in the archives of the Royal Norwegian Ministry of Foreign Affairs.

PER TRESSELT,
Head of Division, Legal Department, Royal Norwegian Ministry of Foreign Affairs.

CONVENTION FOR THE CONSERVATION OF ANTARCTIC SEALS

The Contracting Parties,

Recalling the Agreed Measures for the Conservation of Antarctic Fauna and Flora, adopted under the Antarctic Treaty signed at Washington on 1 December 1959;

Recognizing the general concern about the vulnerability of Antarctic seals to commercial exploitation and the consequent need for effective conservation measures;

Recognizing that the stocks of Antarctic seals are an important living resource in the marine environment which requires an international agreement for its effective conservation;

Recognizing that this resource should not be depleted by over-exploitation, and hence that any harvesting should be regulated so as not to exceed the levels of the optimum sustainable yield;

Recognizing that in order to improve scientific knowledge and so place exploitation on a rational basis, every effort should be made both to encourage biological and other research on Antarctic seal populations and to gain information from such research and from the statistics of future sealing operations, so that further suitable regulations may be formulated;

Noting that the Scientific Committee on Antarctic Research of the International Council of Scientific Unions (SCAR) is willing to carry out the tasks requested of it in this Convention;

Desiring to promote and achieve the objectives of protection, scientific study and rational use of Antarctic seals, and to maintain a satisfactory balance within the ecological system,

Have agreed as follows:

ARTICLE 1

Scope

(1) This Convention applies to the seas south of 60° South Latitude, in respect of which the Contracting Parties affirm the provisions of Article IV of the Antarctic Treaty.

(2) This Convention may be applicable to any or all of the following species:

Southern elephant seal *Miroungaleonina*,
Leopard seal *Hydrurga leptonyx*,
Weddell seal *Leptonychotes weddelli*,
Crabeater seal *Lobodon carcinophagus*,
Ross seal *Ommatophoca rossi*,
Southern fur seals *Arctocephalus* sp.

(3) The Annex to this Convention forms an integral part thereof.

ARTICLE 2

Implementation

(1) The Contracting Parties agree that the species of seals enumerated in Article 1 shall not be killed or captured within the Convention area by their nationals or vessels under their respective flags except in accordance with the provisions of this Convention.

(2) Each Contracting Party shall adopt for its nationals and for vessels under its flag such laws, regulations and other measures, including a permit system as appropriate, as may be necessary to implement this Convention.

ARTICLE 3

Annexed measures

(1) This Convention includes an Annex specifying measures which the Contracting Parties hereby adopt. Contracting Parties may from time to time in the future adopt other measures with respect to the conser-

vation, scientific study and rational and humane use of seal resources, prescribing *inter alia*.

(*a*) permissible catch;

(*b*) protected and unprotected species;

(*c*) open and closed seasons;

(*d*) open and closed areas, including the designation of reserves;

(*e*) the designation of special areas where there shall be no disturbance of seals;

(*f*) limits relating to sex, size, or age for each species;

(*g*) restrictions relating to time of day and duration, limitations of effort and methods of sealing;

(*h*) types and specifications of gear and apparatus and appliances which may be used;

(*i*) catch returns and other statistical and biological records;

(*j*) procedures for facilitating the review and assessment of scientific information;

(*k*) other regulatory measures including an effective system of inspection.

(2) The measures adopted under paragraph (1) of this Article shall be based upon the best scientific and technical evidence available.

(3) The Annex may from time to time be amended in accordance with the procedures provided for in Article 9.

ARTICLE 4

Special permits

(1) Notwithstanding the provisions of this Convention, any Contracting Party may issue permits to kill or capture seals in limited quantities and in conformity with the objectives and principles of this Convention for the following purposes:

(*a*) to provide indispensable food for men or dogs;

(*b*) to provide for scientific research; or

(*c*) to provide specimens for museums, educational or cultural institutions.

(2) Each Contracting Party shall, as soon as possible, inform the other Contracting Parties and SCAR of the purpose and content of all permits issued under paragraph (1) of this Article and subsequently of the numbers of seals killed or captured under these permits.

ARTICLE 5

Exchange of information and scientific advice

(1) Each Contracting Party shall provide to the other Contracting Parties and to SCAR the information specified in the Annex within the period indicated therein.

(2) Each Contracting Party shall also provide to the other Contracting Parties and to SCAR before 31 October each year information on any steps it has taken in accordance with Article 2 of this Convention during the preceding period 1 July to 30 June.

(3) Contracting Parties which have no information to report under the two preceding paragraphs shall indicate this formally before 31 October each year.

(4) SCAR is invited:

(*a*) to assess information received pursuant to this Article; encouraging exchange of scientific data and information among the Contracting Parties; recommend programmes for scientific research; recommend statistical and biological data to be collected by sealing expeditions within the Convention area; and suggest amendments to the Annex; and

(*b*) to report on the basis of the statistical, biological and other evidence available when the harvest of any species of seal in the Convention area is having a significantly harmful effect on the total stocks of such species or on the ecological system in any particular locality.

(5) SCAR is invited to notify the Depositary which shall report to the Contracting Parties when SCAR estimates in any sealing season that the permissible catch limits for any species are likely to be exceeded and, in that case, to provide an estimate of the date upon which the permissible catch limits will be reached. Each Contracting Party shall then take appropriate measures to prevent its nationals and vessels under its flag from killing or capturing seals of that species after the estimated date until the Contracting Parties decide otherwise.

(6) SCAR may if necessary seek the technical assistance of the Food and Agriculture Organization of the United Nations in making its assessments.

(7) Notwithstanding the provisions of paragraph (1) of Article 1 the Contracting Parties shall, in accordance with their internal law, report to each other and to SCAR, for consideration, statistics relating to the Antarctic seals listed in paragraph (2) of Article 1 which have been killed or captured by their nationals and vessels under their respective flags in the area of floating sea ice north of 60° South Latitude.

ARTICLE 6

Consultations between contracting parties

(1) At any time after commercial sealing has begun a Contracting Party may propose through the Depositary that a meeting of Contracting Parties be convened with a view to:

(a) establishing by a two-thirds majority of the Contracting Parties, including the concurring votes of all States signatory to this Convention present at the meeting, an effective system of control, including inspection, over the implementation of the provisions of this Convention;

(b) establishing a commission to perform such functions under this Convention as the Contracting Parties may deem necessary; or

(c) considering other proposals, including:

(i) the provision of independent scientific advice;

(ii) the establishment, by a two-thirds majority, of a scientific advisory committee which may be assigned some or all of the functions requested of SCAR under this Convention, if commercial sealing reaches significant proportions;

(iii) the carrying out of scientific programmes with the participation of the Contracting Parties; and

(iv) the provision of further regulatory measures, including moratoria.

(2) If one-third of the Contracting Parties indicate agreement the Depositary shall convene such a meeting, as soon as possible.

(3) A meeting shall be held at the request of any Contracting Party, if SCAR reports that the harvest of any species of Antarctic seal in the area to which this Convention applies is having a significantly harmful effect on the total stocks or the ecological system in any particular locality.

ARTICLE 7

Review of operations

The Contracting Parties shall meet within five years after the entry into force of this Convention and at least every five years thereafter to review the operation of the Convention.

ARTICLE 8

Amendments to the Convention

(1) This Convention may be amended at any time. The text of any amendment proposed by a Contracting Party shall be submitted to the Depositary, which shall transmit it to all the Contracting Parties.

(2) If one-third of the Contracting Parties request a meeting to discuss the proposed amendment the Depositary shall call such a meeting.

(3) An amendment shall enter into force when the Depositary has received instruments of ratification or acceptance thereof from all the Contracting Parties.

ARTICLE 9

Amendments to the Annex

(1) Any Contracting Party may propose amendments to the Annex to this Convention. The text of any such proposed amendments shall be submitted to the Depositary which shall transmit it to all Contracting Parties.

(2) Each such proposed amendment shall become effective for all Contracting Parties six months after the date appearing on the notification from the Depositary to the Contracting Parties, if within 120 days of the notification date, no objection has been received and two-thirds of the Contracting Parties have notified the Depositary in writing of their approval.

(3) If an objection is received from any Contracting Party within 120 days of the notification date, the matter shall be considered by the Contracting Parties at their next meeting. If unanimity on the matter is not reached at the meeting, the Contracting Parties shall notify the Depositary within 120 days from the date of closure of the meeting of their approval or rejection of the original amendment or of any new amendment proposed by the meeting. If, by the end of this period, two-thirds of the Contracting Parties have approved such amendment, it shall become effective six months from the date of the closure of the meeting for those Contracting Parties which have by then notified their approval.

(4) Any Contracting Party which has objected to a proposed amendment may at any time withdraw that objection, and the proposed amendment shall become effective with respect to such Party immediately if the amendment is already in effect, or at such time as it becomes effective under the terms of this Article.

(5) The Depositary shall notify each Contracting Party immediately upon receipt of each approval or objection, of each withdrawal of objection, and of the entry into force of any amendment.

(6) Any State which becomes a party to this Convention after an amendment to the Annex has entered into force shall be bound by the Annex as so amended. Any State which becomes a Party to this Convention during the period when a proposed amendment is pending may approve or object to such an amendment within the time limits applicable to other Contracting Parties.

ARTICLE 10

Signature

This Convention shall be open for signature at London from 1 June to 31 December 1972 by States participating in the Conference on the Conservation of Antarctic Seals held at London from 3 to 11 February 1972.

ARTICLE 11

Ratification

This Convention is subject to ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Government of the United Kingdom of Great Britain and Northern Ireland, hereby designated as the Depositary.

ARTICLE 12

Accession

This Convention shall be open for accession by any State which may be invited to accede to this Convention with the consent of all the Contracting Parties.

ARTICLE 13

Entry into force

(1) This Convention shall enter into force on the thirtieth day following the date of deposit of the seventh instrument of ratification or acceptance.

(2) Thereafter this Convention shall enter into force for each ratifying, accepting or acceding State on the thirtieth day after deposit by such State of its instrument of ratification, acceptance or accession.

ARTICLE 14

Withdrawal

Any Contracting Party may withdraw from this Convention on 30 June of any year by

giving notice on or before 1 January of the same year to the Depositary, which upon receipt of such a notice shall at once communicate it to the other Contracting Parties. Any other Contracting Party may, in like manner, within one month of the receipt of a copy of such a notice from the Depositary, give notice of withdrawal, so that the Convention shall cease to be in force on 30 June of the same year with respect to the Contracting Party giving such notice.

ARTICLE 15

Notifications by the Depositary

The Depositary shall notify all signatory and acceding States of the following:

(*a*) signatures of this Convention, the deposit of instruments of ratification, acceptance or accession and notices of withdrawal:

(*b*) the date of entry into force of this Convention and of any amendments to it or its Annex.

ARTICLE 16

Certified copies and registration

(1) This Convention, done in the English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited in the archives of the Government of the United Kingdom of Great Britain and Northern Ireland, which shall transmit duly certified copies thereof to all signatory and acceding States.

(2) This Convention shall be registered by the Depositary pursuant to Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Convention.

DONE at London, this 1st day of June 1972.

ANNEX

1. Permissible Catch—

The Contracting Parties shall in any one year, which shall run from 1 July to 30 June inclusive, restrict the total number of seals of each species killed or captured to the numbers specified below. These numbers are subject to review in the light of scientific assessments:

(a) in the case of crabeater seals *Lobodon carcinophagus*, 175,000;

(b) in the case of Leopard seals *Hydrurgo leptonyx*, 12,000;

(c) in the case of Weddell seals *Leptonychotes weddelli*, 5,000.

2. Protected Species—

(a) It is forbidden to kill or capture Ross seals *Ommatophoca rossi*, Southern elephant seals *Mirounga leonina*, or fur seals of the genus *Arctocephalus*.

(b) In order to protect the adult breeding stock during the period when it is most concentrated and vulnerable, it is forbidden to kill or capture any Weddell sea *Leptonychotes weddelli* one year old or older between 1 September and 31 January inclusive.

3. Closed Season and Sealing Season—

The period between 1 March and 31 August inclusive is a Closed Season, during which the killing or capturing of seals is forbidden. The period 1 September to the last day in February constitutes a Sealing Season.

4. Sealing Zones—

Each of the sealing zones listed in this paragraph shall be closed in numerical sequence to all sealing operations for the seal species listed in paragraph 1 of this Annex for the period 1 September to the last day of February inclusive. Such closures shall begin with the same zone as is closed under paragraph 2 of Annex B to Annex 1 of the Report of the Fifth Antarctic Treaty Consultative Meeting at the moment the Convention enters into force. Upon the expiration of each closed period, the affected zone shall reopen:

Zone 1—between 60° and 120° West Longitude.

Zone 2—between 0° and 60° West Longitude, together with that part of the Weddell Sea lying westward of 60° West Longitude.

Zone 3—between 0° and 70° East Longitude.

Zone 4—between 70° and 130° East Longitude.

Zone 5—between 130° East Longitude and 170° West Longitude.

Zone 6—between 120° and 170° West Longitude.

5. Seal Reserves—

It is forbidden to kill or capture seals in the following reserves, which are seal breeding areas or the site of long-term scientific research:

(a) The arm around the South Orkney Islands between 60° 20′ and 60° 56′ South Latitude and 44° 05′ and 46° 25′ West Longitude.

(b) The area of the southwestern Ross Sea south of 76° South Latitude and west of 170° East Longitude.

(c) The area of Edisto Inlet south and west of a line drawn between Cape Hallet at 72° 19′ South Latitude, 170° 18′ East Longitude, and Helm Point, at 72° 11′ South Latitude, 170° 00′ East Longitude.

6. Exchange of Information—

(a) Contracting Parties shall provide before 31 October each year to other Contracting Parties and to SCAR a summary of statistical information on all seals killed or captured by their nationals and vessels under their respective flags in the Convention area, in respect of the preceding period 1 July to 30 June. This information shall include by zones and months:

(i) The gross and net tonnage, brake horsepower, number of crew, and number of days' operation of vessels under the flag of the Contracting Party;

(ii) The number of adult individuals and pups of each species taken.

When specially requested, this information shall be provided in respect of each ship, together with its daily position at noon each operating day and the catch on that day.

(b) When an industry has started, reports of the number of seals of each species killed or captured in each zone shall be made to SCAR in the form and at the intervals (not shorter than one week) requested by that body.

(c) Contracting Parties shall provide to SCAR biological information, in particular:

(i) Sex.

(ii) Reproductive condition.

(iii) Age.

SCAR may request additional information or material with the approval of the Contracting Parties.

(d) Contracting Parties shall provide to other Contracting Parties and to SCAR at least 30 days in advance of departure from their home ports, information on proposed sealing expeditions.

7. Sealing Methods—

(a) SCAR is invited to report on methods of sealing and to make recommendations with a view to ensuring that the killing or capturing of seals is quick, painless and efficient. Contracting Parties, as appropriate, shall adopt rules for their nationals and vessels under their respective flags engaged in the killing and capturing of seals, giving due consideration to the views of SCAR.

(b) In the light of the available scientific and technical data, Contracting Parties agree to take appropriate steps to ensure that their nationals and vessels under their respective flags refrain from killing or capturing seals in the water, except in limited quantities to provide for scientific research in conformity with the objectives and principles of this Convention. Such research shall include studies as to the effectiveness of methods of sealing from the viewpoint of the management and humane and rational utilization of the Antarctic seal resources for conservation purposes. The undertaking and the results of any such scientific research programme shall be communicated to SCAR and the Depositary which shall transmit them to the Contracting Parties.

1976 PROTOCOL AMENDING THE INTERIM CONVENTION ON CONSERVATION OF NORTH PACIFIC FUR SEALS

The Governments of Canada, Japan, the Union of Soviet Socialist Republics and the United States of America, Parties to the Interim Convention on Conservation of North Pacific Fur Seals, signed at Washington on February 9, 1957, as amended, hereinafter referred to as the Convention,

Having given due consideration to the recommendations adopted by the North Pacific Fur Seal Commission on March 28, 1974, and to the exchange of views expressed at the North Pacific Fur Seal Conference in March and December 1975, and

Desiring to amend the Convention,

Have agreed as follows:

ARTICLE I

The Convention shall be amended by this Protocol as from the date of its entry into force.

ARTICLE II

Article II, paragraph 2(f) of the Convention shall be replaced by the following:

"(f) relationship between fur seals and other living marine resources, including the extent to which fur seals affect commercial fish catches, the damage fur seals inflict on fishing gear, and the effect of commercial fisheries on the fur seals;".

ARTICLE III

1. In Article II, paragraph 2 of the Convention, "and" at the end of subparagraph (h) shall be deleted and "(i)" shall be replaced by "(j)".

2. After Article II, paragraph 2(h) of the Convention, the following shall be inserted:

"(i) effects of man-caused environmental changes on the fur seal populations; and".

ARTICLE IV

Article II, paragraph 3(b) of the Convention shall be replaced by the following:

"(b) to devote to pelagic research an effort which, to the greatest extent possible, should be similar in extent to that expended in recent years, provided that this shall not involve the annual taking by all the Parties combined of more than 2,500 seals in the Eastern and more than 2,200 seals in the Western Pacific Oceans, unless the Commission, pursuant to Article V, paragraph 3, shall decide otherwise; and".

ARTICLE V

Article IV of the Convention shall be replaced by the following:

"ARTICLE IV

Each Party shall bear the expense of its own research. Title to sealskins taken during the research shall vest in the Party conducting such research."

ARTICLE VI

Article V, paragraph 2(d) of the Convention shall be replaced by the following:

"(d) recommend appropriate measures to the Parties on the basis of the findings obtained from the implementation of such coordinated research programs, including measures regarding the size and the sex and age composition of the seasonal commercial kill from a herd and regarding a reduction or suspension of the harvest of seals on any island or group of islands in case the total number of seals on that island or group of islands falls below the level of maximum sustainable productivity; provided, however, that due consideration be given to the subsistence needs of Indians, Ainos, Aleuts, or Eskimos who live on the islands where fur seals breed, when it is not possible to provide sufficient seal meat for such persons from the seasonal commercial harvest or research activities; and".

ARTICLE VII

Article V, paragraph 2(e) of the Convention shall be replaced by the following:

"(e) study whether or not pelagic sealing on conjunction with land sealing could

be permitted in certain circumstances without adversely affecting achievement of the objectives of the Convention, and make recommendations thereon to the Parties at the end of the twenty-first year after entry into force of the Convention".

ARTICLE VIII

Article V, paragraph 3 of the Convention shall be replaced by the following:

"3. In addition to the duties specified in paragraph 2 of this Article, the Commission shall, subject to Article II, paragraph 3, determine from time to time the number of seals to be marked on the rookery islands, and the total number of seals which shall be taken at sea for research purposes, the times at which such seals shall be taken and the areas in which they shall be taken, as well as the number to be taken by each Party, taking into account any recomendations made pursuant to Article V, paragraph 2(d)."

ARTICLE IX

Article V, paragraph 6 of the Convention shall be replaced by the following:

"6. The Commission shall hold an annual meeting at such time and place as it may decide. Additional meetings shall be held when requested by two or more members of the Commission."

ARTICLE X

Article IX, paragraph 3 of the Convention shall be replaced by the following:

"3. The respective Parties will seek to ensure the utilization of those methods for the capture and killing and marketing of fur seals on land or at sea which will spare the fur seals pain and suffering to the greatest extent practicable."

ARTICLE XI

Article XI of the Convention shall be replaced by the following:

"ARTICLE XI

"The Parties agree to meet in the twenty-second year after entry into force of the Convention to consider the recommendations in accordance with Article V, paragraph 2(e) and to determine what further agreements may be desirable in order to achieve the maximum sustainable productivity of the North Pacific fur seal herds."

ARTICLE XII

Article XIII, paragraph 3 of the Convention shall be replaced by the following:

"3. The Convention shall enter into force on the date of the deposit of the fourth instrument of ratification."

ARTICLE XIII

Article XIII, paragraph 4, of the Convention shall be replaced by the following:

"4. The Convention shall continue in force for twenty-two years and thereafter until the entry into force of a new or revised fur seal convention between the Parties, or until the expiration of one year after such period of twenty-two years, whichever may be the earlier; provided, however, that the Convention shall terminate one year from the day on which a Party gives written notice to the other Parties of an intention of terminating the Convention."

ARTICLE XIV

1. In Article XIII of the Convention, paragraph "5" shall be redesignated as "6".

2. After Article XIII, paragraph 4, of the Convention, the following shall be inserted:

"5. At the request of any Party, representatives of the Parties will meet at a mutually convenient time within ninety days of such request to consider the desirability of modifications of the Convention."

ARTICLE XV

1. This Protocol shall be subject to ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Government of the United States of America as soon as practicable.

2. The Government of the United States of America shall notify the other signatory Governments of ratifications or acceptances deposited.

3. This Protocol shall enter into force on the date on which the fourth instrument of ratification or acceptance is deposited with the Government of the United States of America.

4. The original of this Protocol shall be deposited with the Government of the United States of America, which shall communicate certified copies thereof to each of the Governments signatory to this Protocol.

In witness whereof, the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

Done at Washington this seventh day of May, 1976, in the English, Japanese, and Russian languages, each text equally authentic.

Signatories to the 1976 Protocol Amending the Interim Convention on Conservation of North Pacific Fur Seals, Done at Washington May 7, 1976:

For the Government of Canada:

VERNON G. TURNER.

For the Government of Japan:

FUMIHIKO TOGO.

For the Government of the Union of Soviet Socialist Republics:

A. DOBRYNIN.

For the Government of the United States of America:

FREDERICK IRVING.

FIFTH INTERNATIONAL TIN AGREEMENT

PREAMBLE

The participating countries, recognizing:

(a) The significant assistance to economic growth, especially in developing producing countries, that can be given by commodity agreements in helping to secure stabilization of prices and steady development of export earnings and of primary commodity markets;

(b) The community and interrelationship of interests of, and the value of continued co-operation between, producing and consuming countries in order to support the purposes and principles of the United Nations and the United Nations Conference on Trade and Development and to resolve problems relevant to tin by means of an international commodity agreement, taking into account the role which the International Tin Agreement can play in the establishment of a new international economic order;

(c) The exceptional importance of tin to numerous countries whose economy is heavily dependent upon favourable and equitable conditions for its production, consumption or trade;

(d) The need to protect and foster the health and growth of the tin industry, especially in the developing producing countries, and to ensure adequate supplies of tin to safeguard the interests of consumers;

(e) The importance of tin producing countries of maintaining and expanding their import purchasing power; and

(f) The desirability of improving efficiency in the use of tin in both the developing and industrialized countries, as an aid to the conservation of world tin resources;

Have agreed as follows:

Chapter I: Objectives

ARTICLE 1

Objectives

The objectives of this Agreement are:

(a) To provide for adjustment between world production and consumption of tin and to alleviate serious difficulties arising from surplus or shortage of tin, whether anticipated or real;

(b) To prevent excessive fluctuations in the price of tin and in export earnings from tin;

(c) To make arrangements which will help to increase the export earnings from tin, especially those of the developing producing countries, so as to provide such countries with resources for accelerated economic growth and social development, while at the same time taking into account the interests of consumers;

(d) To ensure conditions which will help to achieve a dynamic and rising rate of production of tin on the basis of a remunerative return to producers, which will help to secure an adequate supply at prices fair to consumers and to provide a long-term equilibrium between production and consumption;

(e) To prevent widespread unemployment or under-employment and other serious difficulties which may result from maladjustments between the supply of and the demand for tin;

(f) To improve further the expansion in the use of tin and the indigenous processing of tin, especially in the developing producing countries;

(g) In the event of a shortage of supplies of tin occurring or being expected to occur, to take steps to secure an increase in the production of tin and a fair distribution of tin metal in order to mitigate serious difficulties which consuming countries might encounter;

(h) In the event of a surplus of supplies of tin occurring or being expected to occur, to take steps to mitigate serious difficulties which producing countries might encounter;

(i) To review disposals of non-commercial stocks of tin by Governments and to take steps which would avoid any uncertainties and difficulties which might arise;

(j) To keep under review the need for the development and exploitation of new deposits of tin and for the promotion, through, inter alia, the technical and financial assistance resources of the United Nations and other organizations within the United Nations system, of the most efficient methods of mining, concentration and smelting of tin ores;

(k) To promote the development of the tin market in the developing producing countries in order to encourage a more important role for them in the marketing of tin; and

(l) To continue the work of the International Tin Council under the Fourth International Tin Agreement (hereinafter referred to as the Fourth Agreement) and previous International Tin Agreements.

Chapter II: Definitions

ARTICLE 2

Definitions

For the purposes of this Agreement:

Tin means tin metal, any other refined tin or the tin content of concentrates or tin ore which has been extracted from its natural occurrence. For the purposes of this definition, "ore" shall be deemed to exclude (a) material which has been extracted from the ore body for a purpose other than that of being dressed and (b) material which is discarded in the process of dressing.

Tin metal means refined tin of good merchantable quality assaying not less than 99.75 percent.

Buffer stock means the buffer stock established and operated in accordance with the provisions of chapter X of this Agreement.

Tin metal held means the metal holding of the buffer stock, including metal which has been bought for the buffer stock but not yet received, and excluding metal which has been sold from the buffer stock but not yet delivered, by the Manager of the buffer stock.

Tonne means a metric ton, i.e., 1,000 kilogrammes.

Control period means a period which has been so declared by the Council and for which a total permissible export tonnage has been fixed.

Quarter means a calendar quarter beginning on 1 January, 1 April, 1 July or 1 October.

Net exports means the amount exported in the circumstances set out in part one of annex C to this Agreement less the amount imported as determined in accordance with part two of the same annex.

Participating country means a country whose Government has ratified, approved, accepted or acceded to this Agreement, or given notification of intention to ratify, approve, accept it, or accede to it, or any territory or territories whose separate participation has taken effect under article 53, or, as the context may require, the Government of such country or of such territory or territories themselves, or an organization referred to in article 54.

Producing country means a participating country which the Council has declared, with the consent of that country, to be a producing country.

Consuming country means a participating country which the Council has declared, with the consent of that country, to be a consuming country.

Contributing country means a participating country which has contributions in the buffer stock.

A simple majority is attained if a motion is supported by a majority of the votes cast by participating countries.

A simple distributed majority is attained if a motion is supported by both a majority of the votes cast by producing countries and a majority of the votes cast by consuming countries.

A two-thirds distributed majority is attained if a motion is supported by both a two-thirds majority of the votes cast by producing countries and a two-thirds majority of the votes cast by consuming countries.

Entry into force means, except when qualified, the initial entry into force of this Agreement, whether such entry into force is provisional in accordance with article 50 or definitive in accordance with article 49.

Financial year means a period of one year beginning on 1 July and ending on 30 June of the next year.

A session shall comprise one or more meetings of the Council.

The International Tin Council:
Constitutional Provisions

Chapter III: Membership

ARTICLE 3

The Council

(a) The International Tin Council (hereinafter called the Council), established by the previous International Tin Agreements, shall continue in being for the purpose of administering the Fifth International Tin Agreement, with the membership, powers and functions provided for in this Agreement.

(b) The seat of the Council shall be in London, unless the Council decides otherwise.

ARTICLE 4

Participation in the Council

(a) The Council shall be composed of all the participating countries.

(b) (i) Each participating country shall be represented in the Council by one delegate, and may designate alternates and advisers to attend sessions of the Council;

(ii) An alternate delegate shall be empowered to act and vote on behalf of the delegate during the latter's absence or in other special circumstances.

(c) Each participating country shall constitute a single member of the Council, except as otherwise provided in article 53.

ARTICLE 5

Categories of participants

(a) Each member of the Council shall be declared by the Council, with the consent of the country concerned, to be a producing or a consuming country, as soon as possible after receipt by the Council of notice from the Secretary-General of the United Nations that such member has deposited its instrument of ratification, approval, acceptance or accession under article 48 or 52, or notification of intention to ratify, approve, accept or accede to this Agreement under article 50 or article 52.

(b) The membership of producing countries and consuming countries shall be based respectively on their domestic mine production and their consumption of tin metal provided that:

(i) The membership of a producing country which is a substantial consumer of tin metal derived from its own domestic mine production shall with the consent of that country be based on its exports of tin; and

(ii) The membership of a consuming country which produces from its own domestic mines a substantial proportion of the tin it consumes shall with the consent of that country be based on its imports of tin.

(c) In its instrument of ratification, approval, acceptance or accession or in its notification of intention to ratify, approve, accept or accede to this Agreement, each Government may state the category of participating countries to which it considers that it should belong.

(d) At the first ordinary session of the Council after the entry into force of this Agreement, the Council shall take the decisions necessary for the application of this article by a majority of votes cast by the participating countries listed in annex A and by a majority of votes cast by the participating countries listed in annex B, the votes being counted separately and voting rights being set out as in annexes A and B to this Agreement, the operation of article 13 being left out of account for this purpose.

ARTICLE 6

Change of category

(a) Where the position of a participating country has changed from that of a consuming to that of a producing country, or vice versa, the Council shall, on the request of that country or on its own initiative with the country's consent, consider the new position and determine what tonnage or percentage would be applicable for the purposes of the relevant annexes to this Agreement.

(b) The Council shall determine the date when the tonnage and/or percentage, as the case shall require, which it has arrived at under paragraph (a) of this article, shall come into effect.

(c) From the date of coming into effect determined by the Council under paragraph (b) the participating country concerned shall cease to hold any of the rights and privileges in, or to be bound by any of the obligations under, this Agreement which pertain to countries in its previous category, except any undischarged financial or other obligations incurred by the country in its previous category, and shall acquire all the rights and privileges in, and shall be bound by all of the obligations under, this Agreement which pertain to countries in its new category:

Provided that:

(i) If the change of category is from that of a producing country to that of a consuming country, the country which has changed shall nevertheless retain its rights to the refund at the termination of this Agreement of its share in the liquidation of the buffer stock in accordance with articles 25 and 26; and

(ii) If the change of category is from that of a consuming country to that of a producing country, the conditions laid down by the Council for the country which has changed shall be equitable as between the country and the other producing countries already participating in this Agreement.

Chapter IV: Powers and functions

ARTICLE 7

Powers and functions of the Council

The Council:

(a) Shall have such powers and perform such duties as may be necessary for the administration and operation of this Agreement.

(b) Shall receive from the Executive Chairman, whenever it so requests, such information with regard to the holdings and operations of the buffer stock as it considers necessary to fulfill its functions under this Agreement.

(c) May request participating countries to furnish available data concerning tin production, the production costs of tin, the level of tin production, tin consumption, international trade in and stocks of tin and any other information necessary for the satisfactory administration of this Agreement, not inconsistent with the national security provisions as laid down in article 44, and the countries shall furnish to the fullest extent possible the information so requested.

(d) Has the power to borrow for the purposes of the Administrative Account established under article 16, or of the Buffer Stock Account in accordance with article 24.

(e) Shall publish after the end of each financial year a report of its activities for that year.

(f) Shall publish after the end of each quarter, but not earlier than three months after the end of that quarter in the absence of a contrary decision by the Council, a statement showing the tonnage of tin metal held at the end of that quarter.

(g) Shall make whatever arrangements are appropriate for consultation and co-operation with:

(i) The United Nations, its appropriate organs—particularly the United Nations Conference on Trade and Development—the specialized agencies, other organizations within the United Nations system and appropriate intergovernmental organizations; and

(ii) Non-participating countries which are Members of the United Nations or members of its specialized agencies or which were parties to the previous International Tin Agreements.

ARTICLE 8

Procedures of the Council

The Council:

(a) Shall establish its own rules of procedure.

(b) May make whatever arrangements it considers necessary to advise the Executive Chairman at times when the Council is not in session.

(c) May appoint such committees as it considers necessary to assist it in the performance of its functions, and may draw up their terms of reference; these committees may, unless the Council otherwise decides, establish their own rules of procedure.

(d) (i) May at any time, by a two-thirds distributed majority, delegate to any committee any power which the Council may exercise by a simple distributed majority, other than those relating to: Assessment of contributions under article 19; floor and ceiling prices under articles 27 and 31; assessment of export control under articles 32, 33, 34, 35 and 36; or action in the event of a tin shortage under article 40;

(ii) Shall, by a two-thirds distributed majority, fix the membership and terms of reference of any such committees; and

(iii) May by a simple majority revoke at any time any delegation of powers to any such committee or the appointment of any such committee.

ARTICLE 9

Statistics and Studies

The Council:

(a) Shall, at least once in every quarter, estimate the probable production and consumption of tin during the following quarter or quarters, with a view to assessing the total statistical tin position for that period, and in this connection, may take into account such other factors as are relevant.

(b) Shall make arrangements for the continuing study of the production costs of tin, the level of tin production, price trends, market trends and the short-term and long-term problems of the world tin industry; to this effect it shall undertake or promote such studies on problems of the tin industry as it deems appropriate.

(c) Shall keep itself informed of new uses of tin and the development of substitute products which might replace tin in its traditional uses.

(d) Shall encourage closer relationships with and wider participation in organizations devoted to research into the efficient exploration for and production, processing and use of tin; and

(e) Shall make a study of alternative means to supplement or replace existing methods of financing the buffer stock.

Chapter V: Organization and administration

ARTICLE 10

Executive Chairman and Vice-Chairmen of the Council

(a) The Council shall, by a two-thirds distributed majority and by ballot, appoint an independent Executive Chairman, who may be a national of one of the participating countries. The appointment of the Executive Chairman shall be considered at the first ordinary session of the Council after the entry into force of this Agreement.

(b) An executive Chairman shall not be appointed if he has been actively engaged in the tin industry or in the tin trade during the five years preceding his appointment and shall comply with the conditions set out in article 12.

(c) A member of the staff of the Council shall not be excluded from appointment as Executive Chairman by virtue of paragraph (b) of this article.

(d) The Executive Chairman shall hold office for such period and on such other terms and conditions as the Council may determine.

(e) The Executive Chairman shall preside over sessions and meetings of the Council; he shall have no vote.

(f) The Council shall elect annually two Vice-chairmen, one from among the delegates of the producing countries and one from among the delegates of the consuming countries. The two Vice-chairmen shall be designated respectively First Vice-chairman and Second Vice-chairman. The First Vice-chairman shall be selected for each alternate year from producing countries and consuming countries respectively.

(g) If the Executive Chairman resigns or is permanently unable to perform his duties, the Council shall appoint a new Executive Chairman in accordance with the procedure provided for in paragraph (a) of this article. Pending such appointment, or during temporary absences of the Executive Chairman, he shall be replaced by the First Vice-chairman, or if necessary by the Second Vice-chairman, who shall have only the duties of presiding over sessions and meetings, unless the Council decides otherwise. The Council shall also provide in its Rules of Procedures for the appointment of an Acting Chief Executive Officer responsible for the administration and operation of this Agreement in accordance with article 12 during temporary absences of the Executive Chairman, or pending the appointment of a new Executive Chairman in accordance with this paragraph.

(h) When a Vice-chairman performs the duties of the Executive Chairman he shall have no vote; the right to vote of the country he represents may be exercised in accordance with the provisions of subparagraph (ii) of paragraph (b) of article 4 and paragraph (c) of article 14.

ARTICLE 11

Sessions of the Council

(a) The Council shall hold four ordinary sessions a year. The Council may also hold such special sessions as may be required.

(b) The Secretary-General of the United Nations shall convene the first ordinary session of the Council under this Agreement in London. This session shall begin within eight days after entry into force of this Agreement.

(c) Sessions shall be convened, at the request of any participating country or as may be required by the provisions of this Agreement, by the Executive Chairman or, after consultation with the First Vice-Chairman, and on his behalf by the Acting Chief Executive Officer in the event of the incapacity of the Executive Chairman. Sessions may also be convened by the Executive Chairman at his discretion.

(d) Sessions shall, unless otherwise decided by the Council be held at the seat of the Council. Except in the case of sessions convened under article 31, at least seven days' notice of each session shall be given.

(e) Delegates holding two-thirds of the total votes of all producing countries and two-thirds of the total votes of all consuming countries shall together constitute a quorum at any session or meeting of the Council. If for any session of the Council, there is not a quorum as defined above, a further session shall be convened after not less than seven days, at which delegates holding more than 1,000 votes shall together constitute a quorum.

ARTICLE 12

The Staff of the Council

(a) The Executive Chairman appointed under article 10 shall be responsible to the Council for the administration and operation of this Agreement in accordance with the decisions of the Council.

(b) The Executive Chairman shall also be responsible for the management of the administrative services and staff.

(c) The Council shall appoint a Manager of the Buffer Stock (hereinafter called the Manager) and a Secretary and shall determine the terms and conditions of service of those two officers.

(d) The Council shall give instruction to the Executive Chairman as to the manner in which the Manager is to carry out his responsibilities laid down in this Agreement.

(e) The Executive Chairman shall be assisted by the staff considered necessary by the Council. All staff, including the Manager and the Secretary of the Council, shall be responsible to the Executive Chairman. The method of appointment and the conditions of employment of the staff shall be approved by the Council.

(f) Neither the Executive Chairman nor members of the staff shall have any financial interest in the tin industry, tin trade, tin transport, tin publicity, or other activities related to tin.

(g) In the performance of their duties, neither the Executive Chairman nor the members of the staff shall seek or receive instructions from any Government or person or authority other than the Council or a person acting on behalf of the Council under the terms of this Agreement. They shall refrain from any action which might reflect on their position as international officials responsible only to the Council. Each participating country undertakes to respect the exclusively international character of the responsibilities of the Executive Chairman and the members of the staff and not to seek to influence them in the discharge of their responsibilities.

(h) No information concerning the operation or administration of this Agreement shall be revealed by the Executive Chairman, the Manager, the Secretary of the Council or other staff of the Council, except as may be authorized by the Council or as is necessary for the proper discharge of their duties under this Agreement.

Chapter VI: Votes in the Council

ARTICLE 13

Percentages and Votes

(a) The producing countries shall together hold 1,000 votes. Each producing country shall receive five initial votes; the remainder shall be divided among the producing countries as nearly as possible in proportion to the percentages of each producing country as listed in annex A or as otherwise determined in accordance with this article.

(b) The consuming countries shall together hold 1,000 votes. Each consuming country shall receive five initial votes, or, if there are more than 30 consuming countries, the highest whole number so that the total of such initial votes shall not exceed 150; the remainder shall be divided among the consuming countries as nearly as possible in proportion to the percentage of each consuming country as listed in annex B or as otherwise determined in accordance with this article.

(c) No participating country shall have more than 450 votes.

(d) There shall be no fractional votes.

(e) Where, by reason of the failure of one or more Governments of the countries listed in annex A or annex B to ratify, approve, accept, or accede to, or to give notification of intention to ratify, approve, accept or accede to this Agreement, or by reason of a change in the category of a participating country in accordance with article 6, or by reason of the withdrawal of a participating country, or by reason of the operation of any of the provisions of this Agreement, the total of the percentages of the producing countries or of the consuming countries becomes less than 100, or the total of their respective votes becomes less than 1,000, the balance of percentages and votes shall be distributed among the other producing or consuming countries, as the case may be, as nearly as possible in proportion to the percentages they already hold so that the respective totals of the percentages of producing and consuming countries are each 100, and the respective totals of their votes reach 1,000.

(f) (i) If, prior to entry into force of this Agreement, a Government of a country not listed in annex A or B has ratified, approved, accepted or acceded to this Agreement, or has given notification of intention to ratify, approve, accept or accede to this Agreement; or

(ii) If, after the entry into force of this Agreement, the Government of any country not already a participating country ratifies, approves, accepts or accedes to this Agreement, or gives notification of intention to ratify, approve, accept, or accede to it, or if any participating country has been approved for a change in its category in accordance with article 6;

The Council shall determine a percentage for that country, and shall re-determine the percentages of other participating countries in proportion to their current percentages so that the respective totals of the percentages of producing and consuming countries are each 100 and the respective totals of their votes each 1,000. Except as provided in paragraph (i) of this article, a percentage determined in accordance with this paragraph shall take effect upon the date decided by the Council for the purposes of this article as if it were one of the percentages listed in annex A or annex B, as the case may be.

(g) (i) The Council shall review the percentages of the producing countries in an-

nex A and re-determine them in accordance with the rules of annex F. Except for the first re-determination, which shall take place at the first ordinary session of the Council, the percentage of a producing country shall not, during any period of 12 months, be reduced by more than one-tenth of its percentage at the commencement of that period;

(ii) In any action which it may propose to take in accordance with the rules of annex F, the Council shall give due consideration to any circumstances stated by any producing country as being exceptional and may, by a two-thirds distributed majority, waive or modify the full application of those rules;

(iii) The Council may, from time to time, by a two-thirds distributed majority revise the rules of annex F, and any such revision shall have effect as if it were included in that annex;

(iv) The percentages resulting from the procedure set out in this paragraph shall be published and shall take effect upon the first day of the quarter following the date of the decision of the Council in replacement of the percentages listed in annex A.

(h) The Council shall at its first ordinary session revise annex B and shall publish the revised annex, which shall be effective for the purpose of this article forthwith; and subsequently, at sessions to be held during the second quarter of each calendar year the Council shall review the figures of the consumption of tin of each consuming country for each of the three preceding calendar years and shall publish revised percentages for each consuming country on the basis of the averages of such figures of consumption, which percentages shall take effect on 1 July next following for the purposes of this article as if they were the percentages listed in annex B.

(i) When, by reason of the application of paragraph (f) of this article, the percentages of producing countries have been proportionately adjusted, during a control period declared by the Council in accordance with article 33, the Council shall then publish as soon as possible the revised table of percentages which shall come into force for the purposes of article 33 with effect from the first day of the quarter following the period in which the decision to revise percentages was taken.

ARTICLE 14

Voting Procedure of the Council

(a) Each member of the Council shall be entitled to cast the number of votes it holds in the Council. When voting, a delegate shall not divide his votes. When abstaining, a delegate shall be deemed not to have cast his votes.

(b) Decisions of the Council shall, except when otherwise provided, be taken by a simple distributed majority.

(c) Any member may, in a form satisfactory to the Council, authorize any other member to represent its interests and to exercise its voting rights at any session or meeting of the Council.

Chapter VII: Privileges and immunities

ARTICLE 15

Privileges and Immunities

(a) The Council shall be accorded in each participating country such currency exchange facilities as may be necessary for the discharge of its functions under this Agreement.

(b) The Council shall have legal personality. It shall in particular have the capacity to contract, to acquire and dispose of movable and immovable property and to institute legal proceedings.

(c) The Council shall have in each participating country to the extent consistent with its law, such exemption from taxation on the assets, income and other property of the Council as may be necessary for the discharge of its functions under this Agreement.

(d) The status, privileges and immunities of the Council in the territory of the United Kingdom shall continue to be governed by the Headquarters Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the International Tin Council signed at London on 9 February 1972.

Financial Provisions

Chapter VIII: Accounts and audit

ARTICLE 16

Financial Accounts

(a) (i) There shall be kept two accounts—the Administrative Account and the Buffer Stock Account—for the administration and operation of this Agreement;

(ii) The administrative expenses of the Council, including the remuneration of the Executive Chairman, the Manager, the Secretary and the staff, shall be entered into the Administrative Account;

(iii) Any expenditure which is solely attributable to buffer stock transactions or operations, including expenses for borrowing arrangements, storage, commission and insurance, shall be entered into the Buffer Stock Account by the Manager;

(iv) The liability of the Buffer Stock Account for any other type of expenditure shall be decided by the Executive Chairman.

(b) The Council shall not be responsible for the expenses of delegates to the Council or the expenses of their alternates and advisers.

ARTICLE 17

Cash contributions—currency of payment

Cash payments to the Administrative Account by participating countries under articles 19 and 58, cash payments to the Buffer Stock Account by contributing countries under articles 21, 22 and 23, cash payments from the Administrative Account to participating countries under article 58 and cash payments from the Buffer Stock Account to contributing countries under articles 21, 22, 23 and 25 shall be assessed in pounds sterling and paid in sterling or, at the option of the country concerned, the equivalent of the amount due in sterling at the rate of exchange on the date of payment may be paid in any currency which is freely convertible into sterling on the London foreign exchange market.

ARTICLE 18

Audit

(a) The Council shall appoint auditors for the purpose of auditing its books of account.

(b) The Council shall as soon as possible after the end of each financial year publish the independently audited Administrative and Buffer Stock Accounts, provided that such Buffer Stock Accounts shall not be published earlier than three months after the end of the financial year to which they relate.

Chapter IX: The administrative account

ARTICLE 19

The budget

(a) The Council shall at its first ordinary session after the entry into force of this Agreement approve the budget of contributions and expenditure on the Administrative Account for the period between the date of entry into force of this Agreement and the end of the first financial year. Thereafter, it shall approve a similar annual budget for each financial year. If at any time during any financial year, because of unforeseen circumstances which have arisen or are likely to arise, the balance remaining in the Administrative Account is likely to be inadequate to meet the administrative expenses of the Council, the Council may approve a necessary supplementary budget for the remainder of that financial year.

(b) On the basis of the budget described in paragraph (a) of this article, the Council shall assess in pounds sterling the contribution to the Administrative Account of each participating country, which shall be liable to pay its full contribution to the Council on notice of assessment. Participating countries with 21 or more votes on the date of assessment shall each pay 1 per cent of the total budget and participating countries with 20 or less votes on the date of assessment shall each pay three-tenths of 1 percent of the total budget. That portion of the budget which is not covered by the above payments shall be met by a payment in respect of each vote which a participating country holds on the date of assessment of one two-thousandth of the total amount required.

(c) Any participating country which fails to pay its contribution to the Administrative Account within six months of the date of notice of assessment may be deprived by the Council of its right to vote. If such a country fails to pay its contribution within 12 months of the date of notice of assessment, the Council may deprive it of any other rights under this Agreement, provided that the Council shall, on receipt of any such outstanding contribution, restore to the country concerned the rights of which it has been deprived under this paragraph.

Chapter X: The buffer stock account

ARTICLE 20

Establishment of the Buffer Stock

(a) A buffer stock shall be established, the aggregate of which shall consist of contributions by producing countries in accordance with article 21 and of contributions by consuming countries in accordance with article 22.

(b) The resources of the buffer stock may be supplemented by borrowing from the capital market and by making arrangements as stated in article 24.

(c) For the purposes of this article, any part of a contribution made in cash shall be deemed to be equivalent to the quantity of tin metal which could have been purchased at the floor price in effect at the date when this part is called in accordance with article 21 or contributed under article 22.

ARTICLE 21

Contributions by Producing Countries

(a) (i) Producing countries shall make contributions to the buffer stock in either cash, tin metal or a combination of both, amounting to the equivalent of 20,000 tonnes of tin metal of which the equivalent of 7,500 tonnes shall be due on the entry into force of this Agreement;

(ii) The Council shall decide what portion of the initial and subsequent contributions shall become due in cash or in tin metal;

(iii) Subject to the provisions of subparagraph (iv), payment of the initial contributions shall be made on the date of the first ordinary session of the Council under this Agreement;

(iv) Producing countries shall make the payment of the cash portion of any contribution due by them on the date determined by the Council and shall deliver the portion due in tin metal not later than three months from the date of such decision;

(v) Notwithstanding the provisions of subparagraph (iii), the Council may at any time determine by which date or dates and in what instalments the whole or part of the balances of the aggregate contribution shall be made. However, the Council may authorize the Executive Chairman to request payment of instalments of these balances at not less than fourteen days' notice;

(vi) If at any time the Council holds cash assets in the Buffer Stock Account whose total amount exceeds the sum of the initial contributions required under subparagraph (i) and of any additional contributions received under article 22, the Council may authorize refunds out of such excess to the producing countries in pro-

portion to the contributions they have made under this article. At the request of a producing country, the refund to which it is entitled may be retained in the buffer stock. The balances remaining to be paid out of the aggregate contributions due under subparagraph (i) shall be increased by the amount of such refunds, but not by the amount of any refund authorized but retained in the buffer stock.

(b) Contributions due in accordance with paragraph (a) of this article may, with the consent of the contributing country concerned, be made by transfer from the buffer stock held under the Fourth Agreement.

(c) The contributions referred to in paragraph (a) of this article shall be apportioned among the producing countries according to the percentages in annex A, as reviewed and re-determined at the first ordinary session of the Council in accordance with paragraph (g) of article 13.

(d) (i) If on or after the entry into force of this Agreement a country listed in annex A deposits an instrument of ratification, approval, acceptance or accession, or gives notification of intention to ratify, approve, accept, or accede to, this Agreement, or if a consuming country has changed its category to that of a producing country in accordance with article 6, the contribution of that country shall be determined by the Council with reference to its percentage in annex A;

(ii) Contributions determined under subparagraph (i), shall be made on the date of the deposit of such instrument or on the date determined by the Council under paragraph (b) of article 6;

(iii) In this connexion, the Council may direct that refunds, not exceeding in the aggregate the amount of any contribution received under sub-paragraph (i), be made to the other producing countries or consuming countries. If the Council decides that such refunds or parts of such refunds are to be made in tin metal, it may attach to these refunds such conditions as it deems necessary. At the request of a producing country, the refund to which it is entitled may be retained in the buffer stock.

(e) (i) A producing country which for the purpose of making a contribution under this article wishes, during a period of export control, to export tin from stocks lying within that country may apply to the Council for permission to export tonnage so desired in addition to its permissible export tonnage, if any, determined under article 34;

(ii) The Council shall consider any such application and may approve it subject to such conditions as it deems necessary. Subject to these conditions being satisfied and to the furnishing of such evidence as the Council may require to identify the metal or concentrates exported with the tin metal delivered to the buffer stock, paragraphs (b) and (d) of article 34 and paragraph (a) of article 36 shall not apply to such exports.

(f) Contributions in tin metal may be accepted by the Manager in warehouses officially approved by the London Metal Exchange or at such other place or places as are determined by the Council. The brands of tin so delivered shall be brands registered with and recognized by the London Metal Exchange.

ARTICLE 22

Additional Contributions

(a) Consuming countries may, upon conditions agreed upon by the Council, make contributions to the buffer stock in either cash, tin metal or a combination of both, up to an additional amount equivalent to 20,000 tonnes of tin metal. Notwithstanding the conditions which shall have been imposed under this paragraph, the Council may refund to any country which has made a contribution to the buffer stock under this paragraph the whole or any part of such contributions. If such refund or part of such refund is made in tin metal the Council may attach to this refund the conditions which it deems necessary.

(b) Any country invited to the United Nations Tin Conference, 1975, may make contributions to the buffer stock in cash, or in tin metal or both, subject to the agreement of the Council and upon such conditions as shall include conditions as to refund. Such contribution shall be additional to the contributions shown in paragraph (a) of article 21 and paragraph (a) of this article.

(c) The Executive Chairman shall notify the participating countries of the receipt of any contributions received under paragraphs (a) and (b) of this article and shall also notify any non-participating countries which have made a contribution under paragraph (b) of this article of the receipt of any such contribution.

(d) At the expiration of 30 calendar months after the entry into force of this Agreement, the Council shall review the results obtained as regards the additional contributions referred to in paragraphs (a) and (b) of this article and it may decide that a negotiating conference is to be convened within six months of the date of the Council's decision in order wholly or partly to amend this Agreement by a Protocol or other appropriate international instrument. If such a decision is reached, the Council shall request the Secretary-General of the United Nations to convene such a negotiating conference.

ARTICLE 23

Penalties Relating to Contribution

(a) The Council shall determine penalties to be applied to countries which fail to meet their obligations under sub-paragraph (v) of paragraph (a) of article 21.

(b) If a producing country does not fulfill its obligations under article 21, the Council may deprive it of any or all of its rights and previleges under this Agreement and may also require the remaining producing countries to make good the deficit in cash or in tin metal or in both.

(c) If a part of the deficit is to be made good in tin metal, the producing countries which are making good that deficit shall be permitted to export the amounts required to them in addition to any permissible export amounts that may have been determined under article 34. Subject to the furnishing of such evidence as the Council may require to identify the metal or concentrates exported with the tin metal delivered to the buffer stock, paragraphs (b) and (d) of article 34 and paragraph (a) of article 36 shall not apply to such exports.

(d) The Council may at any time and on such conditions as it may determine:

(i) Declare that the default has been remedied;

(ii) Restore the rights and privileges of the country concerned; and

(iii) Refund the additional contributions made by the other producing countries under paragraph (b) of this article together with interest at a rate which shall be determined by the Council; taking into account prevailing international interest rates, provided that, in respect of that part of the additional contribution which has been made in tin metal, such interest shall be calculated on the basis of an appropriate price for tin metal on the date of the decision of the Council under paragraph (b) of this article, on a recognized market to be agreed by the Council. If such refunds or parts of such refunds are made in tin metal the Council may attach to these refunds the conditions which it deems necessary.

ARTICLE 24

Borrowing for the buffer stock

(a) The Council may borrow for the purposes of the buffer stock and upon the security of tin warrants held by the buffer stock such sum or sums as it deems necessary provided that the maximum amount of such borrowing and the terms and conditions thereof shall have been approved by the majority of the votes cast by consuming countries and all the votes cast by producing countries.

(b) The Council may, by a two-thirds distributed majority, make any other arrangements it sees fit for borrowing for the purpose of the buffer stock or to supplement its resources.

(c) Without prejudice to paragraph (d) of this article, all charges connected with these borrowings and arrangements shall be assigned to the Buffer Stock Account, but the Council may decide that participating non-contributing countries may contribute towards these charges. The Executive Chairman shall make regular reports to the Council on the operation of this paragraph. The operation of this paragraph shall be considered in relation to the provisions of paragraph (d) of article 22.

(d) No obligation shall be laid upon any participating country under this article without the consent of that country.

(e) In the event of any financial resources being made available to the Council, the Council may, by a two-thirds distributed majority decide to modify the figures stated in paragraph (a) of article 21 and paragraph (a) of article 22.

Chapter XI: Liquidation of the buffer stock

ARTICLE 25

Liquidation procedure

(a) On the termination of this Agreement all buffer stock operations under articles 28, 29, 30, 31 or paragraph (b) of article 29 shall cease. The Manager shall thereafter make no further purchase of tin metal and may sell tin metal only as authorized by paragraphs (b), (c) or (i) of this article.

(b) Unless the Council substitutes other arrangements for those contained in this article, the Manager shall, in connexion with the liquidation of the buffer stock take the steps set out in paragraphs (c), (d), (e), (f), (g), (h), (i) and (j) of this article.

(c) As soon as possible after the termination of this Agreement, the Manager shall make an estimate of the total expenses of liquidation of the buffer stock in accordance with the provisions of this article and shall set aside from the balance remaining in the Buffer Stock Account a sum which is in his opinion sufficient to meet such expenses. Should the balance remaining in the Buffer Stock Account be inadequate to meet such expenses, the Manager shall sell a sufficient quantity of tin metal to provide the additional sum required.

(d) Subject to and in accordance with the terms of this Agreement, the share of each contributing country in the buffer stock shall be refunded to that country.

(e) (i) The share of each contributing country shall be ascertained in accordance with paragraph (f) of this article;

(ii) Upon the request of all contributing countries, the Council shall revise paragraph (f) of this article.

(f) For the purpose of ascertaining the share of each contributing country in the buffer stock, the Manager shall adopt the following procedure:

(i) The contributions of each contributing country to the buffer stock excluding any contributions or part of a contribution which has been made under article 22 and which has been refunded under article 22, shall be evaluated, and for this purpose any contribution or portion of any contribution made by a contributing country in metal shall be calculated at the prevailing floor price in effect on the date of call-up of such contribution and shall be added to the total contributions made by the country in cash;

(ii) All the tin metal held by the Manager on the date of termination of this Agreement shall be valued on the basis of an ap-

propriate price for tin metal on that date on a recognized market to be agreed by the Council, and an amount to that value shall be added to the total cash held by him at that date after setting aside a sum as required by paragraph (c) of this article;

(iii) If the total arrived at under sub-paragraph (ii) is greater than the sum total of all the contributions made to the buffer stock by all the contributing countries, calculated in accordance with subparagraph (i), the surplus shall be apportioned among the contributing countries in proportion to the total contributions to the buffer stock of each contributing country multiplied by the number of days that such contributions have been at the disposal of the Manager on the termination of this Agreement. For this purpose contributions in tin metal shall be calculated in accordance with sub-paragraph (i) and each individual contribution, in metal or in cash, shall be multiplied by the number of days that it has been at the disposal of the Manager. For the purpose of calculating the number of days that a contribution has been at the disposal of the Manager neither the day on which the contribution was received by him nor the day of the termination of this Agreement shall be counted. The amount of surplus so apportioned to each contributing country shall be added to the total of the contributions of that country, calculated in accordance with sub-paragraph (i). In calculating the apportionment of such a surplus a forfeited contribution shall not be regarded as having been at the disposal of the Manager during the period of forfeiture;

(iv) If the total arrived at under sub-paragraph (ii) is less than the sum of all the contributions made to the buffer stock by all the contributing countries, the deficit shall be apportioned among the contributing countries in proportion to their total contribution. The amount of the deficit so apportioned to each contributing country shall be deducted from the total of the contributions of that country, such contributions shall be calculated in accordance with sub-paragraph (i);

(v) The result of the foregoing calculation shall in the case of each contributing country, be treated as its share of the buffer stock.

(g) Subject to the provisions of paragraph (c) of this article, the share of each contributing country in the cash and tin metal available for distribution in accordance with paragraph (f) of this article shall be allocated to it, provided that if any contributing country has forfeited the whole or part of its rights to participate in the proceeds of the liquidation of the buffer stock by virtue of articles 19, 23, 36, 45, 46 or 56, it shall to that extent be excluded from the refund of its share and the resulting residue shall be apportioned between the other contributing countries in proportion to their respective shares in the buffer stock.

(h) The ratio of tin metal to cash allocated under the provisions of paragraphs (d), (e) and (g) of this article to each contributing country shall be the same.

(i) Each contributing country shall be repaid the cash allocated to it as the result of the procedure set out in paragraph (f), and either:

(i) The tin metal so allocated to each contributing country may be transferred in such instalments and over such period as the Council may dem appropriate, but in any case not exceeding twenty-four months; or

(ii) At the option of any contributing country any such instalment may be sold and the net proceeds of such sale paid to that country.

(j) When all the tin metal has been disposed of in accordance with paragraph (i) of this article, the Manager shall distribute among the contributing countries any balance remaining of the sum set aside under paragraph (c) of this article in the proportions allocated to each country in accordance with paragraphs (e) and (f) of this article.

ARTICLE 26

Liquidation and export control

(a) When fixing the total permissible export tonnage for any control period in accordance with the provisions of article 32, the Council shall, in the light of consideration given to the renewal of this Agreement under paragraph (c) of article 57, decide whether there is need to reduce the tonnage of tin metal currently held in the buffer stock. In such case, the total permissible export tonnage may be fixed at such figure, lower than the figure which the Council would otherwise have fixed as the total permissible export tonnage for that period, as the Council may decide.

(b) Within the framework of instructions of the Council, the Manager may sell from the buffer stock at any price, but not less than the floor price, the quantities of tin metal by which the Council has reduced the total permissible export tonnages in accordance with the provisions of paragraph (a) of this article.

Economic provisions

Chapter XII: Floor and Ceiling Prices

ARTICLE 27

Floor and Ceiling Prices

(a) For the purposes of this Agreement there shall be floor and ceiling prices for tin metal which shall be expressed in Malaysian ringgit or in any other currency which the Council may decide. The range between the floor and ceiling prices shall be divided into three sectors.

(b) The initial floor and ceiling prices and sectors within the price range shall be those in force under the Fourth Agreement at the date of the termination of that Agreement.

(c) The Council may at any session decide the extent of each or any of the sectors referred to in paragraph (a) of this article.

(d) (i) The Council shall at its first ordinary session after the entry into force of this Agreement and, based on continuing studies, at any time thereafter or in accordance with the provisions of article 31, consider whether the floor and ceiling prices are appropriate for the attainment of the objectives of this Agreement and may revise either or both of them. If the Council does not determine new floor and ceiling prices at its first ordinary session after the entry into force of this Agreement, the floor and ceiling prices and sectors within the price range shall remain the same as those in force at the date of the termination of the Fourth Agreement.

(ii) In so doing, the Council shall take into account the short-term developments and medium-term trends of tin production, the production costs of tin and the level of tin production and consumption, the existing capacity for mine production, the adequacy of the current price to maintain sufficient future mine production capacity and other relevant factors affecting movements in the price of tin.

(e) The Council shall publish as soon as possible any revised floor and ceiling price, including any provisional or revised price determined under article 31 and any revised division of the range.

Chapter XIII: Management of Buffer Stock Operations

ARTICLE 28

Operation of the Buffer Stock

(a) The Manager shall, in conformity with article 12 and within the provisions of this Agreement and the framework of instructions of the Council, be responsible to the Executive Chairman for the operation of the buffer stock.

(b) For the purposes of this article, the market price of tin shall be the price of tin in that market recognized by the Council at the termination of the Fourth Agreement or such other price as the Council may at any time decide.

(c) If the market price of tin

(i) Is equal to or greater than the ceiling price, the Manager shall, unless instructed by the Council to operate otherwise and subject to articles 29 and 31, offer for sale at the market price on recognized markets such tin as is at his disposal until the market price of tin falls below the ceiling price or the tin at his disposal is exhausted;

(ii) Is in the upper sector of the range between the floor and ceiling prices, the Manager may operate on recognized markets at the market price if necessary to prevent the market price from rising too steeply, provided he is a net seller of tin;

(iii) Is in the middle sector of the range between the floor and ceiling prices, the Manager may operate only on special authorization by the Council;

(iv) Is in the lower sector of the range between the floor and ceiling prices, the Manager may operate on recognized markets at the market price if necessary to prevent the market price from falling too steeply, provided he is a net buyer of tin; or

(v) Is equal to or less than the floor price, the Manager shall, unless instructed by the Council to operate otherwise, if he has funds at his disposal and subject to articles 29 and 31, offer to buy tin on recognized market at the floor price until the market price of tin is above the floor price or the funds at his disposal are exhausted.

(d) For the purposes of this article recognized markets shall be taken to mean the Penang Straits Tin Market, the London Metal Exchange, and/or any other market which may be from time to time recognized by the Council for the purposes of the operation of the buffer stock.

(e) The Manager may engage in forward transactions under paragraph (c) of this article only if these will be completed before the termination date of this Agreement or before some other date after the termination of this Agreement as determined by the Council.

ARTICLE 29

Restriction or suspension of buffer stock operations

(a) Notwithstanding the provisions of sub-paragraphs (ii) and (iv) of paragraph (c) of article 28, the Council may restrict or suspend forward transactions of tin when the Council considers it necessary to achieve the purposes of this Agreement.

(b) Notwithstanding the provisions of sub-paragraph (i) and (v) of paragraph (c) of article 28, the Council, if in session, may restrict or suspend the operations of the buffer stock if, in its opinion, the discharge of the obligations laid upon the Manager by those subparagraphs will not achieve the purposes of this Agreement.

(c) At such times as the Council is not in session, the power to restrict or suspend operations under paragraph (b) of this article shall be vested in the Executive Chairman.

(d) The Executive Chairman may at any time revoke a restriction or suspension made under paragraph (c) of this article.

(e) Immediately after a decision by the Executive Chairman to restrict or suspend the operations of the buffer zone under paragraph (c) of this article, he shall convene a session of the Council to review such decision. Such session shall be held within fourteen days after the date of the restriction or suspension.

(f) The Council may confirm or cancel any restriction or suspension under paragraph (c) of this article. If the Council does not come to a decision, buffer stock operations shall be resumed or continue without restriction in accordance with the provisions of article 28.

(g) So long as any restriction or suspension of the operations of the buffer stock determined in accordance with this article remains in force, the Council shall review this decision

at intervals of not longer than six weeks, if at a session to make such a review the Council does not come to a decision in favour of the continuation of the restriction or suspension, buffer stock operations shall be resumed.

ARTICLE 30

Other Operations of the Buffer Stock

(a) The Council may authorize the Manager to buy tin from, or sell tin to or for the account of, a governmental non-commercial stock. The Council may also authorize the Manager to buy tin from contributing countries to the buffer stock of the Fourth Agreement from their share of the liquidation of the buffer stock under that Agreement. The provisions of paragraph (c) of article 28 shall not apply to buying or selling of tin for which authority has been given in accordance with the provisions of this paragraph.

(b) Notwithstanding the provisions of articles 28 and 29, the Council may authorize the Manager, if his funds are inadequate to meet his operational expenses, to sell sufficient quantities of tin at the current price to meet expenses.

ARTICLE 31

The Buffer Stock and Changes in Exchange Rates

(a) The Executive Chairman may convene, or any participating country may request him to convene, a session of the Council immediately to review the floor and ceiling prices if the Executive Chairman or the participating country, as the case may be, considers that changes in exchange rates make such a review necessary. Sessions may be convened under this paragraph at less than seven days' notice.

(b) In the circumstances set forth in paragraph (a) of this article, the Executive Chairman may, pending the session of the Council referred to in that paragraph, provisionally restrict or suspend the operations of the buffer stock if such a restriction or suspension is in his opinion necessary to prevent buying or selling of tin by the Manager to an extent likely to prejudice the purposes of this Agreement.

(c) A restriction or a suspension of buffer stock operations under this article may be confirmed, amended or cancelled by the Council. If the Council does not come to a decision, buffer stock operations, if provisionally restricted or suspended, shall be resumed.

(d) Within thirty days of its decision to confirm, amend or cancel a restriction or a suspension of buffer stock operations under this article, the Council shall consider the determination of provisional floor and ceiling prices and may determine these prices. If the Council does not determine provisional floor and ceiling prices in accordance with this paragraph, the existing floor and ceiling prices shall, subject to the provisions of paragraph (f) of this article, remain in force.

(e) Within ninety days from the establishment of provisional floor and ceiling prices, the Council shall review these prices and may determine new floor and ceiling prices. If the Council does not determine new floor and ceiling prices in accordance with this paragraph, the provisional floor and ceiling prices shall remain in force.

(f) If the Council does not determine provisional floor and ceiling prices in accordance with paragraph (d) of this article, it may at any subsequent session determine what the floor and ceiling prices shall be.

(g) Buffer stock operations shall be resumed in accordance with the provisions of article 28 on the basis of such floor and ceiling prices as are determined in accordance with paragraphs (d), (e), or (f) of this article, as the case may be.

Chapter XIV: Export Control

ARTICLE 32

Determination of Export Control

(a) The Council may from time to time determine the quantities of tin which may be exported from producing countries in accordance with the provisions of this article and may declare a control period and shall, by the same decision, fix a total permissible export tonnage for that control period. In fixing such a permissible export tonnage the Council shall take into account the estimates of production and consumption made under paragraph (a) of article 9, the quantity of tin metal and cash held in the buffer stock, of other stocks of tin, the trade in tin, the current price of tin metal and any other relevant factors.

(b) It shall also be the duty of the Council to adjust supply to demand so as to maintain the price of tin metal between the floor and ceiling prices. The Council shall also aim to maintain available in the buffer stock tin metal and cash adequate to rectify discrepancies between supply and demand which may arise.

(c) The limitation of exports under this Agreement in each control period shall depend on the decision of the Council, and no such limitation shall operate in any period unless the Council has declared it to be a control period and fixed a total permissible export tonnage in respect of it.

(d) The Council may declare control periods and fix total permissible export tonnages, notwithstanding the restriction or suspension of buffer stock operations in accordance with the provisions of article 29 or 31.

(e) A total permissible export tonnage previously fixed under paragraph (a) of this article may be increased, but not decreased, by the Council during the control period to which it relates.

(f) When, under the provisions of paragraph (a) of this article, the Council has declared a control period and has fixed a total permissible export tonnage in respect of that period, the Council may at the same time call upon any country which is also a producer of tin from mines within its territory or territories to put into effect for that period such a limitation of its exports of tin derived from such production as may be agreed to be appropriate between the Council and the country concerned. The Council may also consult with countries which are consumers of tin with a view to improving the effectiveness of controls on supplies of tin coming on to international markets.

ARTICLE 33

Control periods

(a) Control periods shall correspond to quarters, provided that, on any occasion when the limitation of exports is being introduced for the first time during the currency of this Agreement or is being reintroduced after an interval during which there has been no limitation of exports, the Council may declare as the control period any period not being greater than five months or less than two months, ending on 31 March, 30 June, 30 September or 31 December.

(b) The Council shall not declare a control period unless it finds that at least 10,000 tonnes of tin metal are likely to be held in the buffer stock at the beginning of that period, except that:

(i) If a control period is declared for the first time after an interval during which no limitation of exports was in force, the figure for the purposes of this paragraph shall be 5,000 tonnes, and

(ii) The Council may by a two-thirds distributed majority revise in respect of any control period the required figures of 10,000 tonnes or 5,000 tonnes, as the case may be, to take account of the total capacity of the buffer stock at that time.

(c) A total permissible export tonnage which has become effective shall not cease to be effective during the course of the period to which it relates by reason only of the fact that the buffer stock holding has fallen below the minimum tonnage of tin metal required under paragraph (b) of this article or any other tonnage substituted therefor under the same paragraph.

(d) A control period already declared may be cancelled before, or terminated during, the currency of that period by the Council and the period so cancelled or terminated shall not be regarded as a control period for the purposes of paragraph (f) of article 32 and subparagraph (ii), (iii) and (iv) of paragraph (a) of article 36.

(e) Notwithstanding the provisions of this article, if, under the Fourth Agreement, a total permissible export tonnage has been fixed in respect of the last quarter of that Agreement and is still effective at the termination of that Agreement:

(i) A control period, commencing upon the entry into force of this Agreement, shall be deemed to have been declared under this Agreement; and

(ii) The total permissible export tonnage for such control period shall be at the same quarterly rate as that fixed by the Fourth Agreement for the last quarter of that Agreement unless and until revised by the Council in accordance with the provisions of article 32:

Provided that, if at the time of the first ordinary session of the Council under this Agreement less than 10,000 tons are held in the buffer stock, the Council shall consider the position at its first ordinary session, and if a decision to continue the limitation of exports is not reached, the period in question shall cease to be a control period.

ARTICLE 34

Division of total permissible export tonnage

(a) The total permissible export tonnage for any control period shall be divided among producing countries in proportion to their production or export figures, as appropriate, for the last four consecutive quarters which preceded the control period and which were not declared control periods. In the division of the total permissible export tonnage under this paragraph, the Council shall give due consideration to any circumstances referred to in Rule 6 of annex F, or stated by any producing country as being exceptional according to Rule 9 of annex F, and may, with the consent of other producing countries, use for that country production or export figures, as appropriate, relating to another period decided by the Council.

(b) (i) Notwithstanding the provisions of paragraph (a) of this article the Council may, with the consent of a producing country, reduce its share in the total permissible export tonnage and redistribute the tonnage of the reduction among the other producing countries in proportion to the percentages of those countries, or if circumstances so require, in some other manner;

(ii) The quantity of tin determined according to sub-paragraph (i) for any producing country for any control period shall for the purpose of this article be deemed to be the permissible export tonnage of that country for that control period.

(c) Each producing country shall take such measures as may be necessary to maintain and enforce the provisions of this article so that its exports shall correspond as closely as possible to its permissible export tonnage for any control period.

(d) (i) It shall be the duty of any producing country which believes itself unlikely to be able to export in any control period as much tin as it would be entitled to export in accordance with its permissible export tonnage for that control period, to make to the Council a declaration to that effect as soon as possible, but in any case not later than two calendar months after the date upon which such permissible export tonnage has become effective;

(ii) If the Council has received such a declaration, or is of the opinion that any producing country is unlikely to be able to export in any control period as much tin as it would be entitled to export in accordance with its permissible export tonnage, the

Council may take such steps as will, in its opinion, ensure that the total permissible export tonnage required will in fact be exported.

(e) For the purposes of this article, the Council may decide that exports of tin from any producing country shall include the tin content of any material derived from the mineral production of the country concerned.

ARTICLE 35

Point of export

Tin shall be deemed to have been exported if, in the case of a country named in annex C, the formalities set out in that annex opposite the name of that country have been completed, provided that:

(i) The Council may, from time to time, with the consent of the country concerned, revise annex C and any such revision shall have effect as if it were included in that annex; and

(ii) If any tin shall be exported from any producing country by any method which is not provided for by annex C, the Council shall determine whether such tin shall be deemed to have been exported for the purposes of this Agreement and, if so, the time at which such export shall be deemed to have taken place.

ARTICLE 36

Penalties relating to export control

(a) (i) The net exports of tin from each producing country for each control period shall be limited, except as otherwise provided for in this Agreement, to the permissible export tonnage for that country for that control period;

(ii) If, notwithstanding the provisions of sub-paragraph (i), the net exports of tin from a producing country in any control period exceed its permissible export tonnage for that control period by more than five percent, the Council may require the country concerned to make an additional contribution to the buffer stock not exceeding the tonnage by which such exports exceed its permissible export tonnage. Such a contribution shall be in tin metal or in cash or in such proportions of tin metal and cash and before such date or dates as the Council may decide. That part, if any, of the contribution which is to be paid in cash shall be calculated at the floor price in effect on the date of the decision. That part, if any, of the contribution which is to be made in tin metal shall be included in and shall not be additional to the permissible export tonnage of the country in question for the control period in which such contribution is due to be made;

(iii) If, notwithstanding the provisions of sub-paragraph (i), the aggregate net exports of tin from a producing country in any four successive control periods including, if appropriate, the control period referred to in sub-paragraph (ii) exceed by more than one per cent the aggregate of its permissible export tonnages for those periods, the permissible export tonnages of that country during each of the four subsequent control periods may be reduced by one-quarter of the aggregate tonnage so over-exported or, if the Council so decides, by any greater fraction not exceeding one-half. Such reduction shall take effect in and from the control period next following that in which the decision was taken by the Council;

(iv) If, after any four such successive control periods, during which the aggregate net exports of tin from a country have exceeded its permissible export tonnage as mentioned in sub-paragraph (iii), the aggregate net exports of tin from that country in any four further successive control periods, which shall not include any control period covered by sub-paragraph (iii), exceed the aggregate of the permissible export tonnages for those four control periods, the Council may, in addition to reducing the total permissible export tonnage of that country in accordance with the provisions of sub-paragraph (iii), declare that the country shall forfeit a part, which shall on the first occasion not exceed one-half of its rights to participation on liquidation of the buffer stock. The Council may at any time restore to the country concerned the portion of its rights so forfeited on such terms and conditions as it may determine;

(v) It shall be the duty of a producing country which has exported a tonnage of tin in excess of its permissible export tonnage and of any tonnage permitted by other provisions of this article to take effective steps to correct its breach of this Agreement at the earliest possible opportunity. The Council, when deciding the action to be taken under this paragraph, shall take account of any failure to take steps or delays in doing so.

(b) For the purposes of sub-paragraphs (ii), (iii) and (iv) of paragraph (a) of this article, control periods for which total permissible export tonnages have been fixed, tonnages which have been exported in excess of such permissible export tonnages, and penalties which have been imposed under article 33 of the Fourth Agreement shall be deemed, as from the entry into force of this Agreement, to have been fixed, exported or imposed under this article.

ARTICLE 37

Special exports

(a) At any time when it has declared a control period the Council may, by a two-thirds distributed majority, permit the export (hereinafter called a special export) of a specified quantity of tin in addition to the permissible export amount referred to in paragraph (a) of article 34, on the condition that:

(i) it considers that the proposed special export is destined to form part of a governmental stockpile; and

(ii) it considers that the proposed special export is unlikely to be used for any commercial or industrial purpose during the currency of this Agreement.

(b) The Council may by a two-thirds distributed majority impose such conditions upon a special export as it deems necessary.

(c) If the provisions of article 39 and the conditions imposed by the Council under paragraph (b) of this article are fulfilled, a special export shall not be taken into account when the provisions of paragraphs (b) and (d) of article 34 and paragraph (a) of article 36 are being applied.

(d) The Council may by a two-thirds distributed majority at any time revise the conditions in paragraph (a) of this article, provided that any such revision shall be without prejudice to anything done by a country in pursuance of permission given and conditions already imposed under paragraph (b) of this article.

ARTICLE 38

Special deposits

(a) A producing country may at any time with the consent of the Council make special deposits of tin metal with the Manager. A special deposit shall not be treated as part of the buffer stock and shall not be at the disposal of the Manager.

(b) A producing country which has informed the Council of its intention of making a special deposit of tin metal originating within that country shall, subject to furnishing such evidence as the Council may require to identify the metal or the concentrates for conversion into tin metal which is the subject of the special deposit, be permitted to export such metal or concentrates in addition to any permissible export amount that may have been allocated to that country under article 34 and, subject to the compliance by the producing country with the requirements of article 39, paragraphs (b) and (d) of article 34 and paragraph (a) of article 36 shall not apply to such exports.

(c) Special deposits may be accepted by the Manager only at such place or places as may be convenient to him.

(d) The Executive Chairman shall notify the participating countries of the receipt of any such special deposit, but not sooner than three months after the date of receipt.

(e) A producing country which has made a special deposit of tin metal may withdraw the whole or part of that special deposit in order to fulfill the whole or part of its permissible export amount in any control period. In such a case the amount withdrawn from the the special deposit shall be regarded as having been exported for the purposes of article 33 in the control period in which the withdrawal was made.

(f) In any quarter which has not been declared a control period any special deposit shall be at the disposal of the country which has made the deposit, subject only to the provisions of paragraph (h) of article 39.

(g) All charges incurred in connection with any special deposit shall be borne by the country making the deposit and no charges shall be borne by the Council.

ARTICLE 39

Stocks in producing countries

(a) (i) The stocks of tin within any producing country which have not been exported within the definition for that country contained in annex C shall not at any time during a control period exceed the tonnage shown against that country in annex D;

(ii) Such stocks shall not include tin in the course of transport between the mine and the point of export as defined in annex C;

(iii) The Council may revise annex D, but, if in doing so it has increased the tonnage listed in annex D against any country, it may impose conditions, including conditions as to period and subsequent export, in relation to any such addition.

(b) Any increase in the proportion approved under paragraph (a) of article 36 of the Fourth Agreement and still operative at the termination of that Agreement and any conditions imposed in connexion therewith shall be deemed to have been approved or imposed under this Agreement unless the Council otherwise decides within six months after the entry into force of this Agreement.

(c) Any special deposit made under article 38 shall be deducted from the amount of stocks permitted under this article to be held during a control period within the producing country concerned.

(d) (i) Where in a producing country mentioned in annex E tin ore is unavoidably extracted from its natural occurrence in the mining of the other minerals mentioned in that annex and for that reason the limitation of stocks prescribed in paragraph (a) of this article would unreasonably restrict the mining of those other minerals, additional stocks of tin-in-concentrates may be held within that country to the extent that these are certified by the Government of that country as having been won exclusively in association with those other minerals and actually retained in that country, provided that the proportion which such additional stocks bear to the total amount of the other minerals mined shall not at any time exceed the proportion stated in annex E;

(ii) Except with the consent of the Council, the export of such additional stocks shall not commence until after the liquidation of all the tin metal in the buffer stock and the rate of export thereafter shall not exceed one-fortieth of the whole or two hundred and fifty tonnes, whichever is the greater, in each quarter.

(e) Countries listed in annex D or annex E shall, in consultation with the Council, make regulations governing the maintenance, protection and control of such additional stocks as may be approved in accordance with this article.

(f) The Council may, with the consent of

the producing country concerned, revise annex D and annex E.

(g) Each producing country shall forward to the Council at such intervals as the Council may require statements as to the stocks of tin within its territory which have not been exported in accordance with the definition for that country in annex C. Such statements shall not include tin in course of transport between the mine and the point of export as defined in annex C. These statements shall show separately the stocks held under paragraph (d) of this article.

(h) A country which holds special deposits under article 38 or is permitted to increase tonnages in accordance with the provisions of paragraph (a) of this article shall, not later than twelve months before the termination of this Agreement, inform the Council of its plans for the disposal of such special deposits and the export of all or part of such increased tonnages, but not including additional stocks whose export is governed by paragraph (d) of this article, and shall consult with the Council as to the best means of making such export without avoidable disruption of the tin market and in harmony with the provisions for the liquidation of the buffer stock under article 26. The producing country concerned shall give due consideration to the recommendations of the Council.

Chapter XV: Tin shortage

ARTICLE 40

Action in the Event of a Tin Shortage

(a) If at any time, when the price is in or above the upper sector, the Council concludes that a serious shortage of supplies of tin has developed or is likely to develop, the Council:

(i) May, in accordance with paragraph (a) of article 32 and paragraph (d) of article 33, terminate any export control which might be in operation and recommend the level of stocks which should not be exceeded; and

(ii) Shall recommend to the participating countries that they take all possible steps to ensure as rapid an increase as possible in the amount of tin which they are able to make available.

(b) The Council shall determine the period of time during which measures provided for in this article shall remain in effect; such period shall be reckoned in quarters, it being understood that when these measures are applied for the first time under this Agreement or are applied again after an interval when there was no recognized shortage, the Council may declare as a period of applicability of these measures any period not longer than five months or shorter than one month and ending on 31 March, 30 June, 30 September or 31 December.

(c) The Council may cancel any measures taken on the basis of this article before their entry into force or terminate them while in progress or extend them from quarter to quarter.

(d) In the light of the Council's estimates of production and consumption made under paragraph (a) of article 9, and taking into account the amount of tin metal and cash held in the buffer stock and all other relevant factors, in particular, the utilization of production capacity, the availability of other tin stocks and trend in current prices, the Council shall carry out any studies necessary to enable it to estimate total tin demand and availability for the declared period and such subsequent periods as it may determine.

(e) The Council may by a two-thirds distributed majority invite the participating countries to enter into such arrangements with it as may assure consuming countries an equitable distribution of the available supplies of tin.

(f) The Council may make recommendations to producing countries on appropriate measures, not inconsistent with other international agreements on trade, to ensure that, in the event of a shortage, preference as regards the supply of tin available shall be given to consuming countries which participate in this Agreement.

(g) The Council shall, at each session held while this article is in effect, review the results of measures taken under this article since the preceding session.

Other provisions

Chapter XVI: Miscellaneous

ARTICLE 41

General obligations of members

(a) Participating countries shall during the currency of this Agreement use their best endeavours and co-operate to promote the attainment of its objectives.

(b) The participating countries shall accept as binding all decisions of the Council under this Agreement.

(c) Without prejudice to the general scope of paragraph (a) of this article, participating countries shall in particular observe the following:

(i) They shall not, so long as sufficient quantities of tin are available to meet their full requirements, prohibit or limit the use of tin for specified end-uses except in circumstances in which such prohibition or limitation would not be inconsistent with other international agreements on trade;

(ii) They shall create conditions which would promote the transfer of tin production from less efficient to more efficient enterprises; and

(iii) They shall encourage the conservation of the natural resources of tin by preventing the premature abandonment of deposits.

ARTICLE 42

Fair labour standards

The participating countries declare that, in order to avoid the depression of living standards and the introduction of unfair competitive conditions in world trade, they will seek to ensure fair labour standards in the tin industry.

ARTICLE 43

Disposal of tin from noncommercial stockpiles

(a) A participating country desiring to dispose of tin from noncommercial stockpiles shall, at adequate notice, consult with the Council concerning its disposal plans.

(b) At the time when a participating country gives notice of a plan to dispose of tin from non-commercial stockpiles, the Council shall promptly enter into official consultations on the plan with that country for the purpose of assuring adequate fulfillment of the provisions of paragraph (d) of this article.

(c) The Council shall from time to time review the progress of such disposals and may make recommendations to the disposing participating country. Any participating country so concerned shall give due consideration to the recommendations of the Council.

(d) Disposals from non-commercial stockpiles shall be made with due regard to the protection of tin producers, processors and consumers against avoidable disruption of their usual markets and against adverse consequences of such disposals on the investment of capital in exploration and development of new supplies and the health and growth of tin mining in the producing countries. The disposals shall be in such amounts and over such periods of time as will not interfere unduly with production and employment in the tin industry in the producing countries and as will avoid creating hardships to the economies of the participating producing countries.

ARTICLE 44

National security

(a) Nothing in this Agreement shall be construed:

(i) To require a participating country to furnish any information the disclosure of which it consider contrary to its essential security interests;

(ii) To prevent a participating country from taking, either singly or with other countries, any action which it considers necessary for the protection of its essential security interests where such action relates to traffic in arms, ammunition or implements of war, or to traffic in other goods and materials carried on directly or indirectly for the purpose of supplying a military establishment of any country, or which is taken in time of war or other emergency in international relations;

(iii) To prevent a participating country from entering into or carrying out any intergovernmental agreement, or other agreement on behalf of a country for the purpose specified in this paragraph, made by or for a military establishment for the purpose of meeting essential requirements of the national security of one or more of the countries participating in such agreements; or

(iv) To prevent a participating country from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

(b) Participating countries shall notify the Executive Chairman as soon as possible of any action they take respecting tin in consequence of sub-paragraph (ii) or (iv) of paragraph (a) of this article and the Executive Chairman shall so notify other participating countries.

(c) Any participating country which considers its economic interests under this Agreement seriously injured by action taken by any other participating country or countries, other than action taken in time of war, under the provisions of paragraph (a) of this article, may complain to the Council.

(d) On receipt of such a complaint the Council shall review the facts of the situation and shall by a majority of the total votes held by all consuming countries and a majority of the total votes held by all producing countries decide whether the complainant country is justified in its complaint and shall, if it so decides, permit the complainant country to withdraw from this Agreement.

Chapter XVII: Complaints and Disputes

ARTICLE 45

Complaints

(a) Any complaint that any participating country has committed a breach of this Agreement for which a remedy is not provided elsewhere in this Agreement shall, at the request of the country making the complaint, be referred to the Council for a decision.

(b) Save where otherwise provided in this Agreement, no participating country shall be found to have committed a breach of this Agreement unless a resolution to that effect is passed. Any such finding shall specify the nature and extent of the breach.

(c) If the Council finds under this article that a participating country has committed a breach of this Agreement, the Council may, unless some other penalty is provided elsewhere in this Agreement, deprive the country concerned of its voting and other rights until it has remedied the breach or has otherwise fulfilled its obligations.

(d) For the purposes of this article, the expression "breach of this Agreement" shall be deemed to include the breach of any condition imposed by the Council on failure to fulfill any obligation laid upon a participating country in accordance with this Agreement.

ARTICLE 46

Disputes

(a) Any dispute concerning the interpretation or application of this Agreement which is not settled by negotiation shall,

at the request of any participating country, be referred to the Council for decision.

(b) Where a dispute has been referred to the Council in accordance with this article a majority of participating countries or any participating countries holding not less than one-third of the votes in the Council may require the Council, after full discussion, to seek the opinion of the advisory panel referred to in paragraph (c) of this article, on the issues in dispute before giving its decision.

(c) (i) Unless the Council, by a unanimous decision of votes cast, agrees otherwise, the panel shall consist of:

Two persons, one having wide experience in matters of the kind in dispute and the other having legal standing and experience, nominated by the producing countries;

Two such persons nominated by the consuming countries; and

A chairman selected unanimously by the four persons nominated above, or, if they fail to agree, by the Executive Chairman;

(ii) Persons appointed to the advisory panel shall act in their personal capacity and without instructions from any Government;

(iii) The expenses of the advisory panel shall be paid by the Council.

(d) The opinion of the advisory panel and the reasons therefor shall be submitted to the Council which, after considering all the relevant information, shall decide the dispute.

Chapter XVIII: Final provisions

ARTICLE 47

Signature

This Agreement shall be open for signature at United Nations Headquarters from 1 July 1975 to 30 April 1976 inclusive, by parties to the Fourth Agreement and by Governments invited to the United Nations Tin Conference, 1975.

ARTICLE 48

Ratification, approval, acceptance

This Agreement shall be subject to ratification, approval or acceptance by the signatory Governments in accordance with their respective constitutional procedures. A signatory Government which intends to ratify, approve or accept this Agreement may give notification of intention to do so. Instruments of ratification, approval or acceptance, or notifications of intention to ratify, approve or accept, shall be deposited with the Secretary-General of the United Nations.

ARTICLE 49

Definitive entry into force

(a) This Agreement shall, for the Governments which have deposited instruments of ratification, approval, acceptance or accession, enter into force definitively as soon after 30 June 1976 as such instruments have been deposited by Governments representing at least six producing countries holding together at least 950 votes as set out in annex A and at least nine consuming countries holding together at least 300 votes as set out in annex B.

(b) For any Government which has deposited an instrument of ratification, approval, acceptance or accession after the definitive entry into force of this Agreement, this Agreement shall enter into force definitively on the date of the deposit of such instrument.

(c) If this Agreement has entered into force provisionally under paragraph (a) of article 50, then as soon as instruments of ratification, approval, acceptance or accession have been deposited by Governments representing countries satisfying the conditions laid down in paragraph (a) of this article, it shall enter into force definitively for those Governments.

ARTICLE 50

Provisional entry into force

(a) (i) If this Agreement has not entered into force definitely by 1 July 1976 or, if the Fourth Agreement is extended, by the day following the termination of that Agreement, this Agreement shall the enter into force provisionally for Governments which have deposited instruments of ratification, approval, acceptance or accession, or notifications of intention to do so, if such instruments or notifications have been deposited by Governments represents at least six producing countries holding together at least 950 votes as set out in annex A, and at least nine consuming countries holding together at least 300 votes as set out in annex B;

(ii) For each Government which has deposited an instrument of ratification, approval or acceptance of, or accession to, or has given notification of intention to ratify, approve, accept or accede to, this Agreement while it is provisionally in force, this Agreement shall enter into force provisionally on the date of the deposit of such instrument or notification.

(b) If, within six months after the termination of the Fourth Agreement, this Agreement has entered into force provisionally but not definitely as laid down in article 49, the Executive Chairman shall as soon as possible convene a session or sessions of the Council to consider the position. If, however, the entry into force remains provisional, this Agreement shall be terminated not later than one year after the provisional entry into force.

ARTICLE 51

Expiry of notifications of intention

If this Agreement has entered into force definitely under paragraph (a) or paragraph (c) of article 49, and if any Government which has given a notification of intention to ratify, approve, accept or accede has failed to deposit an instrument of ratification, approval, acceptance or accession within a period of ninety days from the date of definitive entry into force, that Government shall cease to participate in this Agreement, provided that:

(i) The Council may extend the period aforesaid if so requested by that Government; and

(ii) That Government may cease to participate in this Agreement before the expiry of the period aforesaid or any extension thereof by giving to the Secretary-General of the United Nations at least thirty days' notice.

ARTICLE 52

Accession

(a) Any Government invited to the United Nations Tin Conference, 1975, or any party to the Fourth Agreement shall have the right to accede to this Agreement upon conditions to be determined by the Council. Instruments of accession from such Governments shall state that they accept all those conditions.

(b) The conditions laid down by the Council shall be equitable, in respect of voting rights and financial obligations, as between the Governments seeking to accede and other Governments already participating in this Agreement.

(c) Upon the accession of a producing country to this Agreement the Council:

(i) Shall fix, with the consent of that country, the tonnages and proportions to be shown against that country in annexes D and E where appropriate; and

(ii) Shall also fix the circumstances for the purpose of export control to be shown against the name of that country in annex C. The tonnage, proportion or description so fixed shall have effect as though it were included in such annexes.

(d) Any Government referred to in paragraph (a) of this article which intends to accede to this Agreement may give notification of intention to do so.

(e) The Council of the Fourth Agreement may, pending the entry into force of this Agreement, determine the conditions referred to in paragraph (a) of this article, subject to confirmation by the Council of this Agreement and the Government or Governments concerned.

(f) Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

ARTICLE 53

Separate participation

A Government may, at the time of depositing its instrument of ratification, approval, acceptance or accession, or giving notification of intention to ratify, approve, accept or accede, or at any time thereafter, propose the separate participation as a producing or as a consuming country, as may be appropriate, of any territory or territories, interested in the production or consumption of tin, for whose international relations the Government is responsible and to which this Agreement applies or will apply when this Agreement enters into force. Such separate participation shall be subject to the consent of the Council and to the conditions which the Council may determine.

ARTICLE 54

Intergovernmental Organization

(a) Any reference to a Government in articles 47, 48, 49, 50, 51 and 52 shall be construed as including a reference to an intergovernmental organization having responsibilities in respect of the negotiation, conclusion and application of international agreements, in particular commodity agreements.

(b) Such an organization shall not itself hold any votes, but in the case of votes on matters within its competence, it shall be entitled to cast the votes of its member States and shall cast them collectively. In such cases, the member States of the organization in question shall not be entitled to exercise their individual voting rights.

ARTICLE 55

Amendment

(a) The Council may, by a two-thirds majority of the total votes held by all producing countries and a two-thirds majority of the total votes held by all consuming countries, recommend to participating countries amendments to this Agreement. The Council shall, in its recommendation, fix the time limit within which each participating country shall notify the Secretary-General of the United Nations whether or not it ratifies, approves or accepts the amendment.

(b) The Council may extend the time fixed by it under paragraph (a) of this article for notification of ratification, approval or acceptance.

(c) If, within the time fixed under paragraph (a) of this article or extended under paragraph (b) of this article, an amendment is ratified, approved or accepted by all participating countries it shall take effect immediately on the receipt by the Secretary-General of the United Nations of the last ratification, approval or acceptance.

(d) If, within the time fixed under paragraph (a) of this article or extended under paragraph (b) of this article, an amendment is not ratified, approved or accepted by participating countries holding all of the votes of producing countries and by participating countries holding two-thirds of the total votes of all consuming countries, it shall not take effect.

(e) If, by the end of the time fixed under paragraph (a) of this article or extended under paragraph (b) of this article, an amendment is ratified, approved or accepted by participating countries holding all of the votes of producing countries and by participating

countries holding two-thirds of the total votes of all consuming countries:

(i) The amendment shall, for the participating countries by which ratification, approval or acceptance has been signified, take effect at the end of three months next following the receipt by the Secretary-General of the United Nations of the last ratification, approval or acceptance necessary to compromise all of the votes of producing countries and two-thirds of the total votes of all consuming countries; and

(ii) Any participating country which does not ratify, approve or accept an amendment by the date of its coming into effect shall as of that date cease to participate in the Agreement, unless any such participating country satisfies the Council at its first session following the effective date of the amendment that its ratification, approval or acceptance could not be secured in time by reason of constitutional difficulties, and the Council decides to extend for such participating country the period fixed for ratification, approval or acceptance until these difficulties have been overcome.

(f) If a consuming country considers that its interests will be adversely affected by an amendment it may, before the date of its coming into effect, give notice to the Secretary-General of the United Nations of withdrawal from this Agreement. Withdrawal shall become effective on the effective date of the amendment. The Council may, at any time, on such terms and conditions as it considers equitable, permit such country to withdraw its notice of withdrawal.

(g) Any amendment to this article shall take effect only if it is ratified, approved or accepted by all participating countries.

(h) The provisions of this article shall not affect any power under this Agreement to revise any annex to this Agreement or the operation of any other article of this Agreement which provides for a specific procedure relating to the modification of this Agreement.

ARTICLE 56

Withdrawal

A participating country which withdraws from this Agreement during its currency, except:

(i) In accordance with the provisions of paragraph (d) of article 44 or paragraph (f) of article 55; or

(ii) Upon at least twelve months' notice being given to the Secretary-General of the United Nations not earlier than one year after the entry into force of this Agreement,

shall not be entitled to any share of the proceeds of the liquidation of the buffer stock under the terms of article 25 nor shall it be entitled to a share of the other assets of the Council under the terms of article 57 on the termination of this Agreement.

ARTICLE 57

Duration, Extension and Termination

(a) The duration of this Agreement shall, except as otherwise provided in this article or in paragraph (b) of article 50, be five years from the date of entry into force.

(b) The Council may by a two-thirds majority of the total votes held by all producing countries and a two-thirds majority of the total votes held by all consuming countries extend the duration of this Agreement by a period or periods not exceeding twelve months in all.

(c) The Council, in a recommendation to the participating countries, not later than four years after the entry into force of this Agreement, shall inform them whether it is necessary and appropriate that this Agreement should be renewed and, if so, in what form; it shall at the same time consider what the relationship between the supply of and demand for tin is likely to be at the expiration of this Agreement.

(d) (i) A participating country may at any time give notice in writing to the Executive Chairman that it intends to propose at the next sesson of the Council the termination of this Agreement;

(ii) If the Council, by a two-thirds majority of the total votes held by all producing countries and by all consuming countries, adopts the proposal to terminate, it shall recommend to the participating country that this Agreement shall terminate;

(iii) If participating countries holding two-thirds of the total votes of all producing countries and two-thirds of the total votes of all consuming countries notify the Council that they accept that recommendation, this Agreement shall terminate on the date the Council shall decide, being a date not later than six months after the receipt by the Council of the last of the notifications from those participating countries.

ARTICLE 58

Procedure on termination

(a) The Council shall remain in being for as long as may be necessary for the carrying out of paragraph (b) of this article, for the supervision of the liquidation of the buffer stock and any stocks held in producing countries in accordance with article 39 and for the supervision of the due performance of conditions imposed under this Agreement by the Council or under the Fourth Agreement; the Council shall have such of the powers and functions conferred on it by this Agreement as may be necessary for the purpose.

(b) On termination of this Agreement:

(i) The buffer stock shall be liquidated in accordance with the provisions of article 25;

(ii) The Council shall assess the obligations into which it has entered in respect of its staff and shall, if necessary, take steps to ensure that, by means of a supplementary estimate to the Administrative Account raised in accordance with article 19, sufficient funds are made available to meet such obligations;

(iii) After all liabilities incurred by the Council, other than those relating to the Buffer Stock Account, have been met, the remaining assets shall be disposed of in the manner laid down in this article;

(iv) If the Council is continued, it shall retain its archives, statistical material and all other documents;

(v) If the Council is not continued but a body is created to succeed the Council, the Council shall transfer its archives, statistical material and all other documents to such successor body and may by a two-thirds distributed majority either transfer all or any of its remaining assets to such successor body, or otherwise dispose of them as the Council may direct;

(vi) If the Council is not continued and no successor body is created, the Council shall transfer its archives, statistical material and any other documents to the Secretary-General of the United Nations or to any international organization nominated by him or, failing such nomination, as the Council may determine, and the remaining nonmonetary assets of the Council shall be sold or otherwise realized in such manner as the Council may direct;

(vii) The proceeds of realization of nonmonetary assets and any remaining monetary assets shall then be distributed in such a manner that each participating country shall receive a share proportionate to the total of the contributions which it has made to the Administrative Account established under article 19.

ARTICLE 59

Authentic texts of the Agreement

The texts of this Agreement in the Chinese, English, French, Russian and Spanish languages are all equally authentic, the originals being deposited with the Secretary-General of the United Nations.

In witness whereof the undersigned, having been duly authorized to this effect by their respective Governments or authorities, have signed this Agreement on the dates appearing opposite their signatures.

ANNEX A

PERCENTAGES AND VOTES OF PRODUCING COUNTRIES

Country	Percentage	Votes		
		Initial	Additional	Total
Australia	4.37	5	42	47
Bolivia	18.06	5	174	179
Indonesia	13.71	5	133	138
Malaysia	43.60	5	421	427
Nigeria, Federal Republic of	4.17	5	40	45
Thailand	12.55	5	121	126
Zaire, Republic of	3.54	5	34	39
Total	100.00	35	965	1,000

Note: The countries, percentages, and votes listed in this annex are those arrived at during the United Nations Tin Conference, 1975, at which the 5th International Tin Agreement was drawn up. The list of countries and the figures are subject to revision from time to time in accordance with the operation of the provisions of this agreement.

ANNEX B

PERCENTAGES AND VOTES OF CONSUMING COUNTRIES

Country	Percentage	Votes		
		Initial	Additional	Total
Austria	0.31	5	3	8
Belgium/Luxembourg	1.95	5	17	22
Bulgaria	.48	5	4	9
Canada	2.91	5	25	30
Cuba	.05	5	1	6
Czechoslovakia	1.91	5	16	21
Denmark	.30	5	3	8
Dominican Republic	.03	5	0	5
France	6.09	5	52	57
German Democratic Republic	.53	5	5	10
Germany, Federal Republic of	8.16	5	70	75
Hungary	.68	5	6	11
India	1.88	5	16	21
Ireland	.04	5	1	6
Italy	4.37	5	38	43
Japan	18.55	5	160	165
Korea, Republic of	.38	5	3	8
Netherlands	2.50	5	21	26
Nicaragua	.03	5	0	5
Poland	2.39	5	20	25
Romania	1.62	5	14	19
Spain	1.99	5	17	22
Switzerland	.41	5	3	8
Turkey	.72	5	6	11
United Kingdom of Great Britian and Northern Ireland	8.10	5	70	75
United States of America	29.56	5	254	259
Union of Soviet Socialist Republics	3.21	5	28	33
Yugoslavia	.85	5	7	12
Total	100.00	140	860	1,000

Note: The countries, percentages and votes listed in this annex are those arrived at during the United Nations Tin Conference, 1975, at which the 5th International Tin Agreement was drawn up. The list of countries and the figures are subject to revision from time to time in accordance with the operation of the provisions of this agreement.

ANNEX C

PART I

Circumstances in which tin shall be deemed to have been exported for the purpose of export control

Australia.—Tin shall be deemed to be exported on the date of the Restricted Goods Export Permit issued under the Customs (Prohibited Exports) Regulations.

Bolivia.—Tin shall be deemed to have been exported when it has passed the control of the Customs Authorities of Bolivia for payment of export duty.

Indonesia.—Tin shall be deemed to have been exported from Indonesia when the tin

has been cleared through customs and/or when tin concentrates have been delivered to and weighed by the smelter under customs' supervision and the customs officials have issued a customs certificate for such tin. Such tin shall not include tin subsequently imported into Indonesia for domestic consumption.

Malaysia.—Tin shall be deemed to have been exported from Malaysia at the time at which the Royal Customs and Excise Department of Malaysia has weighed the concentrates or, where the concentrates have been smelted before the payment of export duty, has weighed the metal for the payment of such export duty.

Nigeria, Federal Republic of.—Tin shall be deemed to have been exported when the concentrates have been delivered to the smelter, weighed and passed for payment of royalty: Provided that tin not delivered to the smelter shall be deemed to have been exported when a waybill has been delivered by the Nigerian Railway Corporation acknowledging the delivery for export of concentrates to that Corporation.

Thailand.—Tin shall be deemed to have been exported from Thailand when the Department of Mineral Resources has officially certified that the concentrates have been delivered to and weighed by a smelting company in Thailand, provided that tin for export not delivered to a smelting company shall be deemed to have been exported from Thailand when the Department of Mineral Resources has issued an export permit in respect of such tin.

Zaire, Republic of.—Tin shall be deemed to have been exported when a through bill of lading has been delivered by a carrier affiliated to the Comité intérieur des Transporteurs de la République du Zaïre acknowledging the delivery of the tin to that carrier.

If, for any reason, no such document has been delivered for a particular consignment, the tonnage of tin in that consignment shall be deemed to have been exported for the purposes of this Agreement when export documents have been delivered by the Customs Administration of the Republic of Zaire.

General proviso.—Any tin transported from a producing country during a control period shall be deemed to have been exported and treated as part of the permissible export tonnage of that country for that control period, except:

(a) as stated in this annex in respect of Australia; or

(b) as may be determined by the Council in accordance with subparagraph (ii) of article 35, unless the formalities set out in this annex opposite the name of that producing country have been completed in respect of that tin before the beginning of the control period.

PART II

Imports into producing countries

For the purpose of determining net exports of tin under article 35, imports deductible from exports during a control period shall be the amount imported into the producing country concerned during the quarter immediately preceding the declaration of the control period in question, provided that tin imported for smelting and exported shall not be taken into account.

ANNEX D

Stocks in producing countries under article 39

Country:	*Tonnes*
Australia	3,000
Bolivia	8,000
Indonesia	6,200
Malaysia	17,050
Nigeria, Federal Republic of	1,500
Thailand	5,300
Zaire, Republic of	2,000

ANNEX E

Additional stocks won unavoidably—Tin content of concentrates permitted to be stocked additionally for each ton of other mineral mined

Country and other mineral:	*Tonnes*
Australia, Tantalo-columbite	1.5
Nigeria, Federal Republic of, Columbite	1.5
Thailand, Wolframite-scheelite	1.5
Zaire, Republic of, Tantalo-columbite	1.5

ANNEX F

Rules for the re-determination of the percentages of the producing countries

RULE 1

The first re-determination of the percentages of the producing countries shall be made at the first ordinary session of the Council under this Agreement. Nothwithstanding the provisions of rule 2, this re-determination shall be made on the basis of the last four quarters immediately preceding the introduction of any export control period for which figures of the production of tin in each of the producing countries are available. New percentages for the producing countries shall be determined in direct proportion to the production of tin in each of them during those four quarters.

Subsequent re-determination of the percentages shall be made at yearly intervals that no period after the quarter referred following the first re-determination, provided to in this Rule shall have been declared to be a control period.

In such subsequent re-determinations, made under this Rule, the new percentage shall be calculated as follows:

(i) the percentages in the second re-determination shall be in direct proportion to the production of tin in each of the producing countries in the latest twenty-four consecutive calendar months for which figures are available; and

(ii) the percentages in the third re-determination, and all later re-determinations, shall be in direct proportion to the production of tin in each of the producing countries in the latest thirty-six consecutive calendar months for which figures are available.

RULE 2

Should any period be declared to be a control period, no re-determination of the percentages shall be made until four consecutive quarters have not been declared to be control periods. The next re-determination shall then be made as soon as figures for the production of tin in each of the producing countries in such four consecutive quarters are available, and re-determinations shall be made at yearly intervals thereafter for as long as no period is declared to be a control period.

In any re-determination made under this Rule the new percentages shall be calculated as follows:

(i) the percentages in the first re-determination following a period of export control shall be in direct proportion to the sum of the production of tin in each of the producing countries in the latest twelve consecutive calendar months for which figures are available and in the four quarters immediately preceding that control period;

(ii) the percentages in the second re-determination, provided that no further control period shall have been declared, shall be in direct proportion to the production of tin in each of the producing countries in the latest twenty-four consecutive calendar months for which figures are available; and

(iii) the percentages in each subsequent re-determination, provided that no further control period shall have been declared, shall be in direct proportion to the production of tin in each of the producing countries in the latest thirty-six consecutive calendar months for which figures are available.

RULE 3

For the purposes of these Rules, re-determination shall be deemed to have been made at yearly intervals if they are made in the same quarter of the calendar year as were the preceding re-determinations.

RULE 4

For the purposes of these Rules, all producing countries shall make available to the Council their latest twelve months' production figures within three months after the date of the latest calendar month. If a country has failed to make such figures available, the production of that country for a period of twelve months shall be calculated by multiplying by twelve the average monthly rate of production figures available for such period.

RULE 5

Figures of the production of tin in any producing country for any period earlier than forty-two months before the date of any re-determination shall not be employed in that re-determination nor shall account be taken of figures of the production of tin in control periods.

RULE 6

The Council may reduce the percentage of any producing country which has failed to export the whole of its permissible export tonnage as determined under paragraph (a) of article 34, or of any greater amount accepted by it under paragraph (b) of that article. In considering its decision, the Council shall regard as mitigating circumstances that the producing country concerned surrendered under paragraph (b) of article 34 a part of its permissible export tonnage in time for effective steps to be taken by the other producing countries to make good the deficit or that the producing country concerned which has failed to export the amount determined under paragraph (d) of article 34 has exported the whole of its permissible export amount as determined under paragraph (a) or (b) of article 34.

RULE 7

If a reduction in the percentage of any producing country is made in accordance with Rule 6, the percentage so made available shall be distributed among the other producing countries in proportion to their percentages current at the date of the decision to make the reduction.

RULE 8

If, by the application of the foregoing Rules, the percentage of a producing country is reduced to less than the minimum figure permitted by the operation of the proviso to paragraph (g) (i) of article 13, then the percentage of that country shall be restored to such minimum figure and the percentages of the other producing countries shall be proportionately reduced so that the total of the percentages is restored to one hundred.

RULE 9

For the purposes of sub-paragraph (ii) of paragraph (g) of article 13, and paragraph (a) of article 34 the following circumstances *inter alia* may be regarded as exceptional: a national disaster, a major strike which has paralyzed the tin mining industry for a substantial period, a major breakdown of power supplies or of the main line of transport to the coast or to the point of export as defined in annex C.

RULE 10

For the purposes of these Rules, the calculation for producing countries which are substantial consumers of tin derived from their domestic mine production shall be based on

their exports of tin and not on mine production of tin.

RULE 11

In this annex the expression "the production of tin" shall be deemed to refer exclusively to mine production, and smelter production shall accordingly be ignored.

Certified a true copy of the original for the Secretary-General of the United Nations.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–35), explaining the convention.

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

CONVENTION FOR THE CONSERVATION OF ANTARCTIC SEALS

PURPOSE

The primary objective of this Convention is to protect the Antarctic Seal population.

BACKGROUND

The Antarctic continent is an area in which temperatures can drop to 127° below zero and where the deepest ice has remained frozen for over 2,000 centuries. Along its 18,500 miles of coastline and drifting icebergs live uncounted numbers of seals. Estimates of the total seal population have ranged as high as 50 million. The crabeater seal is the most abundant, representing about 95 percent of the seal population. Crabeaters live on the floating ice of the Southern Ocean, far from land, and feed on a type of plankton called krill. The Weddell seal (2 percent), leopard seal (2 percent) and the Ross seal (1 percent), feed on fish, squid, or warm-blooded vertebrates. Occasionally, a fur seal or elephant seal will wander south to the edge of the pack ice, but very seldom will they breed in the Antarctic.

In 1959, the representatives of twelve nations, including the United States, signed the Antarctic Treaty. This Treaty provided a mechanism to protect seals while they are on the continent itself. However, seals in the seas and on the pack ice around the continent cannot be conserved under the Antarctic Treaty because Article I of the Agreed Measures states that "nothing in these Agreed Measures shall prejudice or in any way affect the rights, or the exercise of the rights of any State under international law with regard to the high seas within the Treaty area." It is precisely in these seas that all of the Antarctic seal species spend a major portion of their lives.

Until 1964, the fur seal of the Antarctic proper had never been hunted commercially. At that time, the first exploratory sealing operation was carried out by Norwegians. In the belief that profitable commercial sealing was a near term possibility, the Parties to the Antarctic Treaty: (1) agreed to begin drafting a separate treaty to protect seals on the Antarctic seas; and (2) recommended Interim Guidelines for the Voluntary Regulation of Antarctic Pelagic Sealing. Preliminary views on the draft convention were exchanged at the Fifth Consultative Meeting in 1968, and the draft was presented to the Conference of Plenipotentiaries in February 1970. It was subsequently revised at the 1972 Consultative Meeting. A final agreement was opened for signature in June 1972, and was signed by all twelve nations party to the Antarctic Treaty by the end of that year.

Public reaction to the news that the pack ice of the Southern Ocean was "open for sealing" was mixed. The National Audubon Society, the New York Zoological Society, and the Defenders of Wildlife issued a joint statement to the Secretary of State:

(We) can find no rational basis for the introduction of commercial sealing into Antarctica. We cannot countenance this destruction of the earth's last remaining ecologically intact continent. We believe it is contrary to the wishes and best interests of a majority of the American people. Should the United States sign a Convention to this effect, we could not support ratification.

On January 31, 1972, a special hearing was called by the Subcommittee on Fisheries and Wildlife Conservation of the House Merchant Marine and Fisheries Committee. During that hearing, the State Department was accused of having made no effort to tell Congress, which was considering legislation to protect sea mammals, the Council on Environmental Quality, the Interior Department or interested private groups that it was about to negotiate a treaty. The Department was also criticized for not having filed an environmental impact statement as required by the National Environmental Policy Act.

On the other hand, an equal number of environmentalists have supported this Convention. They view this agreement primarily as a deterrent, with provisions for stronger action should this become necessary. Although not in favor of commercial sealings, these environmentalists believe that without a convention there would have been no limit on the numbers taken by any nation that wanted to start. They look upon this agreement as the first major experiment in international arrangements for the conservation of a natural resource which is not yet being exploited.

At the present time, there is no known intention in the U.S. of commencing commercial sealing in the Antarctic, and the U.S. Government would prefer that none be initiated. However, various countries have expressed an interest in the possibilities of commercial sealing, and as mentioned earlier, Norway has already conducted an exploratory expedition. If such operations become widespread, the success of this Convention will depend solely on the goodwill of each of the contracting parties. There is absolutely no enforcement system for this Convention. The U.S. delegation to the London Conference attempted to include a provision which would have set up a control authority, utilizing international observers. This proposal was, however, defeated.

MAJOR PROVISIONS

Article 1 defines the areas covered by the Convention as the seas south of 60° South Latitude, and lists the six species of seals covered by this Convention.

Article 2 provides that each contracting party shall adopt for its nationals and flag vessels those laws, regulations, and other measures necessary to implement this Convention.

Article 3 stipulates that the Annex is an integral part of this Convention.

Item 1 of this Annex sets a yearly limit of 175,000, 12,000 and 5,000 respectively, for the killing or capturing of the Crabeater, Weddel, and Leopard seals.

Item 2 prohibits the killing or capturing of the Ross, Southern Elephant, and fur seals of the genus *Arctocephalus*.

Item 3 allows sealing operation to take place between September 1 and the last day in February. It should be noted that this is the pupping season and will allow the killing of baby seals.

Item 4 established sealing zones and sets up a system of rotation for the use of these zones as hunting areas.

Item 5 prohibits the capturing or killing of seals in certain designated breeding areas.

Item 6 requires each contracting party to provide a yearly report to the Special Committee on Antarctic Research (SCAR) on the number and types of seals taken and the equipment used.

Item 7(b) prohibits the killing or capturing of seals in the water, except in limited quantities for scientific research.

The other provisions of this Convention deal with such subjects as Special Permits, Exchange of Scientific Advice and Information, Consultation, Amendments to the Convention and the Annex, Ratification, Accession, Entry Into Force, etc.

DATE OF ENTRY INTO FORCE

This Convention will enter into force on the thirtieth day following the date of deposit of the seventh instrument of ratification or acceptance. At the present time, only four nations (Norway, South Africa, United Kingdom and France) have ratified this Agreement.

COMMITTEE ACTION AND RECOMMENDATION

On August 31, 1976, the Committee held a public hearing on this Convention, at which time testimony was heard from Lindsay Grant, Acting Deputy Assistant Secretary for Environmental and Population Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State; and Richard Frank, Attorney, Center for Law and Social Policy. The prepared statements of the witnesses are reprinted in the Appendix to this report along with a statement submitted by the Committee for Humane Legislation.

On the same day, the Committee in open session and by voice vote without dissent, ordered the Convention to be reported favorably to the Senate for advice and consent to ratification.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–34), explaining the agreement.

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

PURPOSE

The primary objective of this agreement is to provide a plan of protection for polar bears consisting of a prohibition of hunting, killing or capturing these animals subject to specified exceptions.

BACKGROUND

The polar bear, which many believe existed during the ice ages of the Pleistocene period, is the world's largest known carnivorous land animal. Specimens have been measured up to lengths of nine feet and have been reported as weighing close to 1600 pounds.

This animal inhabits the land and floating ice of the frozen north, and is found on the high seas of the Arctic Ocean and the Arctic regions of five countries: The United States (Alaska), Norway, Denmark, (Greenland), Canada, and the U.S.S.R. This beast once roamed the shores of Manchuria, Japan, and Iceland, but intensive hunting has eliminated it from all but the most inaccessible regions of the far north.

The polar bear has no natural enemies and is clearly the dominant species of the Arctic. The estimates of the world-wide population of these animals range between 5,000 and 20,000. Despite these low population estimates, the annual polar bear kill is about 1,300. By 1970, the situation had become desperate enough for the world's leading polar bear experts to meet in Morges, Switzerland, to issue an appeal to the five polar bear nations to "drastically curtail harvests' of these animals.

Until 1973, approximately 300 polar bears were being shot legally off Alaska each year (about 25 percent of which were females). However, there is a large illegal market for polar bear hides, and it is estimated that the illegal catch almost equals that of the legal take. The kill by native Eskimos for fur and food is relatively small, averaging only 25 to 30 animals a year, although Eskimo hunting has now been stepped up as the value of hides and trophies has increased.

In 1972, Congress acted to protect the polar bear on an international basis. At that time both Houses of Congress passed a resolution (H.J. Res. 1268) directing the executive

branch to seek an international solution to preserve and protect the polar bear. As a result of this Congressional mandate, the Administration called for an international conference to negotiate an agreement on the conservation of polar bears. The meeting was held in Oslo, Norway, in November 1973, and was attended by all five polar bear nations. It was at this meeting that the Agreement on the Conservation of Polar Bears was concluded.

SUMMARY OF MAJOR PROVISIONS

Article I prohibits the hunting, killing or capturing of polar bears subject to specified exceptions set out in Article III.

The exceptions in Article III permit the "taking" of polar bears for *bona fide* scientific purposes, for conservation purposes, for prevention of serious disturbance of the management of other living resources, and by local people using traditional methods in the exercise of their traditional rights, in accordance with the applicable laws. All of the exceptions specified in Article III are subject to the general understanding that—

Each Contracting Party shall take appropriate action to protect the ecosystems of which polar bears are a part, with special attention to habitat components such as denning and feeding sites and migration patterns, and shall manage polar bear populations in accordance with sound conservation practices based on the best available scientific data.

Article IV provides that the use of aircraft and large motorized vessels for the purpose of taking polar bears shall be prohibited, except where the application of such prohibition would be inconsistent with domestic laws.

DATE OF ENTRY INTO FORCE

This Agreement entered into force on May 26, 1976, ninety days after the third instrument of ratification, approval or accession had been filed. Of the five polar bear nations, only Canada and the United States have failed to ratify this Agreement.

COMMITTEE ACTION AND RECOMMENDATION

On August 31, 1976, the Committee held public hearings on this Agreement, at which time testimony was heard from Lindsay Grant, Acting Deputy Assistant Secretary for Environmental and Population Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State; and Richard Frank, Attorney, Center for Law and Social Policy. On that same date, the Committee in open session, and by voice vote without dissent, ordered this Agreement reported favorably to the Senate for advice and consent to ratification.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 94–36), explaining the protocol.

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

PURPOSE

This Protocol extends and modifies the 1957 Convention, as amended by the Protocol of October 8, 1963, and extended by the Agreement of September 3, 1969. The extension pursuant to the present Protocol is for a period of four years, which may be further extended.

The dual purpose of the Protocol, as of the Convention itself, is first to continue the prohibition now being observed by the four Governments party to the Convention with respect to pelagic sealing and, second, to provide a joint research program designed to furnish, as appropriate, sufficient factual data to prepare the groundwork for a more permanent agreement or arrangements among the parties to conserve the valuable fur seal herds of the North Pacific Ocean and to maintain these herds at the level of maximum sustainable productivity.

BACKGROUND

The northern fur seal is a creature of the high seas and comes ashore only to bear its young and to breed. Each year the fur seals leave their rookery islands of the North Pacific to migrate as far south as California, and as far west as Japan. Each year their amazing homing instinct draws them back across the trackless ocean to these same rocky nursery islands.

The rookeries under U.S. jurisdiction are on Alaska's Pribilof Islands. The Pribilofs are the most isolated of U.S. lands, two islands—St. George and St. Paul—lying in the Bering Sea 200 miles north of the Aleutians. Together, they cover 60 square miles, and between them are 40 miles of sea. The residents (450 on St. Paul, 180 on St. George) are the descendants of Aleut slaves.

The rookeries under Soviet Union jurisdiction are on the Commander Islands in the western Bering Sea and those on Robben Island and some of the Kurile Islands in the Sea of Okhotsk. There is substantial intermixing between the herds of the eastern and western Pacific Ocean.

In the 18th Century, the fur seals' rich pelt made them targets of intensive hunting in both the Northern and Southern hemisphere. Uncontrolled exploitation reduced the herds to perilously low levels.

The Russians discovered the Pribilofs in 1768. At that time, the number of seals on those islands was estimated to have been as large as 3 million animals. The islands, along with Alaska, were sold to the United States in 1867. In the intervening years, the Russian sealers reportedly killed over 2.5 million animals. Initially, harvesting was uncontrolled and pups and breeding females were unprotected. During this period, the Pribilof herds were reduced to mere remnants of their original numbers. In 1834, when the resource had almost been annihilated, the Russians stopped killing females and the herd began to increase. By the time the U.S. purchased Alaska, the Pribilof herd had recovered to approximately 2.5 million.

The U.S. began its jurisdiction under the encouragement of the Department of the Treasury (in time Labor, Interior and Commerce were to take turns supervising the Pribilofs) by permitting a number of private contractors to operate. The only conservation restrictions were that they should not take females or more than 100,000 animals a year. This quota was regularly met and exceeded. An equal number of animals were killed at sea by sealers of all nationalities. This practice, called pelagic sealing, was extremely inefficient, since a majority of the carcasses were lost in the water.

In 1869, Congress set the Pribilofs aside as a special reservation for seals. During the 20-year period following 1869, sealing on the Pribilofs was conducted under a leasing arrangement, with some 2 million sealskins taken. A second 20-year lease produced only 343,000 skins. This regulated catch combined with the pelagic kill devastated the Pribilof herds, and by 1910, only 200,000 seals remained.

In 1911, a treaty prohibiting pelagic sealing was signed by the U.S., Great Britain (on behalf of Canada), Japan and Russia. Although suspended during World War II, this treaty has remained in effect and is embodied in the Interim Convention on Conservation of North Pacific Fur Seals.

Only native people using primitive methods may continue to kill fur seals on the high seas. In exchange for the ban on pelagic sealing, the United States and the Soviet Union provide Japan and Canada each with 15 percent of the kill from the Pribilofs and 15 percent of the kill from those islands under jurisdiction of the Soviet Union. The rookery-owning nations keep the rest of the skins and manage the herds so as to provide for a "maximum sustainable productivity."

The Pribilof herd is now estimated at some 1.5 million animals. Since 1972, approximately 30,000 three to four-year old male seals are slaughtered each year. Under a leasing arrangement with the Fouke Fur Company, the skins are sent to South Carolina for processing and auction. The carcasses are ground up in factories on the islands for mink food.

EFFECT OF MARINE MAMMAL PROTECTION ACT OF 1972

The negotiation of this Protocol ran into a number of problems. The primary difficulty was the Marine Mammal Protection Act of 1972 (P.L. 92–522). Under this Act, international treaties dealing with marine mammals and to which the U.S. is a party must agree in intent and policy with this Act.

Section 108(b) of the Marine Mammal Protection Act required the Secretary of Commerce, in consultation with the Secretary of State, to study the provisions of the Act, as they relate to North Pacific fur seals, and the provisions of the Interim Convention on Conservation of North Pacific Fur Seals, "to determine what modification, if any, should be made to the provisions of the Convention, or of this Act, or both, to make the Convention and the Act consistent with each other." The study concluded that although there was no basic incompatibility between the Act and the Convention, negotiations were recommended to modify the Convention to take into account the difference of emphasis between the Interim Convention which emphasizes commercial exploitation, and the Act, which is strongly oriented towards the welfare and conservation of marine mammals and the health and stability of the ecosystem.

The critical section of the Marine Mammal Protection Act (Sec. 2) states that marine mammals must be managed so as to achieve the "optimum sustainable population" keeping in mind the optimum carrying capacity of the habitat. On the other hand, the Convention calls for management to produce the maximum sustainable commercial productivity.

Consequently, the U.S. delegation during the negotiations of this Protocol proposed a new convention which would have essentially continued the present management arrangements and amended the management objectives, as stated in the Convention, to provide for the maintenance of the health and stability of the marine ecosystem and in other ways bring the Convention into conformity with the purposes and policies of the Marine Mammal Protection Act of 1972.

Objections to rewriting the Convention to conform to U.S. law came principally from the Japanese, who since the 1930's have advocated an even larger seal harvest and are now pressing for the return of pelagic sealing. The Japanese are not concerned with getting more sealskins. What they want is more fish. The North Pacific fur seals herd consumes approximately 445,000 metric tons of fish in the Bering Sea each year. The Japanese commercial fishing interests believe that the seals are eating fish that would otherwise end up in their trawlers' nets.

Therefore, this Protocol while incorporating a few changes in the Interim Convention does not contain the U.S. proposals for a new management regime based upon an "optimum sustainable population" concept.

MAJOR PROVISIONS

The 1976 Protocol extends the Interim Convention for a period of four years. The Interim Convention will expire this October

14, 1976, if this Protocol is not given favorable consideration by the Senate before that date.

The following are some of the modifications of the Interim Convention provided by the Protocol:

(1) Articles II, III, and IV of the Protocol define pelagic research responsibilities of the Parties and provide for research on the relationship among fur seals, other living resources, and commercial fishing activity, and on the effects of man-causal environmental changes on fur seals.

(2) The U.S.S.R. is relieved, by Article V of the Protocol, of the obligation to suspend sealing in the Commander Islands if the total number of seals decreases and falls below 50,000. As the total number of fur seals inhabiting those islands has increased significantly over the past ten years, this provision is now obsolete.

(3) Article VI of the Protocol provides for the Commission to recommend, on the basis of coordinated research programs, a reduction or suspension of the fur seal harvest when population levels fall below maximum sustainable productivity.

(4) Article VI of the Protocol also provides for the supplying of subsistence needs of native populations living on rookery islands. The Convention did not allow Indians, Ainus, Aleuts or Eskimos to use either outboard motors or firearms in the taking of seals. As a result, these people have found it difficult, under the terms of the Convention, to provide yearly supplies of fresh seal meat for entire villages.

(5) Article X of the Protocol ensures humane methods of capturing, killing and marking fur seals.

In addition to the four-year extension of the Convention to October 14, 1979, in accordance with Article XIII of the Protocol, the Convention shall terminate one year from the day on which a party gives written notice to the other parties of an intention of terminating the Convention. Article XIV of the Protocol provides that, at the request of any party, representatives of the parties will meet at a mutually convenient time within 90 days of such request to consider the desirability of modifications of the Convention. The Protocol, in accordance with Article XV, will enter into force on the date of the deposit of the fourth instrument of ratification.

DATE OF ENTRY INTO FORCE

The Protocol will enter into force on the date on which the fourth instrument of ratification or acceptance is deposited with the Government of the United States. At the present time, no nation has ratified this Protocol.

COMMITTEE ACTION AND RECOMMENDATION

On August 31, 1976, the Foreign Relations Committee held a public hearing on this Protocol, at which time testimony was heard from Lindsay Grant, Acting Deputy Assistant Secretary for Environmental and Population Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State; and Richard Frank, Attorney, Center for Law and Social Policy. On the same day, the Committee in open session and by voice vote without dissent ordered this Protocol to be reported favorably to the Senate for advice and consent to ratification.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–33), explaining the convention.

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

CUSTOMS CONVENTION FOR CONTAINERS

The Customs Convention on Containers, 1972, is designated to supersede and update the Customs Convention on Containers of 1956. As a result of the considerable increase in number of containers used in international traffic and the need both for simplifying customs formalities and for facilitating container transport, the provisions of the 1956 Convention have become obsolete or inadequate. Specifically, the new Customs Convention provides for: (1) the temporary importation, free of import duties and taxes, and free of import prohibitions and restrictions, of containers, either loaded or empty, their accessories and equipment, and component parts for the repair of temporarily admitted containers; (2) the use of temporarily imported containers in internal transport operations under specified conditions; (3) the acceptance of containers by the customs administration of each party to the Convention which meet the specifications in, and are approved and documented or marked in accordance with, the procedures set forth in the technical annexes to the Convention; and (4) the approval of containers for transport under customs seal.

The Administration believes that this Customs Convention should contribute significantly to the development of international container traffic on a global basis. A primary effect of the Convention will be to facilitate the use of United States owned and operated containers in international traffic by ensuring that they receive treatment in the territories of the Parties to the Convention similar to that which is afforded to foreign-owned containers in the United States at the present time.

The Convention entered into force on December 6, 1975, nine months after the date of deposit of the fifth instrument of ratification, acceptance, approval or accession. At the present time, fifteen nations have signed this Convention and the following countries have ratified or acceded to it: Canada, Hungary, Czechoslovakia, Romania, German Democratic Republic, New Zealand, Spain and Australia.

INTERNATIONAL CONVENTION FOR SAFE CONTAINERS

According to the Coast Guard, the containerization movement has achieved an excellent safety record, largely due to the effectiveness of principles developed in the United States private sector. Notwithstanding this record, in recent years, a number of nations have indicated their intention of developing national regulations which would be applied to all containers transiting their borders. Concern over the adverse impact that unilateral construction requirements would have on the facilitation of containerization and interest in assuring continued safe operating experience combined in motivating the drafting of this Convention. The Convention signals agreement by those States which become party to it that such regulations would best be developed on a common basis.

The Safety Convention specifies the structural requirements which transport containers must meet to assure that they are safe. It does not include the stowage of goods in the container, the handling of containers at interface points, or the actual transport of containers on vehicles of any mode. Its requirements relate to all containers above a specified size except those which are designed to be transported exclusively by air. The Convention lays down specific engineering requirements which all affected containers must meet and provides a framework for an administrative system to assure compliance therewith.

Each Party to the Convention would designate an appropriate authority to be responsible for implementation of effective procedures for testing, inspection, approval, and periodic reexamination of containers. Testing, inspection, and approval could be entrusted to nongovernmental organizations. Approvals granted under terms of the Convention would be indicated on a "Safety Approval Plate" attached to the container, and all other Parties to the Convention would be required to recognize these approvals as having the same force as an approval by them. Additional controls by the other Parties would be limited to verifying that the container carried a valid "Safety Approval Plate" unless there were clear grounds for believing that the condition of the container was such as to create an obvious risk to safety. In such a case, control would be limited to action necessary to ensure that the container was restored to a safe condition before it continued in service.

The Safety Convention presents a uniform safety regulation for the international movement of containers and should avoid the proliferation of individual national container safety requirements.

The International Convention will enter into force 12 months from the date of deposit of the tenth instrument of ratification, acceptance, approval or accession.

At the present time, 19 nations have signed this Convention and the eight countries have ratified or acceded to it, as follows: Federal Republic of Germany, Hungary, France, Czechoslovakia, Romania, Spain, German Democratic Republic and New Zealand.

COMMITTEE ACTION

On August 31, 1976, the Foreign Relations Committee held public hearings on both of these Conventions, at which time testimony was heard from: (1) Richard Abbey, Assistant Chief Counsel, U.S. Customs Service, Department of the Treasury, accompanied by David Banowetz, Senior Operations Officer, U.S. Customs Service, Department of the Treasury; and (2) Rear Admiral William M. Benkert, Chief, Office of Merchant Marine Safety, U.S. Coast Guard, Department of Transportation.

On that same date, the Committee in open session, and by voice vote without dissent, ordered these Conventions to be reported favorably to the Senate for advice and consent to ratification.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–37), explaining the agreement.

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

EXCERPT

PURPOSE AND BACKGROUND OF THE AGREEMENT

The purpose of Executive J, 94th Congress, 2d Session, is to make the United States a party to the Fifth International Tin Agreement (ITA).

Secretary Henry Kissinger announced in September, 1975, in his speech before the 7th Special Session of the United Nations General Assembly, that the United States would participate in the Fifth International Tin Agreement, subject to action by the U.S. Senate. Accordingly, the U.S. signed the document on March 11, 1976.

The agreement is a five-year treaty between tin producing countries and tin consuming countries. Its major objctive is to stabilize the supply of tin at price levels which are "fair" to consumers and "remunerative" to producers. The ITA hopes to achieve this objective through the use of a tin buffer stock and export controls.

The major tin producers belonging to the agreement are Australia, Bolivia, Indonesia, Malaysia, Nigeria, Thailand and Zaire. These countries account for approximately two-thirds of the world tin production. The only major producer not a member is the People's

Republic of China. The United States, the Federal Republic of Germany and Japan consume approximately 50 percent of the annual supply of exported tin.

Because of the geology of tin deposits, there are thousands of producers in each country. Tin is a high-cost commodity and has numerous substitutes. Growth in demand for tin over the last decade, as a consequence, has been limited. Tin prices rose dramatically in the commodity price boom of 1973, fell in the recession of 1974 and 1975, and rose again as recovery began in early 1976. The Tin Council has been selling tin from its buffer stock in order to moderate prices. When tin prices drop, the Tin Council will repurchase tin for its buffer stock at lower prices in an effort to inhibit the price decline. Should the price decline be so great that the Council can no longer finance continued purchases, it can impose export controls to limit supply.

The International Tin Agreement (ITA) has been a functioning commodity agreement for the last 20 years. The first five-year agreement went into effect in 1956. There have been three more subseqent agreements each of five years duration. These have not been totally effective in stabilizing tin prices. There has been more success in establishing a floor price by setting country by country export quotas than there has been in establishing a ceiling price. The latter efforts have been hampered by the inadequate size of the international buffer stock controlled by the International Tin Council, the administrative body of the ITA.

The United States has not been a party to any of the four previous tin agreements. In fact, through the sale and purchase of tin for its strategic stockpile, the U.S. has attempted to moderate extremes in world tin prices. Presently, the U.S. stockpile is 205,000 tons, of which 165,000 tons have been determined by the GSA to be in surplus of U.S. needs. The U.S. has no significant domestic deposits of tin ore. Very little tin is smelted in the United States. The U.S. imports its tin supplies from less developed countries and from Australia.

BUDGETARY COST OF U.S. MEMBERSHIP IN THE INTERNATIONAL TIN AGREEMENT

In joining the International Tin Agreement, the United States assumes a monetary obligation to support the costs of the International Tin Council in London. The Council appoints a director, who in turn hires a staff. The staff supports the Tin Council, provides information for ITA members, and does economic research on issues related to tin production and consumption. The costs of supporting the Tin Council and staff are proportioned on the percentage of votes a country has in the Council. The cost to the United States will be $115,000 a year. These funds will be drawn from funds previously appropriated in the State Department budget in the line item "for contributions to international organizations."

There is provision in the Fifth ITA for importing nations to contribute voluntarily to the international tin buffer stock. The U.S. Government has publicly stated that the U.S. will make no contribution to the buffer stock.

MAJOR PROVISIONS OF THE FIFTH INTERNATIONAL TIN AGREEMENT

The ITA is a five-year agreement which will enter into force as soon as six producing nations representing 95 percent of exports, and nine consuming nations representing 30 percet of imports, have deposited instruments of ratification with the Secretary-General of the United Nations. The agreement is so worded as to continue the basic structure and institutions of the fourth agreement.

The major objectives of the Fifth ITA are listed as follows:

a. To prevent excessive fluctuations in the price of tin and in export earnings from sales by providing for adjustments between world supply and demand for tin;

b. To encourage increased production of tin at prices which are remunerative to the producers, fair to the consumers, and supportive of a long-term equilibrium between production and consumption;

c. In the event of a shortage of tin supplies, to encourage the production of tin and provide for a fair distribution of tin metal in order to mitigate serious difficulties in consuming countries;

d. In the event of a surplus of supplies of tin, to take steps to mitigate serious difficulties which producing countries might encounter;

e. To promote increased consumption of tin, more processing of tin in the producing countries, and the introduction of technical and financial assistance to insure the most efficient methods of extracting tin ore.

The United States assumes two obligations in participating in the Fifth ITA. The first obligation is its $115,000 annual contribution to the administrative cost of the Tin Council. The second obligation is to consult with the Tin Council on the disposition of U.S. strategic stockpiles of tin. The U.S. commits itself not to dispose of stockpiles in such a manner as to interfere unduly with production and employment in the tin industry. However, nothing in the ITA is to prevent any member from taking any action which it considers necessary for the protection of its national security interests.

The International Tin Agreement establishes an International Tin Council which will be headquartered in London. The Council "has such powers and performs such duties as may be necessary for the administration and operation" of the agreement. The Council will appoint an Executive Chairman who will be responsible to the Council for administering the agreement in accordance with the Council's decisions. The Executive Chairman is also responsible for the management of the administrative services and staff. The staff of the Council is to provide the necessary support for meetings of the Council, provide for economic research on the tin industry in its broadest sense, and act as a central point of information for member countries.

The Council will also appoint a Buffer Stock Manager, responsible to the Executive Chairman. The Council will set price ranges at which the Buffer Stock Manager must purchase tin, sell tin, or stay out of the market.

The buffer stock is one of two mechanisms the Council has in order to achieve the objective of controlling supply in an effort to influence the world price of tin in such a manner as to be "remunerative" to producers and "fair" to consumers. Producers must make mandatory contributions to the buffer stock, but consumer contributions are voluntary. Profits generated by the stocks are divided proportionately among the contributors. The United States has stated it will not contribute to the buffer stock. However, the issue of voluntary contributions will be reviewed in two-and-one-half years.

The other supply control mechanism available to the Council is the assignment of tin export quotas to producing nations. For the Council to consider implementation of export quotas, the buffer stock must have a predetermined level of tin. It is not the intent of the agreement to use export controls except in cases where purchases for the buffer stock are not adequate to protect the floor price set by the Council.

For purposes of casting votes, the Council is divided into two bodies—the consumer (importer) group, and the producer (exporter) group. Each body has 1,000 votes divided proportionately on the basis of the percentage of the world's tin imported, or the percentage of the world's tin exported. The two bodies vote independently. For most motions to be accepted by the Council, they must receive at least fifty percent of the consumer votes and fifty percent of producer votes. Motions dealing with exceptional conditions, such as waiving of clauses in the agreement, certain financial matters, and changes in the agreement, require a two-thirds majority of both bodies. In the latter case, approved amendments must be ratified by participating governments. All producing nations and two-thirds of the consuming nations, by weighted votes, must ratify for an amendment to be accepted. Any nation not ratifying after the effective date of an amendment to the agreement will cease participation in the agreement.

No participating country may hold more than 450 votes in its respective voting group. Providing all countries which have signed the agreement do ratify the agreement, the United States will have 259 consumer votes. Japan will hold 160 consumer votes, Federal Republic of Germany—70, United Kingdom—70, France—51, and Italy—38. The voting strengths of consumers and producers are annexed to this report.

COMMITTEE HEARINGS AND ACTION

The Committee held public hearings on the Fifth International Tin Agreement on July 27, 1976, in conjunction with hearings on the International Coffee Agreement of 1976 and the extension of the International Wheat Agreement of 1971. Witnesses included Mr. Joseph Greenwald, Assistant Secretary of State for Economics and Business Affairs; Mr. Gerald Parsky, Assistant Secretary of the Treasury for International Affairs; and Mrs. Joan Braden, Consumer Affairs Advisor for the Department of State. The Chairman submitted for the record a letter and short analysis of the tin agreement from Dr. Isaiah Frank, Professor of International Economics, School of Advanced International Studies, Johns Hopkins University.

Statements were received in support of ratification of the agreement from Mrs. Ruth Clusen, President of the League of Women Voters, and Mr. R. D. Coursen, Director of the Malayan Tin Bureau. Statements in opposition were filed by Mr. James J. Ferrigan, Assistant General Purchasing Agent, Bethlehem Steel Corporation; Mr. W. W. Crawford, Vice President—Purchasing, United States Steel Corporation; and Mr. J. Allen Overton, Jr., President of the American Mining Congress.

The Committee considered this agreement on August 10, August 24, and August 31, 1976. On the last date, the Committee by voice vote ordered the agreement reported without reservation.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that these treaties be considered as having passed through their various parliamentary stages up to and including presentation of the resolution of ratification.

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

The resolutions of ratification of Executive X, 93d Congress, 1st session; Executive I, 94th Congress, 1st session; Executive K, 94th Congress, 1st session; Executive M, 94th Congress, 2d session; and Executive J, 94th Congress, 2d session, will be read.

The legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the

Customs Convention on Containers, 1972, as corrected by a Process-Verbal of Rectification issued on April 29, 1974, and the International Convention for Safe Containers, both signed at Geneva on December 5, 1972 (Ex. X, 93-1).

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Agreement on the Conservation of Polar Bears, done at Oslo, November 15, 1973, (Ex. I, 94-1).

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Convention for the Conservation of Antarctic Seals, with Annex, done at London June 1, 1972, (Ex. K, 994-1).

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the 1976 Protocol Amending the Interim Convention on Conservation of North Pacific Fur Seals, signed at Washington on February 9, 1957, which Protocol was signed at Washington on May 7, 1976 (Ex. M, 94-2).

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Fifth International Tin Agreement, 1976, formulated by a conference of governments which met in Geneva, Switzerland, on June 21, 1975, open for signature at the United Nations Headquarters from July 1, 1975, through April 30, 1976, and signed by the United States on March 11, 1976. (Ex. J. 94-2).

Mr. MANSFIELD. Mr. President, these treaties have been reported unanimously from the Committee on Foreign Relations. I ask unanimous consent that when the vote is taken on these treaties there be one vote, but that one vote will count as five.

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

The Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized. The Senator from Montana has the floor.

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

Mr. MANSFIELD. Surely.

Mr. ROBERT C. BYRD. On next Tuesday there are several primaries which will occur in our country, and I would hope we would not schedule this vote, which would count for five, before next Wednesday.

I indicated yesterday that we would attempt to do this, and I just want to make sure now at this time so that Senators will be notified in the RECORD, if it is agreeable, that the vote not occur before next Wednesday on these five treaties.

Mr. MANSFIELD. That is a splendid idea, and it is just another indication of how the distinguished assistant majority leader looks after his colleagues in the Senate.

Would the Senator care to suggest a time which would be most agreeable to all concerned?

Mr. ROBERT C. BYRD. I would suggest, I think, it would be better if we wait until Tuesday, Mr. President, if I may suggest to the distinguished majority leader, Monday or Tuesday, when we will be better able to see at that time at what time the vote should occur, but I just want to be sure that it will not occur before Wednesday. Why do we not tentatively now say 1 o'clock Wednesday afternoon?

ORDER TO TENTATIVELY VOTE AT 1 O'CLOCK WEDNESDAY, SEPTEMBER 15, 1976

Mr. MANSFIELD. All right. Mr. President, I make that request, Wednesday at 1 o'clock as the time when the vote will occur, and if circumstances having to do with primaries call for reconsideration that will be done.

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

LEGISLATIVE SESSION

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

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

SPECIAL ORDERS FOR MONDAY, SEPTEMBER 13, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, the following Senators be recognized, each for not to exceed 15 minutes in the order stated: Mr. BARTLETT, Mr. HATHAWAY, Mr. GLENN, Mr. GRAVEL, Mr. HOLLINGS, Mr. BUMPERS, Mr. HASKELL, and Mr. MANSFIELD.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the special orders on Monday, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes each.

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

ORDER FOR THE CONSIDERATION OF THE REVENUE SHARING EXTENSION BILL ON MONDAY, SEPTEMBER 13, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business on Monday the Senate proceed to the consideration of the revenue sharing extension bill .

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

AUTHORIZATION TO FILE CONFERENCE REPORT ON SENATE CONCURRENT RESOLUTION 139

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the conferees of Committee on the Budget have until midnight Saturday to file the budget resolution conference report on Senate Concurrent Resolution 139.

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

COMMITTEE MEETINGS

Mr. ROBEERT C. BYRD. Mr. President, I understand that this request has been cleared on both sides. I ask unanimous consent that the Committee on Veterans' Affairs have permission to meet on Monday next, September 13, for the purpose of reporting a bill.

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

AUTHORIZATION FOR THE COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT TONIGHT TO FILE NOTICE OF PROSPECTIVE HEARINGS ON NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Judiciary Committee may have until midnight tonight to file notice of prospective hearings on nominations.

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

ORDER FOR LEADERSHIP TO CALL UP EITHER REVENUE-SHARING BILLS ON MONDAY, SEPTEMBER 13, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the leadership may be authorized to call up either of the revenue sharing bills on Monday, at the conclusion of routine morning business.

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

AUTHORIZATION TO CALL UP CONFERENCE REPORT ON MONDAY, SEPTEMBER 13, 1976

Mr. ROBERT C. BYRD. Mr. President, the conference report on defense appropriations will also be called up on Monday.

Mr. President, I ask unanimous consent that the leadership may be authorized at any time on Monday to call up that conference report. It is a privileged matter.

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

Mr. ROBERT C. BYRD. Mr. President, I will clarify one request that I made earlier.

STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed now, without action being taken thereon today, to the consideration of Calendar Order No. 1141, H.R. 13367.

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

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

There being no objection, the Senate proceeded to consider the bill (H.R. 13367) which had been reported from the Committee of Finance with an amendment.

Mr. ROBERT C. BYRD. Mr. President, this is the so-called Revenue Sharing Extension Act, and at the conclusion of routine morning business on Monday, the Senate, under the order previously entered, will resume consideration of this measure. Is that not correct?

The PRESIDING OFFICER. The Senator is correct.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday the Senate will convene at the hour of 10 a.m. After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes, and in the order stated: Messrs. BARTLETT, HATHAWAY, GLENN, GRAVEL, HOLLINGS, BUMPERS, HASKELL, and MANSFIELD; after which 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 revenue sharing bill, H.R. 13367.

Votes will undoubtedly occur on that measure, or in relation thereto, during Monday. Also, the defense appropriations conference report will be called up, and other measures, including conference reports, may be called up during the day.

ORDER FOR NO ROLLCALL VOTES TO OCCUR ON MONDAY PRIOR TO THE HOUR OF 3 P.M.

Mr. President, I ask unanimous consent that no rollcall votes occur on Monday prior to the hour of 3 p.m.

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

ADJOURNMENT UNTIL 10 A.M. ON MONDAY, SEPTEMBER 13, 1976

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 10 a.m. on Monday next.

The motion was agreed to; and at 1:03 p.m., the Senate adjourned until Monday, September 13, 1976, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 10, 1976:

IN THE NAVY

The following named officers of the United States Navy and Naval Reserve for temporary promotion to the grade indicated in the staff, as indicated, subject to qualification therefor as provided by law:

MEDICAL CORPS

To be Captain

Arko, Frank R.
Ashworth, Halbert E.
Blackwell, Owen G.
Bohan, Lawrence D.
Bohan, Michael E.
Bradley, Mark E.
Browning, William H.
Brownlow, Wilfred J.
Campbell, Axel F.
Candela, Harry J.
Clymer, John F.
Corcoran, Francis H.
Deane, Frederick R.
Ervin, James F.
Farrier, Paul H., Jr.
Felder, Jerald B.
Gaskins, Ronald D.
Gaudry, Charles L.
Gibbons, James A.
Gibbs, Robert L.
Goscienski, Philip J.
Griffin, George E.
Howell, James W.
Huff, Arden L.
Huurman, Walter W.
Karney, Walter W.
Kreider, Stanley J.
Lee, Bertram J.
Looney, George R.
Lynn, Clyde A.
Marriott, John D.
Marsh, Donald W.
Merritt, Thomas B.
Nelson, Lawrence E.
Ruggiero, Joseph A.
Schmidt, Rainer S.
Scott, Cornelius C.
Smith, Lee E.
Sorensen, Kurt
Stokos, James NMN.
Stone, George M.
Summitt, James K.
Vantassel, Peter V.
Wallin, John D.
Wasson, Robert D.

SUPPLY CORPS

Abele, Robert B.
Ault, William U.
Barnett, Andrew F., Jr.
Bosco, Clement, Jr.
Buckley, John E.
Bulluck, Edgar G.
Daddona, John M.
Dolenga, Harold E.
Evans, Lloyd R.
Fitzpatrick, Edmond J., Jr.
Frampton, Robert T.
Gerstenberger, Wayne W.
Gorenflo, Louis W.
Harmon, Robert G.
Hummel, Don F.
Hurst, Harvey R.
Kruse, William E.
Langer, Gerald D.
Maldonado, Teodosio
McKinnon, Daniel W., Jr.
McNall, Phillip F.
Morgan, Richard E.
Murphy, Joseph J.
Olivier, Denny R.
Peters, William A.
Pistolessia, Vincent J.
Prokop, Jan S.
Raymond, James A.
Rounds, Richard N.
Shaughnessy, John M.
Smith, Franklin D.
Starrett, William I., Jr.
Walsh, Richard S.
Webster, John C.
Willis, John J.
Young, Jack L.

CHAPLAIN CORPS

Gaughan, Geoffrey E.
Jerauld, Philip E.
McDermott, Thomas J.
McPhail, Clark B.
Running, Paul H.
Voth, Murray H.

CIVIL ENGINEER CORPS

Brockwell, Sterling M., Jr.
Cerreta, Ralph M., Jr.
Collins, Allan W.
Dickpeddie, John I.
Ford, James E.
Glover, William F.
Groff, James B.
Johnson, Don P.
MacDonald, Malcolm J.
McHugh, Robert J., Jr.
Newcomb, Frank M.
Petersen, Norman W.
Quinn, Robert E., Jr.
Schade, Robert A., Jr.
Shanley, John J., Jr.
Shirley, Ronald G.
Wilson, Robert B.

DENTAL CORPS

Badger, Daniel G.
Bisson, Roger E.
Bourgeois, Aubrey J.
Brazil, Robert W.
Cottle, Kenneth L.
Drake, David L.
Eisenburger, Michael M.
Groat, Jack E.
Hesby, Richard A.
Jann, Robert C.
McCoy, Richard B.
Pierce, Gerald L.
Rackley, Otis D., Jr.
Richardson, William G.
Stefl, Charles T.
Thibodeau, Richard A.
Turner, Donald W.
Walker, Oscar B.
Wheetley, Woodrow D.
Yacabucci, James E.
Zotter, Frank E.

JUDGE ADVOCATE GENERAL'S CORPS

Abernathy, Kenneth L.
Fasanaro, Michael F., Jr.
Palmer, William R.
Redding, Robert M.
Toms, James E.

MEDICAL SERVICE CORPS

Barboo, Samuel H., Jr.
Fowler, Ephraim E., Jr.
Gallagher, Thomas J.
Myers, James I.
Nichols, Lloyd B.
Pittington, Francis C.
Wilcox, James G.

NURSE CORPS

Barker, Elizabeth A.
Butler, Phyllis A.
Dunn, Dorothea J.
Gampper, Mary E.
Jones, Kathaleen R.
Moris, Patricia J.
Shaw, Joan S.
Steinocher, Anne M.
Wilson, Ruth A.

The following named woman officer of the United States Navy, for permanent promotion to the grade of captain in the staff, subject to qualification therefor as provided by law:

SUPPLY CORPS

Carr, Mildren L.

CONFIRMATIONS

Executive confirmations received by the Senate September 10, 1976.

DEPARTMENT OF DEFENSE

John J. Bennett, of Virginia, to be an Assistant Secretary of the Navy.

Everett T. Keech, of the District of Columbia, to be an Assistant Secretary of the Air Force.

DEPARTMENT OF STATE

Ralph E. Becker, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Honduras.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. Richard Giles Stilwell, [redacted], Army of the United States (major general, U.S. Army).

The following officers for appointment in the Adjutant General's Corps, Army National Guard of the United States under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Lieutenant General (U.S. Army, retired) Glenn David Walker, [redacted].

To be brigadier general

Colonel (ARNGUS) Charles Mercier Kiefner, [redacted].

Colonel (ARNGUS) Francis Lally Winner, [redacted].

IN THE AIR FORCE

Air Force nominations beginning James G. Abbee, to be lieutenant colonel, and ending Gerald J. Roseman, to be lieutenant colonel, which nominations were received by the Senate on August 12, 1976, and appeared in the CONGRESSIONAL RECORD on August 23, 1976.

IN THE ARMY

Army nominations beginning Edmund A. Anderson, Jr., to be colonel, and ending Stanley J. Wilk, to be lieutenant colonel, which nominations were received by the Senate on August 12, 1976, and appeared in the CONGRESSIONAL RECORD on August 23, 1976.

IN THE NAVY

Navy nominations beginning Robert W. Abel, to be captain, and ending Victoria Ellen Young, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on August 10, 1976.

Navy nominations beginning John R. Bolton, to be ensign, and ending Gayle V. Voth, to be commander, which nominations were received by the Senate on August 12, 1976, and appeared in the CONGRESSIONAL RECORD on August 23, 1976.

IN THE MARINE CORPS

The nomination of Donald W. Andrews, U.S. Marine Corps, to be major, which nomination was received by the Senate on August 12, 1976, and appeared in the CONGRESSIONAL RECORD on August 23, 1976.

HOUSE OF REPRESENTATIVES—*Friday, September 10, 1976*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

That God would grant you, according to the riches of His glory, to be strengthened with might by His spirit in the inner man.—Ephesians 3: 16.

O God, our Father, source of the love that never fails and the light that never fades, let Thy love and Thy life flow through our weary and worried hearts. In Thy presence we would lift up the duties which demand our devotion and the problems which persist in perplexing us. Grant us wisdom, strength, and faith to do our very best to keep our minds on a high plane, scorning all that is unworthy and keeping ourselves true to that which is worthy.

God bless America, land that we love, stand beside her and guide her through the night with the light from above.

God bless China in her sorrow. 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 concurrent resolutions of the House of the following titles:

H. Con. Res. 513. Concurrent resolution providing for the printing of a compilation of materials commemorating the years of service of Justice William O. Douglas;

H. Con. Res. 592. Concurrent resolution authorizing the printing of 2,000 copies of a Joint Committee on Atomic Energy print entitled "Review of National Breeder Reactor Program";

H. Con. Res. 629. Concurrent resolution providing for the printing of a document entitled "The Working Congress";

H. Con. Res. 641. Concurrent resolution to provide for the printing of additional copies of a report of the Subcommittee on Health and Long-Term Care of the Select Committee on Aging of the House of Representatives;

H. Con. Res. 655. Concurrent resolution providing for the printing of the publication entitled "Summary of Veterans' Legislation Reported, 94th Congress"; and

H. Con. Res. 682. Concurrent resolution to authorize the printing of a booklet entitled "Black Americans in Congress."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested a bill of the House of the following title:

H.R. 14238. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 14238) entitled "An act making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes," request a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HOLLINGS, Mr. MCCLELLAN, Mr. HUDDLESTON, Mr. PASTORE, Mr. SCHWEIKER, Mr. MATHIAS, Mr. YOUNG, and Mr. STEVENS to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 522. An act to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes."

The message also announced that the Senate disagrees to the amendments of the House to the concurrent resolution (S. Con. Res. 139) entitled "An act revising the congressional budget for the U.S. Government for the fiscal year 1977," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MUSKIE, Mr. MAGNUSON, Mr. MOSS, Mr. HOLLINGS, Mr. CRANSTON, Mr. BELLMON, Mr. BEALL, and Mr. DOMENICI to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 201. Concurrent resolution authorizing the printing of the prayers of the chaplain of the Senate during the 94th Congress as a Senate document.

CALL OF THE HOUSE

Mr. YATES. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 709]

Abdnor	Biaggi	Butler
Abzug	Biester	Byron
Addabbo	Boggs	Carney
Andrews, N.C.	Bonker	Chappell
Andrews, N. Dak.	Brademas	Chisholm
Annunzio	Breckinridge	Clancy
Archer	Brodhead	Clausen, Don H.
Armstrong	Brooks	Clawson, Del
Aspin	Brown, Mich.	Clay
AuCoin	Buchanan	Cohen
Badillo	Burgener	Conlan
Beard, R.I.	Burke, Calif.	Conyers
Bell	Burke, Mass.	Corman
Bergland	Burton, John	Crane
Bellums	Burton, Phillip	Dellums
Derrick	Long, Md.	Runnels
Derwinski	Lujan	Ruppe
Diggs	McCloskey	Russo
Drinan	McCollister	Ryan
Duncan, Oreg.	McDade	St Germain
du Pont	McDonald	Santini
Edwards, Ala.	Mann	Sarbanes
Edwards, Calif.	Matsunaga	Scheuer
English	Mazzoli	Sebelius
Esch	Meeds	Seiberling
Eshleman	Melcher	Shuster
Evans, Colo.	Metcalfe	Sisk
Fary	Meyner	Snyder
Fascell	Mezvinsky	Spellman
Ford, Tenn.	Michel	Staggers
Fountain	Mikva	Stanton, James V.
Fraser	Milford	Stark
Gibbons	Mills	Steed
Green	Mink	Steelman
Gude	Mitchell, N.Y.	Steiger, Ariz.
Hansen	Mollohan	Steiger, Wis.
Harrington	Morgan	Stephens
Harsha	Murphy, Ill.	Stokes
Hayes, Ind.	Murphy, N.Y.	Stuckey
Hébert	Neal	Sullivan
Heckler, Mass.	Obey	Symms
Hefner	O'Hara	Udall
Heinz	O'Neill	Van Deerlin
Helstoski	Patterson, Calif.	Vander Jagt
Hinshaw	Paul	Vander Veen
Holland	Peyser	Vanik
Horton	Pressler	Walsh
Howe	Pritchard	Weaver
Ichord	Quie	Wiggins
Jacobs	Railsback	Wilson, Bob
Jarman	Randall	Wright
Johnson, Colo.	Rangel	Wydler
Jones, N.C.	Rhodes	Young, Alaska
Karth	Richmond	Young, Ga.
Kelly	Roncalio	Young, Tex.
Ketchum	Rose	Zeferetti
Keys	Rosenthal	
Lehman	Rousselot	

The SPEAKER. On this rollcall 259 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO MEET DURING 5-MINUTE RULE THIS MORNING

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services may meet this morning during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

ADJOURNMENT TO MONDAY, SEPTEMBER 13, 1976

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that when the House

adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 10498.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

CLEAN AIR ACT AMENDMENTS OF 1976

Mr. ROGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 10498) to amend the Clean Air Act, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 10498, with Mr. ROUSH in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Thursday, September 9, 1976, the Clerk had read through line 19 on page 236.

The Clerk will read title II.

The Clerk read as follows:

"INDIRECT SOURCE REVIEW PROGRAM STUDY

"SEC. 318. The Administrator shall conduct a study to determine if, and under what conditions, indirect source review programs (as defined in section 124(g) contained in, or which could be contained in, State implementation plans are necessary to, and are likely to be effective to reduce, or prevent or minimize any projected increase in, emissions of any mobile source-related air pollutant or otherwise assist in attaining any national primary ambient air quality for such pollutant. Not later than one year after the date of enactment of the Clean Air Act Amendments of 1976, the Administrator shall report to the Congress the results and findings of the study conducted under this section. In carrying out this section, the Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences for an independent study to be conducted by the Academy. In conducting such study, the Administrator shall consult with other appropriate governmental agencies. In making the report under this section, the Administrator shall consider the study and advice of the Academy and of other appropriate governmental agencies. Of the funds authorized to be appropriated to the Administrator by this Act, such amounts as are required shall be available to carry out such independent study.".

(b) Section 110(a) of such Act (42 U.S.C. 1857c-5(a), as amended by section 103(c) of this Act, is further amended by adding at the end thereof the following new paragraph:

"(6) Except as may be otherwise provided under paragraph (2)(I) and section 124—

"(A) no applicable implementation plan, nor any amendment or revision thereof, shall be required under any provision of this Act, as a condition of approval of such plan under paragraph (2), to include, and no plan promulgated by the Administrator shall include, any indirect source review program (as defined in section 124(g)), and

"(B) any State may revise an applicable implementation plan approved under section 110(a) to suspend or revoke any such program included in such plan.

This paragraph shall not prevent the Administrator from approving any such program if it is adopted and submitted by a State as part of an applicable implementation plan.".

(c) Section 110(a)(2) of such Act (42 U.S.C. 1857c-5(a)(2) is amended by striking out the period at the end of section 110(a)(2)(H) and inserting in lieu thereof a semicolon and by adding the following new subparagraph at the end thereof:

"(I) it includes an indirect source review program meeting the requirements of section 124 if the Administrator determines—

"(i) as provided under section 124(a), that such program would be necessary in an air quality control region, or portion thereof, in the State in order to assist in attaining or maintaining a national primary ambient air quality standard, and

"(ii) as provided under section 124(b), that such program is likely to be effective in reducing emissions of a mobile source-related air pollutant, in preventing or minimizing any projected increase in such emissions, or otherwise assisting in attaining or maintaining any national primary ambient air quality standard for such pollutant; and".

(d) Title I of the Clean Air Act (42 U.S.C. 1857c-5), as amended by sections 101, 103, 105, and 202 of this Act, is further amended by adding at the end thereof the following new section:

"LIMITATIONS ON INDIRECT SOURCE CONTROLS

"SEC. 124. (a) Regulations promulgated by the Administrator under subsection (c) shall not require a State to include in the State implementation plan, as a condition of approval of such plan, an indirect source review program for any air quality control region, or portion thereof, unless, after notice and opportunity for public hearing, he determines, on the basis of the study conducted under section 318 (together with such other information as may be available to the Administrator), that such a program would be necessary to assure attainment of the national primary ambient air quality standards for mobile source-related pollutants by the primary standard attainment date for such pollutant or to assure maintenance of such standards thereafter assuming the following conditions existed—

"(1) Light-duty motor vehicles and engines manufactured during and after model year 1975 had achieved a reduction in emissions of carbon monoxide and hydrocarbons of 90 per centum from the emissions of such pollutants allowable under standards under section 202 applicable to model year 1970, and such vehicles and engines manufactured during and after model year 1976 had achieved a reduction in emissions of oxides of nitrogen of 90 per centum from the emissions of such pollutant allowable under such standards applicable to model year 1971.

"(2) All practicable emission limitations and transportation control measures in the applicable implementation plan had been implemented as provided in such plan.

"(b)(1) Regulations promulgated by the Administrator under subsection (c) shall not require a State to include in the State implementation plan, as a condition of approval of such plan under section 110(a)(2), an indirect source review program for any air quality control region, or portion thereof, unless, after notice and opportunity for public hearing, he determines, on the basis of the study conducted under section 318 (together with such other information as may be available to the Administrator), that such program is likely to be effective in such State to reduce emissions of a mobile source-related air pollutant, to prevent or minimize any projected increases in such emissions, or otherwise to assist in attaining or maintaining any national primary ambient air quality standard for any such pollutant—

"(A) in general,

"(B) under any specified set of conditions, or

"(C) in any designated air quality control region, or portion thereof.

"(2) If the Administrator makes the determination in paragraph (1) (B) or (C), then any such regulations may apply only in any air quality control region where the conditions specified in paragraph (1)(B) exist or in any region designated in paragraph (1)(C).

"(c)(1)(A) Within three months after the date required for completion of the study conducted under section 318, the Administrator shall publish proposed regulations requiring adequate State indirect source review programs to be included in appropriate State plans, as a condition of approval of such plans, subject to the limitations of subsections (a) and (b). Not later than three months after proposal of such regulations, the Administrator shall promulgate final regulations with appropriate modifications. Regulations promulgated under this section may be revised from time to time.

"(B) Within nine months after the later of (i) promulgation of final regulations under subparagraph (A) or (ii) determinations made under subsections (a) and (b), each State required to include an indirect source review program in the applicable implementation plan as a condition of approval under section 110(a)(2) shall submit to the Administrator a plan revision containing such a program.

"(C) Within eight months from the date required for submission of a plan revision under subparagraph (B), the Administrator shall approve or disapprove so much of the implementation plan as provides for the implementation of, enforcement of, or variance from, such indirect source review program. The Administrator shall approve such provisions of such plan if he determines that the plan revision meets the requirements of regulations prescribed under this subsection. The Administrator may not disapprove any indirect source review program which he has previously approved unless he determines that the State in a substantial number of instances, has failed to carry out the requirements of such program in accordance with the provisions of this section. No determination of disapproval under the preceding sentence shall take effect for a period of three months following the date of such determination.

"(2) Regulations (or revisions thereof) published or promulgated under this subsection shall specify each State implementation plan with respect to which a plan revision will be required to comply with such regulations at the time such regulations (or revisions) are promulgated.

"(3) No indirect source (other than a parking facility which the Administrator determines will be used predominantly as part of a park-and-ride portion of a public transportation system which will assist in reducing regional air pollution concentrations) shall commence construction or modification after the date three months after the date required under paragraph (1)(C) for approval or disapproval of a State plan revision submitted under paragraph (1)(B) in any air quality control region for which the State is required to submit such a revision, unless the State's plan revision has been approved by the Administrator and such construction or modification complies with such approved plan.

"(d)(1) Except as provided in paragraph (2), any violation of a term or condition of any indirect source review program contained in an approved State plan (or in a plan promulgated under section 110(c), as permitted under subsection (e)(3)), any violation of a term or condition of any permit or variance under such an indirect source review program, and any violation of subsection (c)(3) of this section shall be treated as a violation of a requirement of an applicable implementation plan for purposes of this Act.

"(2) No person who has received a permit to construct or modify an indirect source from a governmental unit with an approved indirect source review program and who complies with the terms and conditions of such permit shall be deemed to be in violation of an applicable implementation plan under this subsection with respect to such construction or modification and no such permit may be withdrawn or revoked by the Administrator.

"(3) The regulations promulgated under subsection (c) may not require any indirect source which commences construction or modification before the date six months after any revision of an applicable implementation plan required by reason of a revision or amendment of the regulations promulgated under subsection (c) to comply with any requirement of such revised or amended implementation plan.

"(e)(1) Except as provided in paragraph (3) of this subsection, the Administrator shall have no authority to promulgate regulations under section 110(c)(1) relating to an indirect source review program for any air quality control region or any portion thereof located in any State.

"(2) In the event an indirect source review program is required for any air quality control region or part thereof in any State and such State fails to adopt a program which meets the requirements of this section, the State's indirect source review program shall be disapproved by the Administrator.

"(3) Paragraph (1) shall not apply to promulgation, implementation, or enforcement of regulations respecting indirect source review programs which apply only to federally assisted highways, airports, and other major federally assisted indirect sources and federally owned or operated indirect sources. Nothing in this section shall be construed to limit the authority of the Administrator to conduct preconstruction or premodification review of a federally assisted highway, airport or other major federally assisted indirect source or federally owned or operated indirect source, which commences construction or modification on or before the date three months after the date required under subsection (c)(1)(C) for approval or disapproval of a State plan revision.

"(f)(1) The regulations promulgated by the Administrator under subsection (c) shall provide that variances may be granted by the Governor of a State with an approved indirect source review program permitting construction (or modification) and operation of an indirect source notwithstanding the requirements of the indirect source review program in any case in which such variance will encourage development of long-term transportation patterns and modes which will—

"(A) improve, in the long term, air quality and protect public health, and

"(B) be energy efficient, or

which will prevent any requirement of the indirect source review program from creating any economic advantage or disadvantage for urban, suburban, or rural areas.

"(2) Except for a variance granted under this section or a plan revision under section 110(a)(3), no variance, extension, compliance order, plan revision, or other action deferring or modifying a requirement of an applicable implementation plan may be taken with respect to any indirect source by the State or by the Administrator.

"(3) Any variance granted under this section shall terminate not later than January 1, 1985. Upon termination of any variance under this section, the indirect source to which such variance was granted shall be subject to all requirements and limitations of the applicable implementation plan.

"(4) A variance may be granted under this subsection only if the Governor determines that—

"(A) emissions from vehicles attracted to the indirect source with respect to which such variance is granted will not cause or contribute to air pollution concentrations in excess of any national primary ambient air quality standard for any mobile source-related pollutant in any part of the air quality control region in which such source is located upon expiration of such variance or thereafter (taking into account all other variances previously granted under this subsection),

"(B) any new indirect source receiving such a variance will be located so as to be (upon expiration of the variance) compatible with, and conveniently and economically served by, public transportation and such location will be compatible with any comprehensive public transportation measures under section 123(b)(5),

"(C) such indirect source will be designed and constructed so as to minimize emissions of mobile source-related pollutants from vehicles attracted to such source and will use the best practicable traffic flow measures, and

"(D) such indirect source as newly constructed or modified will become compatible with transportation control measures provided in the applicable implementation plan. No subsequent variance may be granted under this subsection if the Administrator determines, after notice and opportunity for public hearing, that variances have been granted without regard to the requirements of this paragraph in a substantial number of instances. The prohibition contained in the preceding sentence shall be for such period as the Administrator deems necessary to assure compliance with such requirements.

"(g)(1) For purposes of this section the term 'indirect source review program' means the facility-by-facility review of indirect sources of air pollution, including such measures as are necessary to assure, or assist in assuring, that a new or modified indirect source will not attract mobile sources of air pollution, the emissions from which would cause or contribute to air pollution concentrations—

"(A) exceeding any national primary ambient air quality standard for a mobile source-related air pollutant after the primary standard attainment date, or

"(B) preventing maintenance of any such standard after such date.

"(2) Such term shall include measures which—

"(A) require a prior permit for construction (or modification) of any such indirect source and require operation of such source in the manner approved pursuant to such permit; and

"(B) limit the issuance of any such permit to indirect sources which will not have the effects referred to in subparagraph (A) or (B) of paragraph (1).".

(e) Section 302 of such Act (42 U.S.C. 1857h), as amended by section 106(f) of this Act, is further amended by adding the following new subsections at the end thereof:

"(j) The term 'indirect source' means a facility, building, structure, installation, real property, road, or highway which attracts, or may attract, mobile sources of pollution. Such term includes parking lots, parking garages, and other facilities subject to any measure for management of parking supply (within the meaning of section 110(c)(2)(D)(ii)).

"(k) The term 'mobile source-related air pollutant' means any air pollutant which is subject to regulation under section 202, 211(c)(1)(A), 231, or 235 of this Act.".

(f) Section 110(a) of the Clean Air Act (42 U.S.C. 1857c-5(a)) is amended by striking out "land use and" in paragraph (2)(B) and by inserting after "transportation controls" the following: ", air quality maintenance plans, and preconstruction review of direct sources of air pollution".

EXTENSION OF TRANSPORTATION CONTROL COMPLIANCE DATES

SEC. 202. Title I of the Clean Air Act (42 U.S.C. 1857 and following), as amended by sections 101, 103, and 105 of this Act, is further amended by adding at the end thereof the following new section:

"EXTENSION OF TRANSPORTATION CONTROL COMPLIANCE DATES

"SEC. 123. (a)(1) Upon application submitted by the Governor of a State, the Administrator may extend the date required for compliance with any transportation control measure adopted by a State and included in an applicable implementation plan.

"(2) Upon application submitted by the chief executive officer of a general purpose unit of local government which is carrying out responsibility delegated under section 110(c)(3), or on his own motion, the Administrator may extend the date required for compliance with any transportation control measure which was promulgated by the Administrator under section 110(c). In the case of an application submitted by such officer, such extension shall apply only to the extent that such measure applies within the jurisdiction of such unit.

"(b)(1)(A) No extension may be granted under subsection (a) with respect to any transportation control measure unless such measure is applicable in an air quality control region in which the State or unit of local government (or the Administrator, as the case may be) has implemented within such jurisdiction all requirements (except as provided in subparagraph (B)) of the applicable implementation plan which are required to be implemented as of the date of application and are intended to control any mobile source-related pollutant. Such implementation includes initiating and diligently pursuing enforcement actions to bring noncomplying persons into compliance.

"(B) For purposes of subparagraph (A), the State or unit of local government (or Administrator) shall not be required, as of the date on which such extension is granted, to have implemented:

"(i) transportation control measures with respect to which a finding has been made under (2), and

"(ii) requirements for indirect source review programs (as defined in section 124).

"(2) No extension may be granted under subsection (a) for any transportation control measures unless—

"(A) the Administrator finds that implementation of such measure on the required date would (i) cause, or contribute to, a failure to meet basic transportation needs of the area, (ii) be infeasible, or (iii) otherwise cause seriously disruptive and widespread economic or social effects,

"(B) the Administrator states with reasonable specificity the factual basis of the finding made under subparagraph (A), and

"(C) the applicant has submitted (or the Administrator has prepared, if acting on his own motion)—

"(i) a detailed planning study identifying and quantifying the respect (if any) in which the basic transportation needs of the area could not be met if the applicable measure were not extended, the seriously disruptive and widespread economic or social effects (if any) of not extending such measure, the respects (if any) in which implementation of such measure would be infeasible, and the effects on public health and welfare expected to result from the continued air pollution associated with the extension.

"(ii) an examination of measures (including establishment, improvement, or expansion of public transportation) other than those measures for which an extension is sought, which could be implemented and used to attain and maintain national ambient air quality standards as expeditiously as practicable, and

"(iii) a detailed description of the measures to be undertaken during all such extensions to minimize any risk to public health.

"(3) No extension may be granted under subsection (a) unless there has been prior notice and opportunity for public hearing.

"(4) No finding may be made under paragraph (2)(A)(i) unless the Administrator finds that implementation of public transportation (or other means) which would meet such needs by such required date would be impracticable.

"(5)(A) Except as provided in subparagraph (B) of this paragraph, each transportation control measure for which an extension is granted under subsection (a) shall be required to be implemented (under a compliance schedule containing increments of progress prescribed pursuant to such extension) as expeditiously as practicable but not later than January 1, 1980.

"(B) Such measure shall be required to be implemented as expeditiously as practicable but not later than January 1, 1985, if the applicable implementation plan is revised within the one-year period specified in paragraph (6)—

"(i) to include comprehensive measures (including compliance schedules containing increments of progress) to, as expeditiously as practicable, establish, expand, or improve public transportation to meet basic transportation needs while implementing transportation control measures necessary to attain and maintain national ambient air quality standards, and

"(ii) to meet the requirements of paragraphs (1) and (2) of subsection (d).

"(6) No extension of any transportation control measure under subsection (a) shall remain in effect for more than one year after such extension is granted unless, before such date, the applicable implementation plan is revised to include—

"(A) requirements to use (insofar as necessary), for the purpose of implementing the transportation control measures with respect to which such extension was granted, funds which are reasonably available to the State or local government; and

"(B) in the case of an area which has been granted an extension beyond January 1, 1980, requirements to use (insofar as necessary), for the additional purpose of implementing the comprehensive public transportation measures required under paragraph (5)(B), funds which are reasonably available to the State or local government.

"(c) In the case of any applicable implementation plan containing measures requiring—

"(1) retrofits on other than commercially owned in-use vehicles, or

"(2) gas rationing which the Administrator finds would have seriously disruptive and widespread economic or social effects if implemented before January 1, 1985,

the Administrator may, after notice and opportunity for public hearing, approve elimination of such measures from the plan notwithstanding the requirements of section 110(a). No later than nine months after approval of the elimination of any such measure is granted with respect to any applicable implementation plan, a revised plan must be submitted (as provided in section 110(a)(2)(H)) to meet such requirements.

"(d) Not later than one year after date of enactment of this section, the Administrator shall complete a review of all applicable implementation plans for mobile source-related pollutants to determine whether or not such plans would be adequate as of such date to attain, by the date required under section 110, the national primary ambient air quality standards for such pollutants and maintain them thereafter if no extensions, exemptions, or variances had been granted under sections 111(f), 118, 119, 121, 124, and this section. Unless the Administrator determines that any such plan would be adequate (within the meaning of the preceding sentence) he shall require revision of such plan. The revised plan shall be such as would be adequate (within the meaning of the first sentence of this subsection). The Administrator shall promptly notify the State when any plan revision is required under this subsection and shall require submission of such revised plan on such date (not sooner than sixty days or later than six months after such notice) as he may determine. Such revised plan shall—

"(1) identify and provide for implementation of the remaining emission reductions necessary for the plan to be adequate within the meaning of this subsection with respect to mobile source-related pollutants and the measures to be implemented to accomplish these reductions;

"(2) identify the financial and manpower resources necessary to carry out such measures, and commit the State or local government to provide those resources; and

"(3) include emission limitations, applicable to stationary sources which emit any mobile source-related air pollutant in significant amounts, requiring reduction of such emissions to the maximum extent technologically feasible (or a finding that any such emission limitation not so included is not necessary for the plan to be adequate within the meaning of this subsection and a justification for such finding).

If the Administrator determines that a proposed plan revision does not incorporate the most expeditious practicable date for achievement of adequacy within the meaning of this subsection, he shall notify the Governor of the deficiencies in the proposed revision. This notification shall include the Administrator's judgment as to the additional control strategies that should be incorporated, and the most expeditious dates which are practicable for implementing the measures included or to be included in the plan. The notification shall also specify a date for submission of the modified plan revision not more than one hundred and twenty days from the date of notification.

"(e) Except for a compliance date extension issued under this section, a plan revision under section 110(a)(3), or an elimination approved under subsection (c), no extension, compliance order, plan revision, or other action deferring or modifying a requirement of an applicable implementation plan may be taken with respect to any transportation control measure by the State or by the Administrator.

"(f)(1) For purposes of this section and section 110(a)(2)(B), the term 'transportation control measure' does not include any measure for management of parking supply (as defined in section 110(c)(2)(D)(ii) except that such definition shall be applied without regard to whether or not a facility is new) or any indirect source review program (as defined in section 124).

"(2) For purposes of subsection (b)(6), the term 'funds which are reasonable available' means—

"(A) grants which have been made to a State or local government under Federal law,

"(B) funds which have been appropriated under State or local law, or

"(C) any combination of such grants and funds, which may, consistent with the terms of the legislation providing for such grant or making such appropriation, be used for the purposes referred to in such subsection (b)(6).".

LIGHT-DUTY MOTOR VEHICLES EMISSIONS

SEC. 203. (a) Subparagraph (A) of section 202(b)(1) of the Clean Air Act (42 U.S.C. 1857f-1(b)(1)(A)) is amended to read as follows:

"(A) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during the model years 1977 through 1979 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.5 grams per mile of hydrocarbons and 15.0 grams per mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light duty vehicles and engines manufactured during or after model year 1980 shall contain standards which require a reduction of at least 90 per centum from emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to light-duty vehicles and engines manufactured in model year 1970.".

(b) Subparagraph (B) of such section 202(b)(1) is amended to read as follows:

"(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1977 through 1980 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per vehicle mile. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during or after model year 1981 shall contain standards which require a reduction of at least 90 per centum from the average of emissions of oxides of nitrogen actually measured from light-duty vehicles manufactured during model year 1971 which are

not subject to any Federal or State emission standard for oxides of nitrogen. Such average of emissions shall be determined by the Administrator on the basis of measurements made by him.".

(c) Section 202(b) of such Act is amended by striking out paragraph (5) thereof and substituting the following:

"(5)(A) Any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of standard required under the third sentence of subparagraph (B) of paragraph (1) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1981 or in any following model year before the model year 1985. During any calendar year no manufacturer may file an application with respect to more than one model year.

"(B) No suspension shall be granted with respect to an application filed for vehicles or engines manufactured during the model year specified in the left-hand column below unless such application is filed on or after November 1 of the year specified in the right-hand column below:

"Model year:	Earliest application year
1981	1978
1982	1979
1983	1980
1984	1981

"(C) If the Administrator determines, in accordance with the provisions of this paragraph, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation an interim emission standard which shall apply (in lieu of the standards required to be prescribed under the third sentence of paragraph (1)(B)) to emissions of oxides of nitrogen from such vehicles and engines manufactured during such model year. Any interim standard prescribed under this paragraph shall reflect the greatest degree of emission control which is achievable by application of technology which the Administrator determines is available, giving appropriate consideration to the cost and impact on fuel economy of applying such technology within the period of time available to manufacturers. No such interim standard shall permit emissions of oxides of nitrogen in excess of—

"(i) 2.0 grams per vehicle mile from such vehicles and engines manufactured during model years 1981 and 1982; or

"(ii) 1.5 grams per vehicle mile from such vehicles and engines manufactured during model years 1983 and 1984.

"(D) Within ninety days after the receipt of the application for any such suspension and after notice and public hearing, the Administrator shall issue a decision granting or refusing such suspension. The Administrator shall grant such suspension only if he determines that the applicant has established that the application of the standard which would otherwise be applicable would result in an excessive fuel penalty, or that such applicant has established that—

"(i) effective control technology, processes, or operating methods, or other alternatives are not available or have not been available for a sufficient period of time to achieve compliance prior to the effective date of such standard, and

"(ii) the study and investigation of the National Academy of Sciences conducted pursuant to subsection (c) (and other information available to him) has not indicated that technology, processes, methods, or other alternatives are available to meet such standard.

"(6) The standard required under the third sentence of subparagraph (B) of paragraph (1) (pertaining to oxides of nitrogen) shall not apply with respect to any manufacturer for any model of light duty vehicles or engines if the Administrator determines that such model will emit for a period of ten years or one hundred thousand miles, whichever first occurs, not more than .41 grams per vehicle mile of hydrocarbons, not more than 3.4 grams per vehicle mile of carbon monoxide, and not more than 1.0 grams per vehicle mile of oxides of nitrogen. Such determination shall be made in accordance with the certification test procedures required under section 206 (with durability testing for not less than one hundred thousand miles).".

"(7)(A) Any manufacturer may file with the Administrator an application requesting the suspension for any model year before the model year 1985 of the effective date of any standard applicable to light-duty motor vehicles or engines under this section (including any interim standard prescribed under paragraph (5)(C)) for emissions of carbon monoxide, hydrocarbons, oxides of nitrogen, or for suspension of any combination thereof. During any calendar year, no manufacturer may file an application with respect to more than one model year. The Administrator shall grant such suspension for such model year only if—

"(i) standards applicable to emissions of sulfates or sulfuric acid, or both, from such vehicles or engines have been promulgated under subsection (a)(1) for such model year.

"(ii) the Administrator finds, after notice and public hearing, that the applicant has established that—

"(I) effective control technology, processes, or operating methods, or other alternatives are not available or have not been available for a sufficient period of time prior to their effective dates to achieve compliance with the standards applicable in such model year to emissions of carbon monoxide, hydrocarbons, oxides of nitrogen, and the standard or standards applicable to sulfates and sulfuric acid, or

"(II) fuel economy of such vehicles or engines would be substantially less in the case of vehicles or engines meeting standards applicable to emission of all such pollutants than the fuel economy of light-duty vehicles or engines meeting standards applicable for such model year only to emission of carbon monoxide, hydrocarbons, and oxides of nitrogen,

"(iii) the Administrator finds, after notice and public hearing, that emissions of sulfates or sulfuric acid, or both, from light-duty vehicles or engines cause or contribute to air pollution which may reasonably be anticipated to endanger the public health or welfare to a greater extent than emissions from such vehicles of the pollutant or pollutants with respect to which application is made under this paragraph.

"(iv) the National Academy of Sciences has not, pursuant to its study and investigation under subsection (c), issued a report contrary to the findings of the Administrator under clauses (ii) and (iii), and

"(v) notice of such suspension has been reported to the Congress by the Administrator and neither House has passed a resolution disapproving such suspension before the expiration of sixty calendar days of continuous session of Congress after receipt of such notice by such House.

For purposes of congressional action under clause (v), the provisions of subsection (b) and subsections (d) through (g) of section 155 shall apply to suspensions under this paragraph in the same manner as to regulations of the Administrator under subtitle B of title I (relating to stratosphere and ozone protection).

"(B) No suspension under this paragraph of any standard with respect to a pollutant may permit emissions of such pollutant in excess of the levels (expressed in grams per vehicle mile) specified in the following table:

"Suspension of oxides of nitrogen standard	2.0
Suspension of hydrocarbon standard	1.5
Suspension of carbon monoxide standard	15.0

"(C) During any calendar year, no suspension under this paragraph may be granted with respect to any standard for more than one model year and no suspension shall be granted with respect to an application filed for vehicles or engines manufactured during the model year specified in the left-hand column below unless such application is filed on or after November 1 of the year specified in the right-hand column below:

"Model year:	Earliest application year
1980	1977
1981	1978
1982	1979
1983	1980
1984	1981

"(D) In any case in which the requirements of clauses (i) and (ii) of subparagraph (A) are met, if the Administrator finds, after notice and public hearing, that emissions of sulfates or sulfuric acid, or both, from light-duty vehicles and engines do not in his judgment cause or contribute to air pollution which may reasonably be anticipated to endanger the public health or welfare to a greater extent than emissions of the other pollutants referred to in subparagraph (A), and if the National Academy of Sciences has not issued a report under subsection (c) contrary to such finding or contrary to the finding under subparagraph (A)(ii), he shall suspend the standard applicable to emissions of sulfates or sulfuric acid, or both (as may be consistent with such finding), subject to the requirements and limitations contained in subparagraphs (A) (other than clauses (iii) and (iv) thereof) and (C) of this paragraph. Such suspension shall not permit emissions of such pollutant in excess of the level which the Administrator determines to be technologically feasible for vehicles or engines to meet without resulting in substantially less fuel economy in relation to the fuel economy which would result if no standard for such pollutant were applicable."

(d) Section 202(c)(1) of such Act, relating to arrangements for NAS study, is amended by striking out "subsection (b) of".

(e) Part A of title II of such Act is amended by redesignating section 214 as section 218 and by inserting after section 213 the following new section:

"STUDY OF UNREGULATED POLLUTANTS FROM MOTOR VEHICLES

"SEC. 214. (a) The Administrator shall conduct a study concerning the effects on health and welfare of emissions from motor vehicles or motor vehicle engines to which section 202 applies of sulfuric acid mist, other pollutants which are not subject to standards under section 202, and pollutants which may be present in the ambient air which are derivatives of any pollutant emitted from motor vehicles. Such study shall characterize and quantify such emissions, and determine the effects of such pollutants emitted from diesel, rotary, stratified, charge, lean burn, catalytically equipped, and conventional internal combustion engines as well as engines or control devices which the Administrator determines are likely to come into common use.

"(b) The Administrator shall report to Congress the findings and results of the study conducted under subsection (a) not later than one year after the date of the enactment of the Clean Air Act Amendments of 1976 and annually thereafter.

"(c) The reports required to be submitted to the Congress under this section shall be submitted directly to the Congress by the

Administrator before disclosure or submission of such reports to the Office of Management and Budget, the President, or any other department or agency of the United States. Nothing in this subsection shall be construed to preclude the Office of Management and Budget from submitting its comments concerning any such report to the Congress.".

(f) Section 203(a) of the Clean Air Act (42 U.S.C. 1857f-2(a)) is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and substituting "; or ", and by adding the following new paragraph at the end thereof:

"(5) for any manufacturer applying for a suspension under section 202(b)(5) or to which a revised or changed standard under section 202(a)(3) applies, to fail to make maximum efforts which are feasible for such manufacturer to comply with the standard with respect to which such suspension was granted or with such revised standard.".

(f) Section 204(a) and the first sentence of Section 205 of such Act are each amended by striking out "paragraph (1), (2), (3) or (4) of".

EMISSION STANDARDS FOR HEAVY DUTY VEHICLES OR ENGINES AND CERTAIN OTHER VEHICLES OR ENGINES

SEC. 204. (a) Section 202(a) of the Clean Air Act (42 U.S.C. 1857f-1) is amended by adding the following new paragraph at the end thereof:

"(3)(A)(i) The Administrator shall prescribe regulations under paragraph (1) of this subsection applicable to emissions of carbon monoxide, hydrocarbons, and oxides of nitrogen from classes or categories of heavy-duty vehicles or engines manufactured during and after model year 1978. Such regulations applicable to such pollutants from such classes or categories of vehicles or engines manufactured during model years 1978 through 1984 shall contain standards which reflect the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the model year to which such standards apply, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers and to noise, energy, and safety factors associated with the application of such technology.

"(ii) Unless a different standard is temporarily promulgated as provided in subparagraph (B) or unless the standard is changed as provided in subparagraph (E), regulations under paragraph (1) of this subsection applicable to emissions from vehicles or engines manufactured during and after model year 1985 shall contain standards which require a reduction of at least 65 percent in the case of oxides of nitrogen and a reduction of at least 90 percent in the case of carbon monoxide and hydrocarbons from the average of the actually measured emissions from heavy-duty gasoline-fueled vehicles or engines, or any class or category thereof, manufactured during the baseline model year.

"(iii) In establishing classes or categories of vehicles or engines for purposes of regulations under this subsection, the Administrator may base such classes or categories on gross vehicle weight, horsepower, or such other factor as may be appropriate.

"(iv) For the purpose of this paragraph, the term 'baseline model year' means, with respect to any pollutant emitted from any vehicle or engine, or class or category thereof, the model year immediately preceding the model year in which Federal standards applicable to such vehicle or engine, or class or category thereof, first applied with respect to such pollutant.

"(B) During the period of June 1, through December 31, 1979, and during each period of June 1 through December 31 of each third year after 1979, the Administrator may, after notice and opportunity for a public hearing promulgate regulations revising any standard prescribed as provided in subparagraph (A)(ii) for any class or category of heavy-duty vehicles or engines. Such standard shall apply only for the period of three model years beginning five model years after the model year in which such revised standard is promulgated. In revising any standard under this subparagraph for any such three model year period, the Administrator shall determine the maximum degree of emission reduction which can be achieved by means reasonably expected to be available for production for such period and shall prescribe a revised emission standard in accordance with such determination.

"(C) Action revising any standard for any period may be taken by this Administrator under subparagraph (B) only if—

"(i) he finds that compliance with the emission standards otherwise applicable for such model year cannot be achieved by technology, processes, operating methods or other alternatives reasonably expected to be available for production for such model year without increasing cost or decreasing fuel economy to an excessive and unreasonable degree; and

"(ii) the National Academy of Sciences has not, pursuant to its study and investigation under subsection (c), issued a report substantially contrary to the findings of the Administrator under clause (i).

"(D) A report shall be made to the Congress with respect to any standard revised under subparagraph (B) which shall contain—

"(i) a summary of the health effects found or believed to be associated with the pollutant covered by such standard,

"(ii) an analysis of the cost-effectiveness of other strategies for attaining and maintaining national ambient air quality standards and carrying out regulations under section 160 (relating to significant deterioration) in relation to the cost-effectiveness for such purposes of standards which, but for such revision, would apply,

"(iii) a summary of the research and development efforts and progress being made by each manufacturer for purposes of meeting the standards promulgated as provided in subparagraph (A)(ii) or, if applicable, subparagraph (E), and

"(iv) specific findings as to the relative costs of compliance, and relative fuel economy, which may be expected to result from the application for any model year of such revised standard and the application for such model year of the standard, which, but for such revision, would apply.

"(E)(i) The Administrator shall conduct a continuing pollutant-specific study concerning the effects of each air pollutant emitted from heavy-duty vehicles or engines on the public health and welfare. The results of such study shall be published in the Federal Register and reported to the Congress not later than June 1, 1979, and before June 1 of each third year thereafter.

"(ii) On the basis of such study and such other information as is available to him (including the studies under sections 214 and 215), the Administrator may, after notice and opportunity for a public hearing, promulgate regulations under paragraph (1) of this subsection changing any standard prescribed in subparagraph (A)(ii) (or revised under subparagraph (B) or previously changed under this subparagraph). No such changed standard shall apply for any model year before the model year five years after the model year during which regulations containing such changed standard are promulgated.

"(F) For purposes of this paragraph, motorcycles and motorcycle engines shall be treated in the same manner as heavy-duty vehicles and engines unless the Administrator promulgates a rule reclassifying motorcycles as light-duty vehicles within the meaning of this section or unless the Administrator promulgates regulations under subsection (a) applying standards applicable to the emission of air pollutants from motorcycles as a separate class or category.".

(b) Section 202(b)(3) of such Act is amended by adding the following new subparagraph at the end thereof:

"(C) The term 'heavy duty vehicle' means a truck, bus, or other vehicle manufactured primarily for use on the public streets, roads, and highways (not including any vehicle operated exclusively on a rail or rails) which has a gross vehicle weight (as determined under regulations promulgated by the Administrator) in excess of six thousand pounds. Such term includes any such vehicle which has special features enabling off-street or off-highway operation and use.".

(c) Section 312 of such Act is amended by inserting "AND STUDIES ON COST-EFFECTIVENESS ANALYSES" at the end of the heading thereof and by adding the following new subsection at the end thereof:

"(c) Not later than January 1, 1979, the Administrator shall study the possibility of increased use of cost-effectiveness analyses in devising strategies for the control of air pollution and shall report its recommendations to the Congress, including any recommendations for revisions in any provision of this Act. Such study shall also include an analysis and report to Congress concerning whether or not existing air pollution control strategies are adequate to achieve the purposes of this Act.".

(d) Part A of title II of such Act (as amended by sections 203 and 216 of this Act) is further amended by inserting after section 215 the following new section:

"STUDY OF PARTICULATE EMISSIONS FROM MOTOR VEHICLES

"SEC. 216. (a)(1) The Administrator shall conduct a study concerning the effects on health and welfare of particulate emissions from motor vehicles or motor vehicle engines to which section 202 applies. Such study shall characterize and quantify such emissions and analyze the relationship of such emissions to various fuels and fuel additives.

"(2) The study shall also include an analysis of particulate emissions from mobile sources which are not related to engine emissions (including, but not limited to tire debris, and asbestos from brake lining).

"(b) The Administrator shall report to the Congress the findings and results of the study conducted under subsection (a) not later than two years after the date of the enactment of the Clean Air Act Amendments of 1976. Such report shall also include recommendations for standards or methods to regulate particulate emissions described in paragraph (2) of subsection (a).".

(e) Section 206 of such Act (relating to compliance testing and certification) is amended by adding the following new subsection at the end thereof:

"(f)(1) In the case of any class or category of heavy-duty vehicles or engines or motorcycles to which a standard promulgated under section 202(a) of this Act applies, except as provided in paragraph (2), a certificate of conformity shall be issued under subsection (a) and shall not be suspended or revoked under subsection (b) for such vehicles or engines manufactured by a manufacturer notwithstanding the failure of such vehicles or engines to meet such standard if such manufacturer pays a nonconformance penalty as provided under regulations promulgated by the Administrator af-

ter notice and opportunity for public hearing.

"(2) No certificate of conformity may be issued under pargraph (1) if the degree by which the manufacturer fails to meet any standard promulgated under section 202(a) exceeds the percentage determined under regulations promulgated by the Administrator to be practicable. Such regulations shall require such testing of vehicles or engines being produced as may be necessary to determine the percentage of the classes or categories of vehicles or engines which are not in compliance with the regulations with respect to which a certificate of conformity was issued and shall be promulgated not later than December 31, 1977.

"(3) The regulations promulgated under paragraph (1) shall, not later than December 31, 1977, provide for nonconformance penalties in amounts determined under a formula established by the Administrator. Such penalties under such formula—

"(A) may vary from pollutant-to-pollutant;

"(B) may vary by class or category or vehicle or engine;

"(C) shall be based on the extent to which actual emissions of any air pollutant exceed allowable emissions under the standards promulgated under section 202;

"(D) shall create incentives for the development of production vehicles or engines which achieve the required degree of emission reduction; and

"(E) shall remove any competitive disadvantage to manufacturers whose engines or vehicles achieve the required degree of emission reduction.".

AIRCRAFT EMISSION STANDARDS

SEC. 205. (a) Section 231(c) of the Clean Air Act (42 U.S.C. 1857f-9(c)) is amended to read as follows:

"(c) Any regulations in effect under this section on date of enactment of the Clean Air Act Amendments of 1976 or proposed or promulgated thereafter, or amendments thereto, with respect to aircraft shall not apply if disapproved by the Secretary of Transportation, after notice and opportunity for public hearing, on the basis of a finding that any such regulation would create a hazard to aircraft safety. Any such finding shall include a reasonably specific statement of the basis upon which the finding was made."

(b) Section 231(a) of such Act is amended by adding the following new paragraph at the end thereof:

"(4) Not later than 12 months after the date of the enactment of this paragraph and after fulfillment of the procedural requirements contained in paragraph (3) (whether before or after the enactment of this paragraph), the Administrator shall issue final regulations containing emission standards under this section applicable to emissions of air pollutants from nonmilitary supersonic aircraft or supersonic aircraft engines.".

ASSURANCE OF PROTECTION OF PUBLIC HEALTH AND SAFETY

SEC. 206. (a) Section 202(a) of the Clean Air Act (42 U.S.C. 1857f-1(a)), as amended by section 204(a) of this Act, is further amended by inserting "paragraph (1) of" before "this section" in paragraph (2) thereof and by adding a new paragraph at the end thereof:

"(4)(A) Effective with respect to vehicles and engines manufactured after model year 1977, no emission control device, system, or element of design shall be used in a new motor vehicle or new motor vehicle engine for purposes of complying with standards prescribed under this subsection if such device, system, or element of design will cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation, function, or malfunction.

"(B) In determining whether an unreasonable risk exists under subparagraph (A), the administrator shall consider, among other factors, (i) whether and to what extent the use of any device, system, or element of design causes, increases, reduces, or eliminates emissions of any unregulated pollutants; (ii) available methods for reducing or eliminating any risk to public health, welfare, or safety which may be associated with the use of such device, system, or element of design, and (iii) the availability of other devices, systems, or elements of design which may be used to conform to standards prescribed under this subsection without causing or contributing to such unreasonable risk. The Administrator shall include in the consideration required by this paragraph all relevant information developed pursuant to section 214.".

(b) Section 206(a) of such Act (42 U.S.C. 1857f-5(a)) is amended by adding at the end thereof the following:

"(3)(A) A certificate of conformity may be issued under this section only if the Administrator determines that the manufacturer (or in the case of a vehicle or engine for import, any person) has established to the satisfaction of the Administrator that any emission control device, system, or element of design installed on, or incorporated in, such vehicle or engine conforms to applicable requirements of section 202(a)(4).

"(B) The Administrator may conduct such tests and may require the manufacturer (or any such person) to conduct such tests and provide such information as is necessary to carry out subparagraph (A) of this paragraph. Such requirements shall include a requirement for prompt reporting of the emission of any unregulated pollutant from a system, device, or element of design if such pollutant was not emitted, or was emitted in significantly lesser amounts, from the vehicle or engine without use of the system, device, or element of design.".

(c)(1) Section 206(b)(2)(A)(i) of such Act (42 U.S.C. 1857f-5(b)(2)(A)(i)) is amended by inserting "and with the requirements of section 202(a)(4)" after "conformity was issued".

(2) Section 206(b)(2)(A) of such Act is amended by inserting "and requirements" after "such regulations" in each place it appears.

TEST PROCEDURES FOR MEASURING EVAPORATIVE EMISSIONS

SEC. 207. Section 202(b)(1) of the Clean Air Act (42 U.S.C. 1857f-1(b)(1)) is amended by adding a new subparagraph (C) as follows:

"(C) Effective with respect to vehicles and engines manufactured during or after model year 1978 (or in the case of heavy-duty vehicles or engines, such later model year as the Administrator determines is the earliest feasible model year), the test procedure promulgated under paragraph (2) for measurement of evaporative emissions of hydrocarbons shall require that such emissions be measured from the vehicle or engine as a whole. Regulations to carry out this subparagraph shall be promulgated not later than two hundred and seventy days after date of enactment of this subparagraph.".

RAILROAD LOCOMOTIVE EMISSION STANDARDS

SEC. 208. (a) Title II of the Clean Air Act is amended by adding at the end thereof the following new part:

"PART C—RAILROAD LOCOMOTIVE EMISSION STANDARDS

"ESTABLISHMENT OF STANDARDS

"SEC. 235. (a) Within ninety days after the date of enactment of this section, the Administrator shall commence a study and investigation of emissions of air pollutant from railroad locomotives, locomotive engines, and secondary power sources on railroad rolling stock, in order to determine—

"(1) the extent to which such emissions affect air quality in air quality control regions throughout the United States, and

"(2) the technological feasibility of controlling such emissions.

"(b) Within one hundred and eighty days after commencing such study and investigation, the Administrator shall publish a report of such study and investigation and shall issue proposed emission standards applicable to the emission of any air pollutant from any class or classes of locomotives, locomotive engines, and secondary power sources on railroad rolling stock, which in his judgment cause or contribute to air pollution which may reasonably be anticipated to endanger the public health or welfare.

"(c)(1) The Administrator shall hold public hearings with respect to such proposed standards. Within ninety days after the issuance of such proposed regulations, he shall issue such regulations with such modifications as he deems appropriate. Such regulations may be revised from time to time.

"(2) Any regulation prescribed under this section (and any revision thereof) shall take effect after such period as the Administrator finds necessary (after consultation with the Secretary of Transportation) to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"(3) Any regulations under this section, or amendments thereto, shall apply unless disapproved by the Secretary of Transportation, after notice and opportunity for public hearing, on the basis of a finding that any such regulation would create a hazard to railroad safety. Any such finding shall include a reasonably specific statement of the basis upon which the finding was made.

"COMPLIANCE

"SEC. 236. The Secretary of Transportation, after consultation with the Administrator, shall prescribe regulations to insure compliance with all standards prescribed under section 235 by the Administrator. Such Secretary shall insure that all necessary inspections are accomplished, and may execute any power or duty vested in him by any other provision of law in the execution of all powers and duties vested in him under this section.

"STATE STANDARDS AND CONTROLS

"SEC. 237. No State or political subdivision thereof may adopt or attempt to enforce any standard respecting emissions of any air pollutant from any railroad locomotives, locomotive engines, or secondary power sources on railroad rolling stock if the Administrator has promulgated a standard applicable to such emissions, unless such standard is identical to a standard applicable to such locomotives, locomotive engines, or secondary power sources on railroad rolling stock, under this part.".

(b) Section 116 of the Clean Air Act is amended by striking out "and 233" and inserting in lieu thereof "233, and 237".

MOTOR VEHICLE PARTS CERTIFICATION AND STUDY BY FEDERAL TRADE COMMISSION

SEC. 209. (a) Section 207(b)(2) of the Clean Air Act (42 U.S.C. 1857f-5a(b)(2)) is amended by adding the following at the end thereof: "No such warranty shall be invalid on the basis of any part used in the maintenance or repair of a vehicle or engine if such part was certified as provided under subsection (a)(2).".

(b) Section 207(a) of such Act is amended by inserting "(1)" and "(a)" and by adding the following new paragraph at the end thereof:

"(2) In the case of a motor vehicle part or motor vehicle engine part, the manufacturer of such part may certify that use of such part will not result in a failure of the vehicle or engine to comply with emission

standards promulgated under section 202. Such certification shall be made only under such regulations as may be promulgated by the Administrator to carry out the purposes of subsection (b). The Administrator shall promulgate such regulations no later than two years following the date of the enactment of this paragraph.".

(c)(1) Section 207(b) of such Act is amended by striking out "its useful life (as determined under section 202(d))" in each place it appears and inserting in lieu thereof "a period of eighteen months or eighteen thousand miles (or the equivalent), whichever first occurs".

(2) Section 207 of such Act is amended by adding the following new subsection at the end thereof:

"(g) In lieu of the eighteen-month or eighteen thousand mile period referred to in subsection (b) there shall be substituted the useful life of the vehicle or engine) as determined under section 202(d)) if the Federal Trade Commission finds under section 209 (d) of the Clean Air Act Amendments of 1976 that no significant anticompetitive effects would result from the application of such warranty for such useful life.".

(d) The Federal Trade Commission shall undertake a study to determine whether or not any anticompetitive effects would result from any warranty required to be provided pursuant to section 207(b) of the Clean Air Act if such warranty applied for the useful life (as determined under section 202(d) of such Act) of vehicles and engines to which such warranty applies in lieu of the eighteen month or eighteen thousand mile period specified in such section 207(b). Such study shall include public hearings. Such study shall include an analysis of any measures implemented by the Administrator to prevent or diminish such anticompetitive effects and shall include a finding with respect to whether or not significant anticompetitive effects would nevertheless result from such warranty if the warranty applied for such useful life. Such study shall be undertaken primarily by the Bureau of Competition in consultation with the Bureau of Consumer Affairs.

(e) Section 207(c)(3) of the Clean Air Act is amended by inserting after the first sentence thereof the following: "The manufacturer shall provide in boldface type on the first page of the written maintenance instructions notice that maintenance, replacement, or repair of the emission control device and systems may be performed by any automotive repair establishment using any automotive part which meets the performance and engineering specifications of the manufacturer or which has been certified as provided in subsection (a)(2).".

VEHICLE INSPECTION AND MAINTENANCE

SEC. 210. (a) Section 110(a)(2)(G) of the Clean Air Act (42 U.S.C. 1857c-5(a)(2)(G)) is amended by inserting the following before the semicolon at the end thereof: ", and it complies wtih applicable provisions of section 217 respecting the annual inspection and maintenance of motor vehicles registered in such State".

(b) Part A of title II of the Clean Air Act (42 U.S.C. 1857f-1 and following), as amended by sections 203, 216, and 206 of this Act, is further amended by inserting the following new section after section 216:

"INSPECTION AND MAINTENANCE

"SEC. 217. (a) Each applicable implementation plan which, as in effect on June 30, 1975, contained transportation control measures applicable to any air quality control region in a State shall provide for the annual inspection and testing of all light-duty vehicles to which this section applies which are registered in such State by any person whose residence or principal place of business (or both) is located in such air quality control region. Such inspection and testing shall be for purposes of determining compliance by such vehicles with the emission standards specified in subsection (b). Such plan shall, except as permitted under subsection (b)(4)(B) and subsection (c)(1), prohibit the registration and operation of vehicles subject to such inspection and testing in such State unless such vehicles comply with such standards.

"(b)(1) The standards applicable to light duty motor vehicles operating during the annual period beginning eighteen months after the date of the enactment of this section shall require that such vehicles manufactured during a model year shall not emit more than the levels of carbon monoxide (CO) and hydrocarbons (HC) specified in the following table:

"Vehicle model year—	CO level (percent of total mass of emissions)	HC level (parts per million)
1968 and 1969	8.0	800
1970 through 1974	6.0	600
After 1974	3.0	300

"(2) The standards applicable to light duty motor vehicles operating during the annual period beginning thirty months after the date of the enactment of this section shall require that such vehicles manufactured during a model year shall not emit more than the levels of carbon monoxide (CO) and hydrocarbons (HC) specified in the following table:

"Vehicle model year—	CO level (percent of total mass of emissions)	HC level (parts per million)
1968 and 1969	7.0	700
1970 through 1974	5.0	500
After 1974	2.0	200

"(3) The standards applicable to light duty motor vehicles operating during any annual period beginning forty-two months or more after the date of the enactment of this section shall require that such vehicles manufactured during a model year shall not emit more than the levels of carbon monoxide (CO) and hydrocarbons (HC) specified in the following table:

"Vehicle model year—	CO level (percent of total mass of emissions)	HC level (parts per million)
1968 and 1969	5.0	600
1970 through 1974	4.0	400
After 1974	2.0	200

"(4) The Administrator shall promulgate regulations—

"(A) providing for the exemption from the inspection and testing required under this section of such antique and other vehicles as the Administrator deems appropriate, and

"(B) authorizing the operation of vehicles which have not met the applicable standards for such temporary period as may be appropriate to repair or adjust the vehicle in order to meet such standards or to undertake the tuneup required for registration and operation of the vehicle pursuant to subsection (c)(1).

"(5) For the purposes of complying with the provisions of subsection (a), the plan shall require testing for emissions using testing procedure and equipment approved by the Administrator and shall permit the use of existing State motor vehicle inspection and testing facilities and procedures so long as they are consistent with such requirement. The Administrator shall approve testing procedures and equipment for purposes of this paragraph only if he determines that such procedures and equipment comply with such standards respecting calibration, instrumentation, and maintenance as he deems appropriate. Compliance with the levels specified in the tables contained in paragraph (1) shall be determined on the basis of engines operating at idle (as determined by the Administrator).

"(c)(1) Each applicable implementation plan required under subsection (a) to prohibit the registration and operation of noncomplying vehicles may permit the registration and operation of such vehicles if, following the inspection and testing by reason of which such vehicle was determined to be a noncomplying vehicle or within the three-month period immediately preceding the date of such inspection and testing, a major engine tuneup has been undertaken with respect to such vehicle and in the case of a vehicle having such a tuneup following such inspection and testing, such vehicle has (for purposes of providing statistical information only) been reinspected and retested under this section following such tuneup. Nothing in the preceding sentence shall be construed to prohibit the Administrator from approving any implementation plan which contains any requirement prohibiting the registration and operation of any noncomplying vehicles.

"(2) Not later than four years after the date of enactment of this section, the Administrator shall include in his report to the Congress under section 313 an analysis of any new inspection and testing methods or technology which have become available during such four-year period and which may be appropriate (taking cost into account) for purposes of this section.

"(d) The requirements or authority contained in this section shall not be deemed to affect or impair any requirement contained in any other provision of this Act.".

(c) Section 210 of such Act (42 U.S.C. 1857f-6b) is amended by adding the following at the end thereof: "Grants may be made under this section by way of reimbursement in any case in which amounts have been expended by the State before the date on which any such grant was made. The preceding sentence shall not apply to any amounts expended by a State before the date of the enactment of the Clean Air Act Amendments of 1976. Any grant under this section may be reduced or suspended by the Administrator upon his determination, following notice and opportunity for a public hearing, that a State vehicle inspection maintenance program is not equal to or more stringent than the procedures and standards specified in section 217.".

(d) Not later than three months after the date of enactment of this Act, the Administrator shall notify each State which will be required to revise the applicable implementation plan to include an inspection and

maintenance program for purposes of compliance with the amendments made by this section and each such State shall, within 9 months after receiving such notice, submit to the Administrator a revision of such plan. Within 3 months after the date required for submission of such revision, the Administrator shall approve or disapprove the revision if he determines that it complies with the amendments made by this Act and was adopted after reasonable notice and hearing. The provisions which are required under section 217 to be included in such plan shall be implemented not later than 18 months after the date of enactment of this Act.

COST OF VAPOR RECOVERY SYSTEMS TO BE BORNE BY OWNER OF RETAIL OUTLET

SEC. 211. (a) Title III of the Clean Air Act, as amended by sections 306, 201, and 304 of this Act, is further amended by adding the following new section at the end thereof:

"COST OF EMISSION CONTROL FOR CERTAIN VAPOR RECOVERY TO BE BORNE BY OWNER OF RETAIL OUTLET

"SEC. 320. The regulations under this Act applicable to vapor recovery with respect to mobile source fuels at retail outlets of such fuels shall provide that the cost of procurement and installation of such vapor recovery shall be borne by the owner of such outlet (as determined under such regulations). Such regulations shall provide that no lease of a retail outlet by the owner thereof which is entered into or renewed after the date of enactment of the Clean Air Act Amendments of 1976 may provide for a payment by the lessee of the cost of procurement and installation of vapor recovery equipment.".

(b) Section 113(b)(3) of such Act (42 U.S.C. 1857c-8(b)(3)), as amended by section 107, is further amended by inserting "or 320" before the semicolon.

(c) Title III of such Act, as amended by sections 306, 201, 304, 312, 313, and 108 of this Act and by subsection (a) of this section is further amended by adding the following new section at the end threof:

"VAPOR RECOVERY FOR SMALL BUSINESS MARKETERS OF PETROLEUM PRODUCTS

"SEC. 324. (a) The regulations under this Act applicable to vapor recovery with respect to mobile source fuels at retail outlets of such fuels shall provide a four year phase-in period to independent small business marketers of gasoline responsible for installing vapor recovery equipment. Such regulations shall require that small business marketers shall have 25 percent of their outlets in compliance with the regulations at the end of the first year, 50 percent the second, 75 percent the third, and 100 percent the fourth.

"(b) For the purposes of this section, the term 'independent small business marketer' shall mean any petroleum marketing company or corporation with gross sales below $50,000,000 annually.".

TESTING BY SMALL MANUFACTURERS

SEC. 212. Section 206(a)(1) of the Clean Air Act (42 U.S.C. 1857f-(5)(a)(1)) is amended by adding at the end thereof the following: "In the case of any manufacturer of vehicles or vehicle engines whose projected sales in the United States for any model year (as determined by the Administrator) will not exceed three hundred, the regulations prescribed by the Administrator concerning testing by the manufacturer for purposes of determining compliance with regulations under section 202 for the useful life of the vehicle or engine shall not require operation of any vehicle or engine manufactured during such model year for more than five thousand miles or one hundred and sixty hours, respectively, but the Administrator shall apply such adjustment factors as he deems appropriate to assure that each such vehicle or engine will comply during its useful life with the regulations prescribed under section 202 of this Act.".

CALIFORNIA WAIVER

SEC. 213. Section 209(b) of the Clean Air Act (42 U.S.C. 1857f-6a(b)) is amended to read as follows:

"(b)(1) The Administrator shall, after notice and opportunity for public hearing, waive application of this section to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. No such waiver shall be granted if the Administrator finds that—

"(A) the determination of the State is arbitrary and capricious,

"(B) such State does not need such State standards to meet compelling and extraordinary conditions, or

"(C) such State standards and accompanying enforcement procedures are not consistent with section 202(a) of this part.

"(2) If each State standard is at least as stringent as the comparable applicable Federal standard, such State standards shall be deemed to be at least as protective of health and welfare as such Federal standards for purposes of paragraph (1).

"(3) In the case of any new motor vehicle or new motor engine to which State standards apply pursuant to a waiver granted under paragraph (1), compliance with such State standards shall be treated as compliance with applicable Federal standards for purposes of this title.".

LOW-EMISSION VEHICLES

SEC. 214. (a) Section 212(d) of the Clean Air Act (42 U.S.C. 1857f-6e(d)) is amended—

(1) by striking out "a classic or model" in paragraph (1)(C) and inserting in lieu thereof "a class, model, or other category (including a category based on limited use or determined on the basis of such other criteria as will effectuate the purpose of procuring low-emission vehicles)",

(2) by striking out "class or model" each place it appears in the second and third sentences of paragraph (1) and in paragraph (3) and inserting in lieu thereof in each such place "class, model or category", and

(3) by striking out "any class or classes" in paragraph (3)(F) and inserting in lieu thereof "any class, model or category".

(b) Section 212(e) of such Act is amended by striking out "class or model" in paragraphs (1) and (2) thereof and substituting "class, model, or category".

REMOVING OR TAMPERING WITH CERTAIN DEVICES, ETC.

SEC. 215. (a) Section 203(a)(3) of the Clean Air Act (42 U.S.C. 1857(f)-2(a)(3)), relating to prohibited acts, is amended by striking out "or dealer" and inserting in lieu thereof ", dealer, or person engaged in the business of repairing motor vehicles".

(b) Section 203(a) of such Act is amended by adding the following at the end thereof: "Nothing in paragraph (3) shall be construed to require the use of manufacturer parts in maintaining or repairing any motor vehicle or motor vehicle engine. For the purposes of the preceding sentence, the term 'manufacturer parts' means parts produced by the manufacturer of the motor vehicle or motor vehicle engine.".

HIGH ALTITUDE PERFORMANCE ADJUSTMENTS

SEC. 216. (a) Section 203(a) of the Clean Air Act (42 U.S.C. 1857f-2(a)), as amended by section 215 of this Act, is further amended by adding the following at the end thereof: "No action with respect to any element of design referred to in paragraph (3) (including any adjustment or alternation of such element) shall be treated as a prohibited Act under such paragraph (3) if such action will not adversely affect the emission control performance of the vehicle or engine.".

(b) Title II of such Act as amended by section 203 of this Act is further amended by inserting the following new section after section 214:

"HIGH ALTITUDE PERFORMANCE ADJUSTMENTS

SEC. 215. (a) Any action taken with respect to any element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title (including any alteration or adjustment of such element), shall be treated for purposes of section 203(a) as not adversely affecting the emission control performance of the vehicle or engine if such action is performed in accordance with instructions—

"(1) provided by the manufacturer and approved by the Administrator, or

"(2) promulgated by the Administrator.

No such instructions may be approved or promulgated by the Administrator unless he finds that the actions authorized pursuant to such instructions will insure emission control performance at least equivalent to that which would result if no such action were authorized. Such findings shall be based upon test data which the Administrator determines to be adequate with respect to such emission control performance.

"(b) Unless the manufacturer of a class or category of motor vehicles or motor vehicle engines publishes instructions approved by the Administrator for the purpose of subsection (a) for such class or category providing for high altitude performance adjustments and makes such instructions generally available to the public within six months after (1) the date on which such class or category first becomes available for sale to the general public, or (2) the date of enactment of this section, whichever last occurs, or unless he determines that he cannot make the finding required under subsection (a) with respect to such class or category, the Administrator shall, within eighteen months after such date, promulgate such instructions for such class or category.

"(c) No instructions which require the use of any manufacturer parts (within the meaning of section 203(a)) may be promulgated or approved by the Administrator under this section.".

PARTS STANDARDS; PREEMPTION OF STATE LAW

SEC. 217. Section 209 of the Clean Air Act (42 U.S.C. 1857f-6a) (relating to State standards) is amended by redesignating subsection (c) as (d) and by inserting after subsection (b) the following new subsection:

"(c) Whenever a design or performance standard with respect to any motor vehicle part or motor vehicle engine part is in effect under regulations of the Administrator under section 207(a)(2), no State or political subdivision thereof shall adopt or attempt to enforce any design or performance standard or any requirement of certification, inspection, or approval applicable to the same aspect of such part. The preceding sentence shall not apply in the case of a State with respect to which a waiver is in effect under subsection (b).".

FILL PIPE STANDARDS

SEC. 218. Section 202(a) of the Clean Air Act (42 U.S.C. 1857f-1(a)) as amended by sections 204 and 206 of this Act is further amended by adding the following new paragraph at the end thereof:

"(5)(A) If the Administrator promulgates final regulations which define the degree of control required and the test procedures by which compliance could be determined for gasoline vapor recovery of uncontrolled emissions from the fueling of motor vehicles, the

Administrator shall prescribe, by regulations, fill pipe standards for new motor vehicles in order to insure effective connection between such fill pipe and any vapor recovery system which receives certification of performance capability. In promulgating such standards the Administrator shall take into consideration limits on fill pipe diameter, minimum design criteria for nozzle retainer lips, limits on the location of the unleaded fuel restrictors, a minimum access zone surrounding a fill pipe, a minimum fill pipe or nozzle insertion angle, and such other factors as he deems pertinent.

"(B) Regulations prescribing standards under subparagraph(A) shall not become effective until the introduction of the model year for which it would be feasible to implement such standards, taking into consideration the restraints of an adequate lead time for design and production.

"(C) Nothing in subparagraph (A) shall (i) prevent the Administrator from specifying different nozzle and fill neck sizes for gasoline with additives and gasoline without additives or (ii) permit the Administrator to require a specific location, configuration, modelling, or styling of the motor vehicle body with respect to the fuel tank fill neck or fill nozzle clearance envelope.

"(D) Any standards promulgated under subparagraph (A), or amendments thereto, may be prescribed only after consultation with the Secretary of Transportation in order to assure appropriate consideration for vehicle safety.

"(E) For the purpose of this paragraph, the term 'fill pipe' shall include the fuel tank fill pipe, fill neck, fill inlet, and closure.".

ONBOARD HYDROCARBON TECHNOLOGY

SEC. 219. Sec. 202(a) of the Clean Air Act (42 U.S.C. 1957f-1(a)), as amended by sections 204, 206, and 218 of this Act, is further amended by adding the following new paragraph at the end thereof:

"(6)(A) The Administrator shall determine the feasibility and desirability of requiring new motor vehicles to utilize onboard hydrocarbon control technology which would avoid the necessity of gasoline vapor recovery of uncontrolled emissions emanating from the fueling of motor vehicles. The Administrator shall compare the costs and effectiveness of such technology to that of implementing and maintaining vapor recovery systems (taking into consideration such factors as fuel economy, economic costs of such technology, administrative burdens, and equitable distribution of costs). If the Administrator finds that it is feasible and desirable to employ such technology, he shall prescribe, by regulations, standards which shall not become effective until the introduction of the model year for which it would be feasible to implement such standards, taking into consideration compliance costs and the restraints of an adequate lead time for design and production.

"(B) Any regulations promulgated under subparagraph (A), or amendments thereto, shall not apply if disapproved by the Secretary of Transportation, after notice and opportunity for public hearing, on the basis of a finding that any such regulations would create a hazard to vehicle safety. Any such finding shall include a reasonably specific statement of the basis upon which the finding was made.".

PARLIAMENTARY INQUIRY

Mr. BROYHILL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BROYHILL. Mr. Chairman, is it not a fact that no amendments can be offered to this title until the entire title is read?

The CHAIRMAN. The gentleman is correct.

Mr. BROYHILL. I thank the Chair.

Mr. CARTER. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The Chair would advise the gentleman that this request is not in order during the reading of the title.

Mr. CARTER. Mr. Chairman, I ask unanimous consent that this title be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, I did not hear the request.

The CHAIRMAN. The gentleman from Kentucky has asked unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued reading title II.

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Page 258, strike out line 7 and all that follows down through line 2 on page 263 and insert in lieu thereof the following:

"(A) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1977 through 1979 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.5 grams per mile of hydrocarbons and 15.0 grams per mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1980 and 1981 shall contain standards which provide that the emissions from such vehicles and engines may not exceed .9 grams per mile of hydrocarbons and 9.0 grams per mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during or after model year 1982 shall contain standards which require a reduction of at least 90 per centum from emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to light-duty vehicles and engines manufactured in model year 1970."

(b) Subparagraph (B) of such section 202 (b)(1) is amended to read as follows:

"(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1977 through 1981 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per mile."

(c) Section 202(b) of such Act is amended by striking out paragraph (5) thereof and substituting the following:

"(5)(A)(i) The Administrator, after notice and opportunity for hearing (as provided in section 307(d)), shall promulgate, affording a sufficient period to permit the development and application of the requisite technology (giving appropriate consideration to the cost of compliance within such period), regulations containing standards applicable to emissions of oxides of nitrogen which shall apply to light-duty vehicles or engines manufactured during the model years 1982 and 1983 and, in the discretion of the Administrator, subsequent model years.

"(ii) Standards established under regulations promulgated under this paragraph shall provide for the maximum reduction of emissions which the Administrator determines to be technologically practicable for the model year to which they apply, giving appropriate consideration to the cost of compliance, the need for such standards to protect public health and the impact of such standards on motor vehicle fuel consumption.

"(B) Regulations promulgated under this paragraph may be revised pursuant to clause (ii) of subparagraph (A). A standard established in any such revised regulation shall apply for two or more model years within the period specified in subparagraph (A)(i).

"(6)(A) Upon promulgation of a regulation under paragraph (5) applicable to any period of two or more model years, the Administrator shall report to the Congress respecting the motor vehicle fuel consumption consequences, if any, of the standards applicable for such period in relationship to the motor vehicle fuel consumption associated with the standards applicable for the model year immediately preceding such period.

"(B) The Secretary of Transportation and the Federal Energy Administration shall each submit to Congress, as promptly as practical following submission by the Administrator of the fuel consumption report referred to in subparagraph (A), separate reports respecting such fuel consumption."

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, I would merely state to my friend from Michigan that I have no real objection, but I do get a

little tired over here of watching the Members in the early part of the debate get all the time they want, but when we get down to the end, time is restrained and closed. If the gentleman is going to move to close debate later, I would object.

Mr. DINGELL. I would advise the gentleman that this is the first time I have spoken under the 5-minute rule. Furthermore, I have no intention of seeking a limitation of debate.

Mr. ASHBROOK. Mr. Chairman, with that assurance, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, my colleagues are well familiar, I believe, with this amendment and its purposes.

Mr. Chairman, I think my colleagues should know the committee's bill is founded on no careful study of the facts or circumstances relating to energy use and other environmental circumstances. The only meaningful study which has been made of energy use, of energy wastage, and of environmental benefits on the different amendments which will be offered to this bill, and the committee bill itself, were made after the committee had acted and after it had adopted the sections relating to automotive emissions. The only definitive study which has been made on this point has been made by the three Federal agencies chargeable with responsibility in the area: The Department of Transportation, which deals with automobile fuel efficiency and energy wastage, the Environmental Protection Agency, which deals with air quality, and the Federal Energy Administration, which has broad concerns in the area of energy use. Those are the only definitive studies, and they were made at my request after the committee had acted.

The subcommittee gave no thought and no consideration to these points and had no data whatsoever of any validity.

It has been charged that the amendment which we, my able colleague and friend, Mr. BROYHILL and I, now offer, which tightens up over an appropriate period of time auto emission standards, is one which prevents, slows down or retards clean up of the air and reduction of emissions. That statement is categorically false, and I would like to treat of it at the appropriate time.

Let me first of all give my colleagues the consequences in regard to the effect of alternative emission standards with regard to future air quality. My colleagues will observe the standards of the three different alternatives before the House are set up here. The green, my colleagues will observe, is the Train proposal, which is the proposal which I offer today. Next to it is the Broadhead proposal, which is the committee bill, and next to that is the Waxman proposal, which will be offered shortly by the gentleman from California.

Observe, if you please, the difference in hydrocarbons, one of the important emissions, is fixed by the three.

They are in each instance the same over the period between now and 1990 with regard to both hydrocarbons and oxidents.

With regard to carbon monoxide, the consequences of all three proposals, the Dingell-Broyhill—Train amendment, the Waxman proposal and the committee bill are exactly the same, according to EPA, DOT, and FEA.

Oxides of nitrogen are not statistically different. I repeat, statistically the difference between the three proposals in levels of oxides of nitrogen is statistically insignificant.

I would urge my colleagues to observe that between the three, difference in benefits, in terms of environment and health, are nonexistent. The amendment which I offer today has the endorsement of EPA Administrator Train as being the best mix of air quality, environmental benefits, health, energy savings, energy efficiency and overall economic benefits to the consumer.

Let us go a little further. I would like my colleagues to look with me now at the effect of auto air emission standards on future air quality. These are the figures which have been done in the joint study by EPA, DOT, and FEA. Observe that in each instance the Train figures which are offered by me and my friend and colleague, the gentleman from North Carolina (Mr. BROYHILL), the Brodhead language, which is the committee bill, and the Waxman proposal, in each and every instance the effect on future air quality in 1990 is exactly the same.

Thirty-one air quality regions in each instance will be out of conformity with the requirements of Federal law. In each instance the air quality standards and results in terms of conformity with air quality standards will be precisely the same. I will point out parenthetically that with the same expenditure of money we can get four times as much clean-up on NO_x by attacking the stationary sources, which the committee bill does not do, over the same period of time.

Mr. Chairman, I think my colleagues ought to understand that one of the major problems this Nation has is high cost of living, and another problem is wastage of fuel and energy. This is something that was not addressed by the subcommittee prior to the time that I requested a study made by the Department of Transportation, the Environmental Protection Administration, and FEA.

I will ask the Members to observe the difference in cost to the consumers, the people we serve.

It has been said that this is an auto industry amendment. The auto industry does support it, as do scores of other industries, but it ought to be known that that auto industry will make any car that the Government says that it has to make, and of those it will sell any car that the consumer desires to buy.

The consequences in terms of added consumer cost from the 3 different proposals before this body are, I believe, clear to see. Let us observe that by the committee bill, between 1977 and 1985 it is going to cost the consumer $22.3 billion. That is $22.3 billion in additional cost for purchase of the automobile, for fuel wasted, and for additional maintenance, and with no health or environmental benefit. Just observe the difference between the amendment which I offer and the committee bill; the figure is $22.3 billion in savings to the consumer. But then observe the cost additionally to the American consumer by the Waxman amendment shortly to be offered. In real constant dollars, the figure is $27.99 billion.

Mr. Chairman, if we figure the consequences of inflation, the committee bill will cost the consumer $30 billion more, and the Waxman amendment will cost $39 billion more, and, remember, for no discernible health or environmental benefit.

More importantly, let us look at energy use. We have been hard scrabbling and grubbing around here to find ways to reduce our dependency on imported oil. Now, equally important is the fact that with an oil shortage goes inflation, and with an oil shortage goes other environmental evils such as trans-Alaskan pipelines, additional off-shore drilling, strip mining, and an abundance of other undesirable environmental consequences, because the environmental consequences are not just the pollutants that go into the air but include a broad spectrum of other things.

I would beg my colleagues to look at the fuel penalty consequences of the committee bill, and that is shown on this chart in blue. These are the cumulative model years, 1977 to 1985. This shows that 1.03 billion gallons per year are the fuel penalty consequences of the bill before the House today. My amendment would reduce that by 1.3 billion gallons. That is 67,000 barrels of oil a day as a penalty. This line represents the Waxman-Maguire proposal, and this shows 121,000 barrels a day or 1.85 billion gallons of gasoline every year.

So what is before the House today? What is before the House at this time is the question: Are we going to get something which gives us the most responsible mix of wholesome environmental health, safety, consumer protection, low cost to consumers, and a reduction in the wastage and loss of fuel?

Mr. Chairman, let us remember, with the wastage and loss of fuel go strip mining, trans-Alaska pipelines, additional atomic generating capacity, and loss of employment.

Mr. Chairman, let us talk about loss of employment a little bit because that is important to us.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. Mr. Chairman, the Nation is just recovering from one of its most serious economic recessions since 1929. According to a study made by Chase Econometrics, an unbiased economic analysis and modeling institution, the loss in employment between now and 1985, from the committee bill, will be the loss of production of 8 million automobiles and the loss of 830,000 jobs.

Mr. Chairman, those are the political

consequences, the economic consequences, the environmental benefits, and the fuel penalty that lie before us. One enormous tanker load of oil—61,000 barrels—imported from the Arabs every day is the fuel penalty, the consequences of the committee bill.

Mr. Chairman, I ask my colleagues, the Members of the House, to understand that this is not peanuts because every one of those barrels is priced at $15.50.

Mr. Chairman, I urge my colleagues to support this responsibly crafted Dingell-Broyhill—Train—proposal, which is based on sound and careful analytical work. Every single assumption on this matter has been made available by me to my colleagues. I have asked the DOT, FEA and EPA in their study to lay out the facts, assumptions, and the consequences of this, warts and all, so that my colleagues can know precisely what it is all about.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman for yielding.

The gentleman has not explained this to the House, and I wonder whether he would not agree that it is important that the House understand that the study he has cited includes, in fact, a range of possible outcomes and that the fuel penalty chart which he is showing us here is, in fact, the worst possible case he could give us.

Mr. DINGELL. That is not true, that is not true. In fact, I have chosen the fairest case based on the best technology available at this time. I am aware that that charge is made, but it is not true.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has again expired.

(On request of Mr. MAGUIRE and by unanimous consent, Mr. DINGELL was allowed to proceed for 1 additional minute.)

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, the ranges of fuel economy outcomes in the study, as it is expressed in written form, is from less than 1 percent to 5 percent. That is a big difference. What does the chart represent?

Mr. DINGELL. I do not really understand the gentleman's question. I will be glad to explain if he will make it clear. I will be glad to answer the question raised by the gentleman from New Jersey if he will make it clear.

Mr. MAGUIRE. The EPA, in responding to an inquiry with respect to the claim that the gentleman from Michigan (Mr. DINGELL) is making, has said:

> We are unable to reconcile the April 8 report with the estimate of twenty percent fuel economy loss in 1981–82 due to NO_x control in the House Committee bill vs. the Dingell Amendment. The cases as estimated in the report show a maximum fuel economy loss of five percent for the low range estimate and no loss for the high range estimate, for those model years.

Mr. Chairman, I emphasize that "no loss (of fuel economy) for the high range estimate."

Mr. BROYHILL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I have joined with my colleague, the gentleman from Michigan Mr. DINGELL), to offer this amendment, for several reasons. Among them, of course, are energy savings, less cost to the consumer with respect to the initial cost of automobiles, and also less cost in operation.

Mr. Chairman, as the gentleman from Michigan (Mr. DINGELL) has very eloquently pointed out with the charts that he has just presented to the Members here, the amendment which he offers will result in equally clean air.

At the same time the amendment that has been offered by the gentleman from Michigan (Mr. DINGELL) would free up the technical options that would be avaliable to the automobile industry, it would also result in less risk of an economic setback at a time when we are moving out of the recession.

All of these reasons indicate to me that we should support this amendment. We do have a record that we can point to that would justify Members voting for this amendment. I would urge the Members to take a look at the minority views and additional views that were filed by the gentleman from Michigan (Mr. DINGELL) and myself and others about this particular amendment.

One fact I would like to point out is that the Dingell amendment turns the final, tough, technical decision that will have to be made on NO_x over to the Environmental Protection Agency. It seems to me that that is where it belongs. The Congress just does not have the technical expertise to make a technical judgment about this matter of what standards we have to set on NO_x.

Let me see if I can explain it this way. NO_x is created when gasoline is burned. It is not present in gasoline. According to the technical people who have briefed me on this, the higher the temperature of the burn, the better mileage you get and the more pollutants you consume but higher the NO_x you get out of the tailpipe.

If you lower the temperature, you form less NO_x but you do not get as much mileage from the gasoline and you get more pollutants coming from the burn.

As we heard in committee, you just cannot repeal the law of thermodynamics.

So this is a highly technical scientific decision that is going to have to be made on the level of NO_x that we set. In the Dingell-Broyhill amendment, the final decision as to whether you bring it down to 0.4, sooner or later, is left up to the EPA.

We created EPA for the purpose of gathering the expertise to analyze such questions as this. The Dingell-Broyhill amendment would let them do what we intended that they should do.

As far as energy and cost savings are concerned, I do not believe I can add anything to what my colleague, the gentleman from Michigan (Mr. DINGELL) has already said and pointed out earlier. Certainly as the gentleman from Michigan pointed out, the health benefits alone certainly do not justify the costs that are associated with the standards that are set in cement in the committee bill. In regard to HC and CO, there are no identifiable differences between the standards set in the committee bill and the Dingell-Broyhill amendment and as far as the NO_x differences are concerned, they are less than a 10-percent improvement. But as the chart that the gentleman from Michigan (Mr. DINGELL) showed to the Members indicates, the health benefits are negligible, the consumer costs are great. So our argument is that we should adopt the Dingell-Broyhill standards in order to permit additional time to work out the technology and not be adding this tremendous cost to the consumers.

Mr. Chairman, I urge that the Members support the Dingell amendment.

AMENDMENT OFFERED BY MR. WAXMAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. DINGELL

Mr. WAXMAN. Mr. Chairman, I offer an amendent as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. WAXMAN as a Substitute for the amendment offered by Mr. DINGELL: Page 258, strike out line 7 and all that follows down through line 3 on page 267 and insert in lieu thereof the following:

"(A) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during the model years 1977 through 1980 shall contain standards which provide that such emissions from such vehicles and engines may not exceed the levels (expressed in grams per vehicle mile) specified in the following table:

"Model year	Carbon monoxide level	Hydrocarbon level
1977	15.0	1.5
1978	9.0	0.9
1979	9.0	.41
1980	9.0	.41

The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light duty vehicles and engines manufactured during of after model year 1981 shall contain standards which require a reduction of at least 90 per centum from emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to light-duty vehicles and engines manufactured in model year 1970."

(b) Subparagraph (B) of such section 202 (b)(1) is amended to read as follows:

"(B) The regulations under subsection (a) applicable to emissions of oxide of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regu-

lations under subsection (a) applicable to emissions of oxide of nitrogen from light-duty vehicles and engines manufactured during model years 1977 through 1978 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per vehicle mile. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1979 and 1980 shall contain standards which provide that emissions from such vehicles and engines may not exceed 1.5 grams per vehicle mile. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during or after model year 1981 shall contain standards which require a reduction of at least 90 per centum from the average of emissions of oxides of nitrogen actually measured from light-duty vehicles manufactured during model year 1971 which are not subject to any Federal or State emission standard for oxides of nitrogen. Such average of emissions shall be determined by the Administrator on the basis of measurements made by him.".

(c) Section 202(b) of such Act is amended by adding the following new paragraphs at the end thereof:

"(6) The standard required under the third sentence of subparagraph (B) of paragraph (1) (pertaining to oxides of nitrogen) shall not apply with respect to any manufacturer for any model of light duty vehicles or engines if the Administrator determines that such model will emit for a period of ten years or one hundred thousand miles, whichever first occurs, not more than .41 grams per vehicle mile of hydrocarbons, not more than 3.4 grams per vehicle mile of carbon monoxide, and not more than 1.0 grams per vehicle mile of oxides of nitrogen. Such determination shall be made in accordance with the certification test procedures required under section 206 (with durability testing for not less than one hundred thousand miles).".

"(7)(A) Any manufacturer may file with the Administrator an application requesting the suspension for any model year before the model year 1981 of the effective date of any standard applicable to light-duty motor vehicles or engines under this section for emissions of carbon monoxide, hydrocarbons, oxides of nitrogen, or for suspension of any combination thereof. During any calendar year, no manufacturer may file an application with respect to more than one model year. The Administrator shall grant such suspension for such model year only if—

"(i) standards applicable to emissions of sulfates or sulfuric acid, or both, from such vehicles or engines have been promulgated under subsection (a)(1) for such model year,

"(ii) the Administrator finds, after notice and public hearing, that the applicant has established that—

"(I) effective control technology, processes, or operating methods, or other alternatives are not available or have not been available for a sufficient period of time prior to their effective dates to achieve compliance with the standards applicable in such model year to emissions of carbon monoxide, hydrocarbons, oxides of nitrogen, and the standard or standards applicable to sulfates and sulfuric acid, or

"(II) fuel economy of such vehicles or engines would be substantially less in the case of vehicles or engines meeting standards applicable to emission of all such pollutants than the fuel economy of light-duty vehicles or engines meeting standards applicable for such model year only to emission of carbon monoxide, hydrocarbons, and oxides of nitrogen,

"(iii) the Administrator finds, after notice and public hearing, that emissions of sulfates or sulfuric acid, or both, from light-duty vehicles or engines cause or contribute to air pollution which may reasonably be anticipated to endanger the public health or welfare to a greater extent than emissions from such vehicles of the pollutant or pollutants with respect to which application is made under this paragraph.

"(iv) the National Academy of Sciences has not, pursuant to its study and investigation under subsection (c), issued a report contrary to the findings of the Administrator under clauses (ii) and (iii), and

"(v) notice of such suspension has been reported to the Congress by the Administrator and neither House has passed a resolution disapproving such suspension before the expiration of sixty calendar days of continuous session of Congress after receipt of such notice by such House.

For purposes of congressional action under clause (v), the provisions of subsection (b) and subsections (d) through (g) of section 155 shall apply to suspensions under this paragraph in the same manner as to regulations of the Administrator under subtitle B of title I (relating to stratosphere and ozone protection).

"(B) No suspension under this paragraph of any standard with respect to a pollutant may permit emissions of such pollutant in excess of the levels (expressed in grams per vehicle mile) specified in the following table:

Suspension of oxides of nitrogen standard	2.0
Suspension of hydrocarbon standard	1.5
Suspension of carbon monoxide standard	15.0

"(C) During any calendar year, no suspension under this paragraph may be granted with respect to any standard for more than one model year and no suspension shall be granted with respect to an application filed for vehicles or engines manufactured during the model year specified in the left-hand column below unless such application is filed on or after November 1 of the year specified in the right-hand column below:

"Model year:	Earliest application year
1980	1977
1981	1978

"(D) In any case in which the requirements of clauses (i) and (ii) of subparagraph (A) are met, if the Administrator finds, after notice and public hearing, that emissions of sulfates or sulfuric acid, or both, from light-duty vehicles and engines do not in his judgment cause or contribute to air pollution which may reasonably be anticipated to endanger the public health or welfare to a greater extent than emissions of the other pollutants referred to in subparagraph (A), and if the National Academy of Sciences has not issued a report under subsection (c) contrary to such finding or contrary to the finding under subparagraph (A)(ii), he shall suspend the standard applicable to emissions of sulfates or sulfuric acid, or both (as may be consistent with such finding), subject to the requirements and limitations contained in subparagraphs (A) (other than clauses (iii) and (iv) thereof) and (C) of this paragraph. Such suspension shall not permit emissions of such pollutant in excess of the level which the Administrator determines to be technologically feasible for vehicles or engines to meet without resulting in substantially less fuel economy in relation to the fuel economy which would result if no standard for such pollutant were applicable."

(d) Section 202(c)(1) of such Act, relating to arrangements for NAS study, is amended by striking out "subsection (b) of".

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that I be allowed to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Chairman, the Waxman-Maguire amendment has two provisions. First, it provides that the statutory standards be met in 1981—a 3-year delay from current law. Second, our amendment calls for the imposition nationwide, in the interim, of the 1976 and 1977 California standards.

This amendment reflects the arguments I have been making in the Congress for over a year—that there is no justifiable reason why an extended freeze of the current automobile emissions standards should be granted.

What is being proposed by Representative DINGELL, President Ford, and the automobile manufacturers is nothing less than a complete subversion of the Congress mandate that the full 90-percent reduction in tailpipe emissions be accomplished with all deliberate speed.

The Congress established the statutory standards 6 years ago in order to protect public health. Every year, 4,000 Americans die and 4 million workdays are lost to illness due to automobile pollution. Exposure to harmful tailpipe emissions has been shown to cause cardiovascular and respiratory diseases, particularly among the very young and the very old. Although the Clean Air Act directs that there be established air quality standards designed to protect public health, there are no known "threshold" levels of pollution—levels below which no adverse health effects occur.

In dollars, the cost to the American people from the damage caused by automotive air pollution lies somewhere between $2.5 and $10 billion per year. This is an extraordinarily high cost to the American people and our quality of life.

The industry has contended time and again that meeting the statutory standards would cause enormous fuel penalties, greatly increased car costs, and provide only marginal improvements in air quality. We have been told that the earliest date that a car meeting the statutory standards could be marketed would be after the end of this decade.

The automobile industry was wrong. Cars meeting the statutory standards will be on the road later this year. These automobiles will get 10 percent better fuel economy than last year's models. The increased cost to the consumer—$50—is minimal.

It is no coincidence, in my judgment, that one manufacturer is mass producing a car that meets the full statutory standards this year. Almost every outside analysis of the industry, including the National Academy of Sciences, has previously concluded that the statutory standards could be met by 1978, without

a fuel penalty, and at a modest cost to the consumer. Those analyses were correct.

The Volvo achievement has dramatically demonstrated that fuel economy and emissions reduction are not incompatible—a fact that is also plainly evident when one considers that while tailpipe emissions have been cut some 67 percent since 1970, fuel economy has increased significantly. And the pollution control hardware, a CRS study has shown, has been responsible for only a fraction of the huge increases in car prices over the last several years.

All of the foregoing has served as the rationale behind the Waxman-Maguire amendment. It is therefore of crucial importance for my colleagues to realize that our amendment is not an endorsement of Volvo or the means they have chosen to achieve the end; rather, the Volvo is an endorsement of the Waxman-Maguire amendment, which accurately reflects the progress which has been made to date in meeting the statutory standards.

By establishing 1981 as the final deadline for compliance with the full statutory standards, we are giving Detroit 4 years from the time a car meeting those standards has been marketed to achieve them on an industrywide basis. We believe this is eminently reasonable.

Additionally, although we are greatly encouraged by the success of the three-way catalyst, we do not wish to lock the manufacturers into any one particular device or engineering technique. By establishing the current California standards as the interim levels, we have provided the industry a large amount of flexibility in its exploration of various ways and means toward meeting the statutory standards.

Finally, by requiring the adoption of the California standards in the interim, our amendment will keep pressure on Detroit to maintain a step-by-step progression toward final compliance in 1981. Moreover, all the standards our amendment would apply nationally between now and 1981 will have been in effect for at least 2 years beforehand in California. They are, in other words, proven and available.

I am therefore convinced that we now have available the means which can finally resolve the differences between Detroit and the Congress over this issue. All of these promising efforts will be compromised, however, if the Congress obviates their need by granting an extended freeze of the current Federal standards. Defeat of the Waxman-Maguire amendment would remove any incentive Detroit might have to capitalize on these developments.

We believe our amendment is a reasonable compromise of all the issues involved. It will result in further progress in cleaning up the air, to the benefit of the public health. We can achieve this goal at a cost that is acceptable to the consumer and to industry.

The CHAIRMAN. The time of the gentleman from California (Mr. WAXMAN) has expired.

Mr. WIRTH. Mr. Chairman, I ask unanimous consent that the gentleman from California may have 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

Mr. DINGELL. Mr. Chairman, reserving the right to object, the gentleman from California has made a number of statements and refused to yield.

Mr. WAXMAN. Mr. Chairman, I would be pleased to yield when I finish my statement. I extended the gentleman the courtesy to finish his statement. I will yield when I finish.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The CHAIRMAN. The gentleman from California (Mr. WAXMAN) is recognized for 2 additional minutes.

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. Mr. Chairman, could the gentleman inform the House whether or not the average life of a car in California is longer than the average life of a car in the Northeast or other parts of the country?

Mr. WAXMAN. Mr. Chairman, I cannot answer that. I do not believe there is any difference, except the difference that might be accounted for by the weather differences and not by virtue of air pollution emission controls. I have not been informed by any responsible study that would indicate that air pollution controls in any way diminish the life of a car.

Mr. MYERS of Pennsylvania. Mr. Chairman, if the gentleman will yield further, the gentleman is on the track that I would like to have the gentleman respond to.

Mr. Chairman, it is my opinion that the life of a car because of the weather conditions in California is, in fact, a more durable machine which will effect a longer life at less cost, so that the impact of the over-the-life cost for the average consumer in California, is lower, though the increased cost of the pollutant devices would be somewhat dissipated as related to the cost of a car in the Northeast because of those weather conditions.

The CHAIRMAN. The time of the gentleman from California (Mr. WAXMAN) has again expired.

(At the request of Mr. MYERS of Pennsylvania, and by unanimous consent, Mr. WAXMAN was allowed to proceed for an additional 2 minutes.)

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield further?

Mr. WAXMAN. I yield to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. Mr. Chairman, I think if this factor is not built into the air pollution devices cost debate, it is truly a void that should be filled.

Mr. WAXMAN. Mr. Chairman, in response to the gentleman's statement, there is a difference in cost as it might be reflected by the differences in weather between the Northeast and California. That would be a given, whether we had emission control devices of greater magnitude than we now have or not.

In the Volvo experience they are talking about producing a car that will be manufactured this fall that will cost $50 more per consumer for each car than is now being paid out and it will include stricter enough pollution control devices that will not only meet the statutory standards, but go beyond particularly with respect to of NO_x control.

Mr. Chairman, I want to complete this statement further, because I was concerned about the question of cost. I asked the Congressional Research Service to do a study for me of the impact of the cost for pollution control devices. They concluded that there are costs involved in other features of a car that are far greater and they did not see any relationship in the increase in cost that would result if antipollution devices were required on the cars to meet the statutory standards or to meet the standards now in effect in California.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, with respect to the question raised by the gentleman from Pennsylvania, cars with catalytic converters use unleaded gas, and that extends the life of a car because they do not have lead fouling the carburetor and the muffler and other parts of the engine.

Mr. WAXMAN. I just want to say one thing in conclusion, because I think my time is about up. We have been lobbied very heavily in this Congress to give another extension—another extension—to the automobile manufacturers to meet the standards which we required of them 6 years ago to protect public health. They will only come in and lobby further if we do not stand up and say that we expect them to do what we, in passing the Clean Air Act of 1970, required of them, and that is to protect the public health.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the Dingell amendment to the auto emission provisions of section 203 of this bill, and in opposition to the Waxman-Maguire substitute. Once again, of course, the provisions of this section and the Waxman-Maguire substitute demonstrate how Congress attempts to solve problems in a vacuum without considering the interrelationships of many of our Nation's problems.

The gentleman from North Carolina (Mr. BROYHILL) has discussed the medical aspects of the problem, and I think established that there is very little in the change between what is in the basic committee bill and the Dingell substitute with reference to greater impact on health. So, I would like to expand on a couple of the points made by the gentleman from Michigan (Mr. DINGELL).

As the Members will recall, the Con-

gress—against my advice—included in the Energy Policy and Conservation Act provisions which established fuel economy standards for automobiles.

The average auto manufacturer's fleet-wide average must meet the following standards: By the year 1978, 18 miles per gallon; by 1979, 19 miles per gallon; by 1980, 20 miles per gallon; between 1981 and 1984, miles per gallon as determined by the Secretary of the Department of Transportation; then, in 1985, 27.5 miles per gallon. Although the standards for 1978 through 1980 appear to be feasible and capable of being met, the 1985 standard set by this Congress of 27.5 miles per gallon is beyond any presently proven technology. In other words, we have legislated the accomplishment of the impossible, at least as far as fuel efficiency technology now knows. Add to that, the requirements now in law for emission reduction and you reduce the likelihood of auto manufacturers being able to produce what our law requires.

Under this legislation, manufacturers will not be forgiven for any loss in fuel economy due to pollution control requirements unless such loss exceeds half a mile per gallon. Antipollution requirements have caused fuel economy losses of as much as 15 percent to date, and increasing the stringency of these standards thereby places the auto industry—and all of us who buy cars—in a Catch 22 position. And because of the unique emission standards in California, cars in that State are 10 percent less fuel efficient than cars sold elsewhere. Now, I am not guessing at that figure. Let me quote from the committee report on what has been established by the California experience. I am quoting from page 498 of the report:

> The projections of reduced fuel economy where more stringent emission controls are mandated is not an idle guess. We already have real world experience with the California situation. California standards for model year 1976 require that cars emit no more than 0.9 grams per mile of hydrocarbons, 9.0 grams per mile of carbon monoxide, and 2.0 grams per mile of oxides of nitrogen. For the other 49 states, the standards are less stringent and require that cars emit no more than 1.5 grams per mile of hydrocarbons, 15 grams per mile of carbon monoxide, and 3.1 grams per mile of oxides of nitrogen. As a result of these more stringent standards, 1976 California cars are approximately 10% less fuel efficient than 1976 cars meeting the standards for the other 49 states. This fuel penalty has been confirmed by EPA certification data.

Let us look at the consumer impact of the current provisions of the law. The FEA estimates that, if the provisions in the bill we are now considering are enacted, the fuel penalty by 1981 would be as much as 300,000 barrels of oil per day. That would mean an additional $1.6 billion per year in payments to the OPEC cartel by U.S. consumers, a considerable impact on our entire economy.

Furthermore, the consumer costs of the new equipment necessary to meet current increasingly stringent statutory standards is estimated to be between $125 and $350 per vehicle. It should be noted also that no one as yet knows how to meet the ultimate combined statutory emission and fuel efficiency standard of most vehicles, and that is why we seek to postpone the applicability of the more stringent emission standards for the second time in 6 years.

We all want to clear the air as soon as possible, but it is not realistic to do it by trying to outlaw the automobile by setting contradictory standards that cannot be mutually attained under present technologies without extreme impact on our economy.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, California, which has higher standards than the rest of the country, provides a good example of what will happen if application of the more stringent standards is not deferred for a time.

General Motors estimates that 70 of its models for 1977 cannot be sold in California in 1977. Chrysler estimates that 90 of its 1977 models will not be able to be sold there. American Motors says that a full one-half of its models will not be able to be sold in California.

This means reduced sales and a corresponding rise in unemployment in the auto industry if we move imprudently to apply California standards.

It has been suggested that those standards can be accomplished, that we can now design an automobile to meet the California standards. That is right. We can. But we cannot convert 90 percent of the automobile industry in 1 year without putting a whale of a lot of people out of work and without having a whale of an impact on the cost of living for the average consumer who has to have an automobile to get around. That is what we are talking about. We want to try to meet the more stringent standards in time, but we want to be reasonably logical about it, in terms of the economy and in terms of public health. But if we can do it reasonably logically and if we can do it on a gradualized basis, without having an adverse effect on the Nation's health, it seems to me that is what we should do.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Michigan (Mr. ESCH).

Mr. ESCH. I thank the gentleman for yielding.

On that specific point, it is one thing to talk about Volvo's capability. It is another thing to listen to what they have to say, specifically.

In a statement to the gentleman from Michigan (Mr. DINGELL), Volvo said, and I quote:

> In conclusion, Volvo feels that it would be unrealistic to conclude that the three-way catalyst technology can be immediately applied to all engine configurations or that in doing so, the very low emissions levels specified in the Clean Air Act could be met.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(On request of Mr. ESCH and by unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. ESCH. If the gentleman will yield further, this is Volvo stating that they cannot possibly meet those standards in all instances. They also admit that the converter system that they have suggested uses very small amounts of both platinum and rhodium as active constituents.

And I go on to quote:

> Volvo has been assured of supplies to meet its estimated production requirements, but the availability of these constituents for wider application for this system is a subject which should be referred to catalyst manufacturers.

It is very clear that there are not sufficient materials, even if we wanted at this time to utilize that system.

The point is that the technology, even from Volvo, just is not there. It would be the height of absurdity to accept this amendment when the facts are completely to the contrary.

Mr. BROWN of Ohio. How many cars do we manufacture in the United States a year? Ten million cars? Is that about it? If we pass what has been proposed here as the substitute, I suppose we could all drive Volvos or buy Volvos and produce 10 million Volvos. But we cannot get the materials to produce those Volvos.

Mr. ESCH. Mr. Chairman, if the gentleman will yield, Volvo says they cannot produce the cars. They may want to sell them, but they cannot produce enough cars.

Mr. BROWN of Ohio. Absolutely, and not to mention the fact that we would put out of work everyone in Detroit who is still working.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I want to congratulate my good friend, the gentleman from Ohio (Mr. BROWN). He is absolutely right, and his is an excellent statement of where the public interest lies.

I have a letter from SAAB in which that Swedish auto manufacturer points out that there is a fuel penalty because of the California standards, of 10 to 23 percent in comparison with the existing Federal standards. That would be at least the level of penalties that would be imposed by the Waxman-Maguire amendment.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. BROWN) has expired.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 3 additional minutes.)

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Kentucky, my good friend and ranking member of the subcommittee.

Mr. CARTER. Mr. Chairman, certainly I have no quarrel with the level of emissions that Volvo produces at the present time and with the fact that they meet the present standards. However, I do think

that as Americans we should buy American products and let Volvo stay in Sweden.

Mr. BROWN of Ohio. Mr. Chairman, I agree with the gentleman, and I am also concerned about the fact that even Volvo says they could not produce enough Volvos to meet the American market, given the shortage of constituent materials. They could not produce the cars that would be necessary.

I just think that we are again living, as we so frequently do in this Chamber, in the hothouse atmosphere of an unreal world. We must understand that we cannot suddenly see car sales in the United States go to zero without having devastating effects on the U.S. economy.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I would be glad to yield to the gentleman from California so that he can explain to me why we should destroy the American automobile manufacturing industry and the jobs it creates.

Mr. WAXMAN. Mr. Chairman, what a smokescreen this is. Destroy the American automobile manufacturing industry? What a smokescreen this all is.

Many of the Members want to pick on Volvo, and they want to talk about "buy American." Let us be Americans about it, and let us protect the health of the American people.

I would like to talk about the National Academy of Sciences. This is not some group that is trying to destroy the automobile industry. The National Academy of Sciences says the emission standards for HC and CO for 1978, which is the date we now have in the law to meet the standards in subsequent years, should be maintained. They say we should meet them in 1978. That is not even as far as I say it should go. I say, in 1981. They say that in 1978 we can meet these standards.

They are not going to destroy the automobile industry. Let us look at the situation for what it is.

Mr. BROWN of Ohio. Mr. Chairman, I will not yield further.

Mr. WAXMAN. I am just pointing this out as an example of what can be done if we are shown the way to do it.

Mr. BROWN of Ohio. Mr. Chairman, the gentleman from California (Mr. WAXMAN) just made a slick transfer from saying that it would be nice to maintain the standards to saying that the standards could be met in 1981. It seems to me that the National Academy of Sciences did not say that. They did not say we could economically produce enough automobiles in this country that would meet the standards they would like to see met.

Mr. WAXMAN. Mr. Chairman, if the gentleman will yield further, I will read to the gentleman what the National Academy of Sciences concluded, and I will quote, as follows:

Emission standards for HC and CO (.41 and 3.4 g/mi) for 1978 and subsequent model year light-duty vehicles should be maintained at the current statutory levels. Attaining these levels by 1978 is both feasible and worthwhile. * * * It is probably feasible with catalyst technology to achieve the statutory emission standards for NO_x * * * in 1978. There would be less certainty today if there had not been a slackening of effort in pursuing this goal. "Report of the Conference on Air Quality and Automobile Emission" * * *

The CHAIRMAN. The time of the gentleman from Ohio (Mr. BROWN) has again expired.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. Mr. Chairman, I agree with that attitude of the National Academy of Sciences.

Mr. WAXMAN. I will ask the gentleman if that means the National Academy of Sciences is trying to destroy the automobile industry.

Mr. BROWN of Ohio. Mr. Chairman, I am trying to use my own time, and I have not yielded to the gentleman.

The CHAIRMAN. The Chair will protect the gentleman from Ohio (Mr. BROWN), and we will proceed in regular order. The gentleman in the well has the time, and if Members want him to yield, they must ask him to yield. They should address the Chair first and ask the gentleman to yield to them.

The gentleman from Ohio (Mr. BROWN) is recognized for 1 minute.

Mr. BROWN of Ohio. Mr. Chairman, I agree that what was read by the gentleman from California (Mr. WAXMAN) is the attitude of the National Academy of Sciences. I would like to see that accomplished, too. But they do not say it can be accomplished by the automobile industry at present without startling economic impact. That is where the gentleman from California (Mr. WAXMAN) and I have our differences of opinion.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. Not at this time.

Mr. Chairman, I would like to see us have no air pollution from automobiles, but unfortunately that cannot be accomplished without closing down a good portion of the remaining 90 percent of the American automobile industry which does not currently meet the California standard. It takes time to redesign automobiles, replace the tools to make new models, and alter all assembly lines.

Mr. LEVITAS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Mr. BROWN of Ohio. Mr. Chairman, on that worthy note, I yield back the balance of my time.

The CHAIRMAN. The gentleman from Ohio (Mr. BROWN) yields back the balance of his time.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

Mr. CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. MAGUIRE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have joined with the gentleman from California (Mr. WAXMAN) in offering this amendment in the form of a substitute for the Dingell amendment. I would like to comment on a couple of points made by the gentleman from Michigan in his opening presentation.

First of all the difficulty with the presentation of the sort we saw, with all the charts and colors and numbers is: Whose numbers? What we have is the familiar device of a worst case being presented to the House as if it were gospel. The three-agency study—DOT-EPA-FEA—upon which the gentleman relied in his presentation does in fact include consideration of a whole series of possible outcomes. Uniformly the gentleman from Michigan has taken the worst case in presenting his data to the House and has ignored the best case and also intermediate cases.

In addition the three-agency study itself with respect to health, for example, admits that it is examining only selected health effects and an analysis of the study shows that the bottom line is that the Dingell health analysis has focused on headaches and eye irritation and has ignored cancer, birth difficulties, genetic breakdowns, and chronic lung and heart diseases. I submit that is not an adequate analysis on the basis of which the House should act.

With respect to fuel efficiency, various speakers have said it is fuel efficiency which underlies the cost and of course that is absolutely correct.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman.

The gentleman has made the statement that I chose the worst cases in making the presentation. The fact of the matter is that is not so. I chose a point midway between the worst case and the best case so as to give the House a fair presentation.

Mr. MAGUIRE. I am glad to have that correction. Those are not the data the gentleman has previously presented to the CONGRESSIONAL RECORD.

Mr. DINGELL. That is the middle case, I assure the gentleman.

Mr. MAGUIRE. Then we move from the worst case presented by the gentleman in the CONGRESSIONAL RECORD to what is now represented to be the middle case, and that is an improvement, but I would like to have this House consider what the best possible results to the American people should be and that is what my argument is here today.

The question of costs does in fact derive of course from the question of what kind of fuel efficiency or lack thereof we are going to get. I know in the material presented at least at an earlier stage by the gentleman from Michigan the low-range estimate with respect to fuel economy is the material presented in the three-agency study by DOT, EPA, and FEA, and identified by them as the General Motors estimate.

If we are looking at the facts with re-

spect to fuel efficiency, we have to come up with the conclusion that the assumptions that the gentleman from Michigan has made are flatly inconsistent with the facts.

The facts are, and I quote from the Society of Automotive Engineers Journal that:

The use of a more sophisticated emission control technology in 1976 has resulted in fuel economy in a fixed model mix of 11 percent better than 1967, despite a reduction of uncontrolled emissions for 49 State cars by 83 percent for HC and CO and 11 percent for NO_x.

The fact of the matter is that in California improvements in fuel economy have been realized between this year's model car and last year's. There has not been a deterioration in fuel economy. Every National Academy of Science study and every EPA study has indicated that the two, fuel economy and emission control, can go hand in hand.

It is not beyond the genius of this technological Nation to achieve that. We have been doing it and we can do it.

Now, a final point.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. MAGUIRE) has expired.

(By unanimous consent, Mr. MAGUIRE was allowed to proceed for an additional 2 minutes.)

Mr. MAGUIRE. Mr. Chairman, finally, we are talking about incentives. How are we going to get where I am sure we would all agree, including the gentleman from Michigan, that we want to get; namely, to a maximum position on emission control and safeguarding health, to a maximum position on fuel economy and to a maximum position on protecting the American people? That is what we want to achieve. How do we get it? Let me quote from a Newsweek article about clean air:

A Washington spokesman for the company—

This is one of the automobile companies—

said U.S. auto companies would use the more efficient model "when the law requires it."

Does anything more need to be said? The fact of the matter is that we are not going to get technological improvements until we set a schedule and some deadlines. That is as simple as A, B, C, and that is what this debate is all about.

Finally, after all the disputes about the figures, are we going to have a schedule, are we going to have some deadlines, are we going to come close to what the National Academy of Science and every other objective observer has said can be achieved? I submit we should set those schedules and those deadlines and that we will all be better off in the end if we do that.

Mr. Chairman, I urge support for the Waxman-Maguire amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, to clear up this matter of the Academy of Science to which the two gentlemen referred, the National Academy of Science did not say the currently mandate standards can be achieved without severe damage to the economy. They said the standards should be achieved, and I agree they should be achieved. It would be wonderful.

The gentleman in the well said he offered the best possible alternative for the health of the Nation. The best possible alternative would be to ban automobiles altogether and ban smoking along with it, but it just is not practical.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman for his comments.

The Academy of Science has said it can be achieved. That is what the Academy of Science said.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. MAGUIRE) has expired.

(At the request of Mr. WAXMAN, and by unanimous consent, Mr. MAGUIRE was allowed to proceed for an additional 2 minutes.)

Mr. MAGUIRE. Mr. Chairman, with respect to the remainder of the point made by the gentleman from Ohio (Mr. BROWN), I would say that is where judgment comes into it. What I am appealing for today is some reason and judgment to evaluate the facts with respect to the economy and cost, to recognize that these effects are minimal and greatly overbalanced by the cost and health benefits, and on that point I would be happy to yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I want to apologize to the gentleman from Ohio. Earlier we were both answering each other's points at the same time; but I do want to point out the point I was trying to make is that the National Academy of Science says, and I want to quote them, they report that fuel economy can be improved further while meeting more stringent emission standards.

In the June 1976 conference, the Academy concluded that the statutory 1978 emission standards "could and should be achieved while improving fuel economy."

The gentleman from Ohio maintained that it was not technologically feasible to get to these standards by 1978.

He said that we cannot get there now. Nobody is asking that we get there now. 1978 is the standard in the law, and everyone agrees that we should give them a little bit more time. But, for 1978 the National Academy of Sciences said that statutory emission standards are both feasible and worthwhile, and it can be done. We ought to commit ourselves to doing it. The National Academy of Sciences said that it can be done, not HENRY WAXMAN, who would like to see the air in Los Angeles cleaned up. That was the point I was trying to make earlier.

Mr. MAGUIRE. I thank the gentleman. Let me add a point.

The gentleman from Michigan (Mr. DINGELL), in the material he submitted to the Congress in anticipation of this debate on the question of fuel economy, makes the assumption that under the committee bill, if it were to be passed, EPA would act most foolishly.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from New Jersey has again expired.

(On request of Mr. DINGELL and by unanimous consent Mr. MAGUIRE was allowed to proceed for 2 additional minutes.)

Mr. MAGUIRE. Whereas, if the Dingell amendment were to be passed, EPA would act most wisely. If, in fact, the assumptions are analyzed, it is just as possible to argue that the Dingell amendment would result in a 10-percent fuel economy loss in 1982 relative to the committee bill. It just depends on one's assumptions.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Michigan.

Mr. DINGELL. The gentleman is totally at variance with the fact. First of all, the figures I have in the amendment I have offered are inherently generated in fuel efficiency; but second, the gentleman said that I had chosen the worst case. He said that the second time, and each time he has been in grave error.

In point of fact, I have given the very best fuel efficiency figures in making the assumptions with regard to fuel efficiency penalties that are possible. I have assumed the waiver up to the highest level of NO_x would be given in each instance in the amendment I have offered. As a result, the fuel penalty has been held to the lowest level rather than the highest level. The gentleman is totally in error.

Mr. MAGUIRE. The gentleman has changed his stripes.

Mr. DINGELL. I have not changed my stripes.

Mr. MAGUIRE. I do not yield further.

Mr. DINGELL. The same figures are presented today.

Mr. MAGUIRE. The gentleman, unfortunately, has not given us all the numbers in these charts and graphs.

The CHAIRMAN. The gentlemen will desist. The Chair would like to say that if a Member wants to interrupt the speaker, he should address the Chair and ask the gentleman to yield. We can save time if we follow an orderly procedure.

Mr. MAGUIRE. I thank the Chairman. Let me conclude by simply saying that I have addressed my comments to the materials presented by the gentleman from Michigan over a period of months in the CONGRESSIONAL RECORD, and it is on the basis of those materials that many Members have made their judgments.

Mr. DINGELL. Mr. Chairman, will the gentleman yield further?

Mr. MAGUIRE. I am saying that apparently now he has something different being presented.

I yield to the gentleman.

Mr. DINGELL. The gentleman has made that statement time after time. The figures that appear today are the same figures that appeared in April. The assumptions of today are the same assumptions of April, and they are the worst insofar as my presentation is concerned.

The CHAIRMAN. The time of the gentleman from New Jersey has again expired.

(On request of Mr. ROGERS and by unanimous consent Mr. MAGUIRE was al-

lowed to proceed for 2 additional minutes.)

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Florida.

Mr. ROGERS. I must say that it is our complete understanding that in the figures presented by the gentleman from Michigan (Mr. DINGELL), they project on a 2 NO_x basis.

Mr. MAGUIRE. That is my understanding.

Mr. ROGERS. Does the gentleman not project on a 2 NO_x basis into the future?

Mr. DINGELL. That is correct.

Mr. ROGERS. That is what the gentleman has been saying, I must say.

The CHAIRMAN. The Chair will announce that the gentleman in the well has the time.

Mr. MAGUIRE. I would like to yield further to the chairman for the completion of his statement.

Mr. ROGERS. This is exactly the point that is being made, that the gentleman's figures are based on the worst case, that we are never going to get below 2 NO_x, and that is one of the problems we have with this whole presentation. We do not ever have to go below 2 NO_x.

That affects the health of the American people. That is what we are talking about, and that is what the AMA is talking about and that is what the National Academy of Science is talking about.

Let me just read here from this analysis.

Working with staff from the interagency study to evaluate the case in which auto manufacturers are required to achieve a 1-gram-per-mile NO_x emission under the Brodhead from 1981 to 1984, and under the Waxman, they draw conclusions that are entirely different from this. In fact, they say there is really not much difference, we do not have a fuel loss when we look at the highs and the lows.

So I must agree with the gentleman from New Jersey that the figures presented, the graphs, are the worst case, and it is so admitted by the gentleman.

Mr. MYERS of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Waxman substitute amendment and in support of the Dingell amendment.

Mr. Chairman, I think that the gentleman from California (Mr. WAXMAN) made an extremely important point earlier. He stated that this is in fact a public health bill. I think if the gentleman from California (Mr. WAXMAN) were honest with himself and if he were honest with the House, he would have to admit that we cannot take simply one set of pollutants out of the atmosphere or out of society and present the argument that this will in fact solve the health problems.

I would like to present the case in point of cigarette smoking. We have heard testimony in the Committee on Science and Technology that went along this vein: that the highly publicized case of lung cancer in relationship to asbestos workers was much higher in the instance of those who smoke, as opposed to those who did not smoke. In fact, the testimony went like this: Asbestos workers who were not smokers did not experience a higher rate of cancer than the normal population in the United States. However, those individuals who smoke and are asbestos workers experienced a rate of cancer about 30 times the normal average rate for Americans. I think this is important in this legislation because if we go to the American people with a bill which causes them to have to pay a penalty for energy efficiency, they are going to have to pay a penalty on the market price of automobiles, and hold out our hands and say, "This is going to solve your health problem," I think we are kidding them.

It is a little ironic, as I watch Members come before the House and argue this great public health issue, that these same Members do not have any hesitation to light up a cigarette in the committee room where we meet or in the restaurant downstairs where we eat. They do not have any reservation probably about lighting up a cigarette as they drive down the highway with their family and children in the car. And I would submit that in many cases the real health hazards are inside the car, as compared to outside the car, under these conditions.

I do think, and I have said many times, that there is one single thing the American people in general could do to improve their health much more than any other single item, and that is to quit smoking or reduce it to a reasonable level. The effect on health of the abusive use of cigarettes is shown in the statistics on cancer and every other type of health issue we face. That certainly confuses the issue about the significance of other pollution. I do not think the rate at which the American people smoke should inhibit us from moving toward realistic goals toward cleaning up the atmosphere, but I would say to the Members that I have been through the steel mills—and that has been my life up to this point—and I would say that if we subjected the steelworkers or automobile drivers in the United States to engulfing the concentrations of pollutants into their lungs at the rate equivalent to what a voluntary cigarette smoker engulfs them, it would outrage us so much that we would be on the floor of the House here criticizing industry and automakers—and rightly so.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield on that point?

Mr. MYERS of Pennsylvania. I will as soon as I am finished. I waited patiently and quietly to get this time, and I would like to use it.

Thus, Mr. Chairman, I do not think we should kid the American people into believing this is going to solve their health problem. There are many interrelated problems.

The other point about the Dingell amendment simply is that those who say that the market will respond more rapidly and that the new-car market will grow more rapidly are arguing this point: What we will be doing is in fact replacing some of those older cars at a much more rapid rate, those dirty, old cars that last much longer in California. I can see why they need a higher standard in California than the Northeast does. We turn our cars over much more rapidly because we put salt on the highways and the cars get eaten up. The cars in California last much longer.

I would say that if the gentleman from California (Mr. WAXMAN) wanted to do a thorough analysis, he should determine what the average original car date is for California as compared to the rest of the United States, and I would submit that he would probably find some interesting statistics.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. MYERS of Pennsylvania was allowed to proceed for 3 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Pennsylvania. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I think the gentleman makes a very good point. It really bears right on what the issue is here.

Nobody is against trying to clean up the air. We are all for that. The question is: What is the impact of what we do when we try to accomplish that, and are we living in a real world of trying to get that done over a period of time in such a way that it is effective from a health aspect without being devastating from an economic standpoint?

The gentleman from Pennsylvania (Mr. MYERS) says that smoking is harmful. We all know that, but people still smoke. We might tomorrow pass legislation in the Congress that would prohibit everybody from smoking, but it would have very little chance of being effective on getting the job done.

We could go ahead with the Waxman amendment, but if we damage the automobile industry in this country to the extent that we damage the country's entire economy on the theory that we can tolerate no gradualism in cleaning up the air, we are going to have a grave reaction to the economic impact our action has on the United States. That reaction will not be desirable toward what we hope to accomplish.

Mr. Chairman, I would hope that we can do this in a much more logical fashion, such as proposed by the gentleman from Michigan (Mr. DINGELL).

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Pennsylvania. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, did the gentleman say that studies showed that there was no increased incidence of cancer in asbestos workers who did not smoke?

Mr. MYERS of Pennsylvania. The evidence we had before the Committee on Science and Technology, through the U.S. Department of Labor, indicated that the normal mean average of asbestos workers who did not smoke and experienced the incidence of lung-related cancer was not significantly different from the general population, whereas those asbestos workers who smoked had a rate of cancer about 30 times the nor-

mal average rate of the general population.

Mr. OBEY. Mr. Chairman, I serve on the Subcommittee on Labor-Health, Education, and Welfare of the Committee on Appropriations, and over the last 3 years. We have heard from Dr. Rall from NIEHS and Dr. Rauscher from NCI. We have also had extensive conversations with Dr. Selikoff who has done more research on asbestos than anyone else in the country, and he simply states that is not true.

Mr. MYERS of Pennsylvania. What did he say?

Mr. OBEY. He certainly grants that there is a much higher rate of cancer among asbestos workers who do smoke, but he also said that there was a much higher rate of cancer occurring in asbestos workers as against the general population even when they do not smoke.

Mr. MYERS of Pennsylvania. Mr. Chairman, I would like to say that the witnesses probably agree on this: that cigarette smoking among those workers incapacitates the use of their lungs for about 12 minutes during the period immediately following the smoking of a cigarette. So if in fact we take the pollutants that the gentleman from California (Mr. WAXMAN) and I are concerned about, his lungs are not capable of dealing with those pollutants, and that is the problem we must deal with. The lungs are wonderful machines and are capable of dealing with certain levels of pollutants if not incapacitated by ingredients such as cigarettes. If that element were removed from the health statistics we could quite possibly arrive at different assumptions in relation to balancing the environment and the economic viability of our system.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Pennsylvania. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I thank the gentleman for yielding.

I would not tell the Members that smoking is at all helpful, but I am telling the Members that the evidence that has been presented to us many, many times over is that the inhalation of asbestos fibers does cause mesothelioma, and there is no question about it. That is a known fact.

Mr. MYERS of Pennsylvania. The relationship between such pollution and cigarettes and the incidence of cancer must be considered.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Pennsylvania. I yield to the gentleman from Michigan.

Mr. ESCH. Mr. Chairman, I appreciate the gentleman's yielding, and I would just like to commend the gentleman for his suggestion of the impact of this problem upon workers throughout the country.

Mr. Chairman, I rise today commending my two colleagues, Mr. DINGELL and Mr. BROYHILL for their efforts and wisdom in proposing the Dingell-Broyhill amendment to the Clean Air Act.

I rise in support of that amendment as the best achievable effective balance on the issue of emission standards. This amendment is designed to give predictability to the automobile industry and, quite frankly, that means jobs. The unemployment that my State of Michigan faces is simply unacceptable. I know there are others here today that face this same problem in their States. I have always felt that the best opportunity for providing employment is by using the private sector. This amendment clearly affords us the opportunity of utilizing that philosophy. The statistics are strongly supportive. One out of five jobs in this country can be attributed to the automobile.

According to a study for the New York Times by Wassily Leontief, a Nobel Prize-winning Harvard economist, each drop in car sales of $1 billion would put 57,000 Americans out of work. Most of those lost jobs—34,100—are in nonautomotive industries such as steel, textiles, chemicals, glass, mining, and the service industry. Thus, the entire economy—not just Detroit—would suffer if car sales are artificially depressed.

This industry must therefore be allowed to continue unfettered by Government interference to produce and strengthen our economy. Let us help them put Americans to work.

I know there is strong disagreement, to say the least, regarding the various provisions of this bill. Much rancor fills this House. However, I believe this body serves best when it acts with measured emotion and fine-honed reason. Many of our colleagues would have us vote for even more stringent standards than have been reported by the Interstate and Foreign Commerce Committee, while others like myself would have preferred a 5-year deferral. Those who propose to tighten the standards beyond the committee's standards, I believe, to any person of moderate measure, will be easily discerned as being not only unnecessarily harsh but burdensome as well by requiring two sets of standards to which the industry must comply in 2 years. Those of us who have supported the 5-year deferral realize our position is as likewise untenable.

Therefore, the issue is squarely framed as to whether to accept the bill's present standards or to amend the emissions standards with the Dingell/Broyhill amendment. The comparable merits of these two positions should then be analyzed.

For the years 1977–79 there is no difference whatsoever between the two contending positions. For 1980 and 1981, the Dingell/Broyhill provides 2 years of transitional HC and CO standards before establishing the same final standard that the committee bill would implement in 1980 and thereafter.

In effect, the Dingell/Broyhill amendment during those 2 years tightens the standards but not as far so quickly as does the committee bill. Under Dingell/Broyhill, the NO_x standard, rather than being mandated by Congress is left to the discretion of the Administrator of EPA, who must provide the impacted industry 3 years' notice as to the standard required to be implemented.

The impact on the environment of the two contending positions is simply unappreciable, but the effect on fuel economy efficiency is appreciable. The standards of the committee bill will increase the cost to the consumer for fuel, and this I believe is also unacceptable and inflationary.

Because of the statutory certification process, predictability for the automoble industry is crucial. Each day of delay in establishing these standards has a devastating economic impact on the industry. Such delay because of production leadtime creates lost resources and lost time which could be better used to complete the certification process. Because of the industry's multiplier effect on the Nation's economy, the cost of these economic detriments is not borne solely by the automobile industry, but by the whole country as well. This also translates into costs to the consumer.

I believe that the merits weigh on behalf of the Dingell/Broyhill amendment. With such an amendment, our workers will benefit, our industries will benefit, and so will America.

I would, therefore, ask your support of this amendment.

Mr. BROOMFIELD. Mr. Chairman, there are none among us who would argue against the goals of the Clean Air Act amendments which are now under consideration. We all realize its effect on plant and animal life, and we all want to give future generations air that is fresh, clean, and healthy.

While striving for this goal, however, we must remember that this bill will affect more than the quality of our environment. It will have an impact on our unemployment rate, consumer costs, efforts to achieve energy independence, and the health of the economy.

Because of its wide-ranging impact, we must remove any "environmental blinders" from our deliberations and consider this bill in its total context.

In our deliberations, we will be asked to consider several different auto emissions standards.

The most realistic of these has become known as the Dingell-Broyhill emissions standards which have the support of Russell Train, Administrator of the Environmental Protection Agency.

These are more energy efficient, more consumer oriented, and more protective of jobs than any of the other proposals. Beyond these benefits, the Dingell-Broyhill amendment provides about the same improvement in air quality as any of the other proposals.

The recent Environmental Protection Agency-Department of Transportation-Federal Energy Administration interagency study clearly indicates the benefits of the Dingell-Broyhill standards.

With the Dingell-Broyhill standards as compared to the committee proposals, the study clearly shows a 2.46 billion gallons savings in fuel consumption for the life of the 1980 model year cars, and a $1.47 billion savings in purchase and operating costs of cars in the 1980 model year. The year 1980 is significant because this is the year that the Dingell-Broyhill standards deviate from the committee proposals.

The Dingell-Broyhill standards will also protect workers by phasing in the standards gradually. It will help keep the costs of buying and operating cars down and therefore not discourage the purchase of new cars. In speaking about employment, we are discussing not only auto assembly lines but one of every six jobs in this country which are in auto-related industries.

The inter-agency study shows that the effect on air quality in the next decade will be about the same no matter which standard is accepted. Exactly 31 air quality control regions are expected to exceed ambient air quality standards in 1990 under all three proposals.

The evidence is clear that the Dingell-Broyhill standards serve our Nation best in striking a balance among all the pertinent factors. In terms of modern management, it is cost-beneficial as opposed to the other proposed standards.

Mr. Chairman, it has taken a long time for this bill to come before the House for consideration—too long in fact. This delay has already been costly to the auto industry and to consumers.

The auto industry is waiting to find out what the emissions standards will be. They have been holding up production plans, testing, and supply orders waiting for Congress to make up its mind but this bill still has a long way to go. Due to our inaction before the recent recess, it has been delayed even longer than many of us care to think.

Under normal circumstances the auto industry would already be sending engineering data to EPA for its 1978 model cars and planning for 1979. This long lead time is necessary because it normally takes up to 10 months to complete the necessary tests for EPA.

When Congress finally makes up its mind, the auto companies will be able to act. But the time will be very short and the work will have to be rushed. The work will be done, no doubt, but it will cost money and that money will come from the consumer.

Mr. Chairman, the Congress, by its long delay, has interrupted the hum of the manufacturing process and is forcing the consumer to pay for it. If we now act and pass this bill without the Dingell-Broyhill emissions standards, we will be punishing the auto buyer even more. For this to be done in the name of promoting "the general welfare" would be an unconscionable act.

Mr. RUPPE. Mr. Chairman, I rise in support of the Dingell-Broyhill amendment to section 203 of the Clean Air Act amendments containing revised auto emissions standards.

This amendment would modify the bill that we have before us today by postponing the standards for hydrocarbons and carbon monoxide until 1982.

I believe that a 6-year postponement represents a more realistic deadline for the auto industry to develop the appropriate technology at a price which will be more palatable to the consumer.

This amendment will also leave the timetable for meeting standards for oxides of nitrogen—NO_x—emissions to the judgment of the Administrator of EPA. I do not feel that the need for the NO_x standards found in the committee bill has been adequately demonstrated. Furthermore, the attainment of the committee's standards has not been shown to be technologically feasible.

I think that it is important for my colleagues to keep in mind that since the Congress passed the original Clean Air Act in 1963, industry and Government have spent billions of dollars trying to comply with the law and its many revisions. These efforts are still going forth. We are getting the job done. New York City, Los Angeles, and Washington, D.C., all report substantial improvements in air quality. The Wall Street Journal notes that New York City's overall air quality index credited 1969 with zero "good" days and only 38 "acceptable" days whereas the report for 1975 indicates 107 "good" days and 204 "acceptable" days. We are making significant progress.

I believe that it would be in the best interest of the Nation at this time not to set the most stringent standards we can think of, but to focus instead on doing the best job we can do to comply with an admittedly tough present law.

I urge the adoption of the Dingell-Broyhill amendment.

Mr. ROGERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. ROUSH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10498) to amend the Clean Air Act, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON H.R. 8603, POSTAL REORGANIZATION

Mr. HENDERSON. Mr. Speaker, I call up the conference report on the bill (H.R. 8603) to amend title 39, United States Code, with respect to the organizational and financial matters of the U.S. Postal Service and the Postal Rate Commission, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 31, 1976.)

Mr. HENDERSON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER. The gentleman from North Carolina is recognized for 30 minutes.

Mr. HENDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report was agreed to unanimously by all of the House and Senate conferees who participated. Senator FONG was absent from the meeting and was not able to participate in the agreement.

The report has two particularly important aspects which I will discuss and I will call on the gentleman from New York (Mr. HANLEY), chairman of our Subcommittee on Postal Service to explain the details of the agreement.

First, what does the conference report do with the Alexander amendment?

Second, what impact will the authorization for additional funds have on the second concurrent budget resolution?

The House conferees began preliminary discussions on the differences at 9:30 a.m. on Monday, August 26, and then met with the Senate conferees from 11 a.m. until after 5 p.m. before the last difference had been resolved.

We first passed over the Alexander amendment until the other major differences in the conference were resolved in order to afford a comprehensive discussion of the role that should be played by the Congress in overseeing and reviewing the operations of the Postal Service.

As you know, the Alexander amendment is not a part of the conference agreement, but I am confident that the conference agreement provides more meaningful legislative controls than would have been provided by the Alexander amendment.

The Alexander amendment would have required the Appropriations Committee to appropriate the postal budget each year, and would have required the entire budget of the Postal Service, more than $14 billion for the current fiscal year, to have been included in the budget.

One of the lessons we learned under the old system of annually appropriating money to the Post Office Department was that there never was very much room for adjustment in the postal budget. Fixed costs were almost never subject to reasonable manipulation. Payroll, transportation costs, facility expenses, and materials accounted for nearly all the postal budget. They still do. The only room for "fattening up" or "whittling down" the postal budget was to postpone projects for new buildings or to cut back upon the merger funds used for research and development. That kind of fiscal management bears a large measure of the responsibility for the accumulated problems of the postal system which lead to the demand for changes in 1969 and 1970.

The managers on the part of the House as well as the Senate remember those problems and the origin of those problems. All of the managers for the House have served on the committee for at least 12 years, and have experienced the problems of the Postal Service. It was our judgment, based on that experience over the years, that putting the Postal Service back under the annual appropriation process would not have been an effective way to try to solve the problems which so many of our colleagues have brought to our attention during the past year or two.

The frustrations which have, time and time again, been expressed to us about the Postal Service, closing of post offices, consolidating post officers, failing to provide the kind of service with the speed and reliability which was once characteristic of the Postal Service, will not be solved merely by requiring annual appropriations. The better answer, in our opinion, is effective and continuous oversight by the Congress to insure that policies of the Congress, as expressed in law and other ways, are faithfully carried out by the Postal Service.

The conference report includes very specific and stringent requirements to insure that result. Under existing law, the Postal Service is required to prepare an annual report as well as a report to the Congress on its compliance with the public service cost provisions of title 39. Since postal reorganization, those reports have been little more than a picture book and an enumeration of how many small post offices there are this year compared to last year.

The conference report requires a much broader regular reporting system to the Committees on Post Office and Civil Service and the Committees on Appropriations. The Postal Service is specifically required to submit its budget to the Congress at the same time it submits its budget to the Office of Management and Budget so that we can study it well in advance of the beginning of a new Congress. The new law will also require the Postal Service to submit a comprehensive statement relating to its plans, policies, and procedures for complying with all of the policy provisions of the Postal Reorganization Act.

The Service must prepare a general statement on postal operations and detailed reports on the speed and reliability of service, mail volume, employee productivity, trends in postal operations, and analyses of the probable impact of internal and external factors which may presently or in the future affect the Postal Service. The Postal Service is also required to provide a detailed financial statement. Finally, any other material which the Committee may wish to have in order to be fully and currently consulted and informed must be provided.

That is not all. After the submission of this material, the new law will require the Postal Service to appear before the Committees on Post Office and Civil Service to submit information which the committees consider necessary to evaluate the postal budget and make an independent judgment of postal operations. The law will require the submission of this information so that each committee may determine the validity of the postal budget as well as judge whether the Postal Service is carrying out the law as the Congress has enacted it.

If the committees find that the Postal Service has been remiss or that the estimate of expenditures and requests for appropriations under section 2401 of title 39 or under section 2004 of title 39 in the case of requests for transitional appropriations, the committees may take whatever action it deems appropriate. I think it would be appropriate in such cases for the legislative committee to advise the Appropriations Committee of its views and recommend that the amount appropriated to the Postal Service for public services, revenues foregone, or other amounts authorized by law be adjusted.

This language stops just short of requiring annual authorization of the funds to be appropriated to the Postal Service for public services. The existing law, which authorizes a public service appropriation related to fiscal year 1971 levels and which authorizes revenue foregone appropriations for certain kinds of second-, third-, and fourth-class mail, is not disturbed, but this new language makes it clear that the Postmaster General must come to the Congress and present a detailed justification to the legislative committee on all aspects of postal operations, and the committee is directed to take such action as it deems appropriate after the Postal Service has presented its case.

I am certain that this system can work. I believe that the principal reasons for the deterioration of the relationship between the Postal Service and the Congress and the public's dissatisfaction with the Postal Service have been a sustained attempt on the part of postal officials to ignore the reality that the Postal Service must respond to the legitimate interests and directions of the Congress, and a fixation upon the goal of complete financial independence from the Congress or the President. The acknowledgment by Postmaster General Bailar that financial independence cannot be achieved in the foreseeable future and that the taxpayer must be asked to contribute more to maintain the postal system the way the people want it, is a major acknowledgement of the reality of the situation and the first significant step toward restoring a partnership with the Congress which should be restored.

The second point is the impact of the authorization for an additional billion dollars upon the budget resolution. Early this year our committee, in compliance with the provisions of the Budget Act, requested that funds be included in the budget to insure that there would be a sufficient amount available for an increase in congressional appropriations to the Postal Service. The House Committee on the Budget rejected that recommendation. The Senate committee accepted the recommendation, but in conference the billion dollars which the Senate approved was not included. Most recently, our Budget Committee has again refused to include the billion dollars, even though at the time of its deliberations both Houses had approved H.R. 8603.

In a letter dated June 18, 1976, the Office of Management and Budget advised the chairman of the Senate Committee on Post Office and Civil Service as follows:

The Administration is prepared to accept legislation and to transmit a request to the Congress from the U.S. Postal Service for the funding of the authorizations provided for under section 2, subject to the passage of a bill which is consistent with our agreement.

The conference report before the House today authorizes the appropriation of $500 million for fiscal year 1976 and the transitional quarter, and $500 million for fiscal year 1977. The conference report is "consistent" with the agreement which the OMB letter refers to. It is my understanding that our Committee on Appropriations is prepared to report legislation to carry out the purpose of this legislation if it is enacted.

Now let me point out where we will be if we do not appropriate this money and make room for it in the pending budget resolution. The operating loss of the Postal Service for fiscal year 1976 and the transitional quarter will be $1,352,000,000. The estimated loss for fiscal year 1977 will be $708 million. The Postmaster General will have no alternative but to request a rate increase not later than October 15, 1976, unless this legislation is enacted and the appropriation is forthcoming. That is not a threat, that is simply a fact. The law requires that postal revenues and appropriations equal postal costs. The Postmaster General has sworn to uphold the law and cannot abandon his commitment to do his job by failing to insure that revenues will equal costs if there is any means to do it. If we do not include the money in the budget resolution and appropriate it, we are simply telling the Postmaster General that he may go ahead and increase rates to cover his costs.

The moratorium on the closing of post offices, which is included in this conference report, will be nullified unless the appropriation is made. The financial crisis and the confrontation between the Congress and the Postal Service will not be resolved.

In view of the support which this legislation has now received from the President, the postal workers, mail users, and the Congress, I strongly urge my colleagues to vote yes on the conference report.

There is one additional matter which I would like to clarify. Under the provisions of the House bill and the conference report, publishers and distributors of books are permitted to mail books to schools and libraries at the rate which heretofore has applied only to books mailed between schools and libraries.

This is a special low rate and the loss incurred has been made up out of appropriations authorized under 39 U.S.C. 2401(c). In adopting the new provision we neglected to authorize an appropriation for the loss which may occur because of this change. Until the law can be changed, we on the Post Office and Civil Service Committee believe that it would be a suitable solution for the Postal Service to request the appropriation under 39 U.S.C. 2004.

The amount of money is about $5 million, which is an inconsequential sum, but which should be paid by appropriations rather than charged to other mail users.

Mr. CHARLES H. WILSON of Cali-

fornia. Mr. Speaker, will the gentleman yield?

Mr. HENDERSON. I yield to the gentleman from California, a member of the committee.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I am rather disappointed, as can be imagined, with the conference report that has come out.

It is difficult for me to understand how we are going to have greater congressional oversight as a result of the conference than we might have had had the Alexander amendment been made a part of this legislation.

However, since reading some of the provisions, and perhaps they were in the original bill that was in the House, with some changes that were made in conference, I wonder whether there was really a need for a subsidy for the Postal Service. I see one applying to parcel post. It provides that parcel post rates will not be reduced more than 10 percent as a result of any postal subsidies.

Is it the gentleman's understanding that had the conferees not put this provision in the bill, the Postal Service would have used the subsidy to lower parcel post rates so that they could better compete with the private carriers who have taken part of their business from them?

Mr. HENDERSON. Mr. Speaker, if the gentleman will permit me to respond, that provision was contained in the House passed bill. It was the feeling that if there were action to reduce parcel post rates drastically as a result of the additional appropriations that that might not be justifiable. Further, the study commission is a very important segment of the legislation, and that certainly would be one of the specific issues that they would address and report to the President and to the Congress. So that the limitation of the 10 percent was insurance that there not be drastic action in the area of parcel post rates that could be disruptive to the private sector as they attempt to compete with the Postal Service for the delivery of parcel post.

Mr. CHARLES H. WILSON of California. Another observation I have: Could the gentleman tell me how many areas of disagreement you had in the conference between the two bodies?

Mr. HENDERSON. I think the best way I can respond to the gentleman from California is to state that the conferees set aside the major differences that resulted from the Alexander amendments. We very quickly resolved the several other issues in dispute and we then took the major part of the time of the conference on the objectives of the Alexander amendments as contained in the House passed bill.

We believe that the language that has been adopted by the conference does a better job of providing for congressional oversight. If I may be specific, inasmuch as the gentleman questioned that point, we require that the Postal Service, as one example, submit its budget to the Congress and the congressional committees when it is submitted to the Office of Budget and Management. That is not the law at the present time. This would enable the House legislative committees of the Congress, to begin an earlier study of the requests of the Postal Service that they provide in their budget. There are other requirements here by way of reporting concerning plans for changes in postal services that we believe specifically would be most helpful to give the congressional oversight we had intended by the Alexander amendment.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I have a list of the various differences that was prepared by the staff as to the changes in the bill and it appears there were 22 or 23 differences between the House and the Senate. All I can determine is that the House prevailed in about 5 instances.

I have served on conference committees such as in the Committee on Armed Services, on the military construction bill, where we have done a much better job than that in behalf of the House position.

Mr. HENDERSON. Mr. Speaker, let me say in response to the gentleman from California that I was very impresed with the conferees' actions. We all had long service on our committee, as the gentleman from California has. They were on the committee at the time of the postal reorganization in 1970 and were very familiar with the background and history. But, most importantly in this conference, while the gentleman from California recites the score by numbers, I believe that the House conferees won the major provisions reflecting the House position. While it is true that we may have given in on more of the minor differences to the other body, we think we have been able to preserve the legislation that was earlier acted on by the House.

Mr. CHARLES H. WILSON of California. Mr. Speaker, if I may make one other observation, if the gentleman from North Carolina will yield, concerning the 5 items in which the House prevailed, all of these appear to be special interest sections in the bill. There is the one that prohibtis the parcel post rates from being reduced below 10 percent, which was obviously something that was desired by the United Parcel Service.

There are the amendments that Mr. FORD had sponsored in the full committee on behalf of the book publishers, and the second-class mailing privileges, and so forth. These are the only areas in which the House position seems to prevail. I do hope the Senate bill was that good that the gentleman was able to accept it in toto with the exception of these special things to which I have referred, and that we have a bill that is not going to be just a special interest bill but one that is going to give us an opportunity to improve the Postal Service, which I think the gentleman will agree with me must be done. It is not in good shape at the present time.

Mr. HENDERSON. I do agree with the gentleman, and I appreciate the efforts that he has made for this objective. I would be disappointed if he did not concur at this late date that we have made a very fair effort. Rather than take any more time, however, I should like to yield to others because of the limited time we have—the subcommittee chairman, the gentleman from New York (Mr. HANLEY) and the gentleman from Michigan, the sponsor of the amendments the gentleman referred to. Mr. FORD and Mr. HANLEY are well prepared to speak on the amendments and the action of the conferees.

Mr. CHARLES H. WILSON of California. I thank the gentleman for yielding.

Mr. HENDERSON. Mr. Speaker, I yield 5 minutes to the gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Speaker, Americans all across this great land are saying that they are disillusioned with government. A recent poll indicates that as much as 50 percent of the voting population may not go to the polls in November because they feel their vote will not change anything.

Americans are saying that government does not work, that government is not interested in our problems, that government does not serve our needs.

Some of us are trying to change it, to make government work; others have become discouraged and may go fishing on election day.

America is down on bureaucracy and the Washington establishment. And I say it is about time. For years I have struggled with the Washington Postal Establishment and numerous other Federal agencies because I am determined to make government work, so that it will respond to the needs of the people it was created to serve.

The Postal Service for many Americans is their only continual contact with the Federal Government.

Ten years ago Americans could depend upon the mail service. But that reputation is a thing of the past.

Today the Washington Postal Establishment characterizes what is wrong with America.

While doubling its own bureaucracy, the Washington Postal Establishment has cut back the work force and mail service to Americans. The Washington Postal Establishment has demonstrated such gross mismanagement that it has produced a loss of revenues of almost $8 billion in the 5 years since reorganization, despite increasing postal rates.

What America needs is a government with a bureaucracy that strives to serve the people, instead of a self-serving bureaucracy that helps only itself and a favored few, at the expense of the taxpayers who foot the bills.

Congress itself will have gone fishing if it approves this conference report. It will have gone fishing on the issue of postal reform and will have "passed the buck" to the 95th Congress to solve the serious problems that persist in our Postal Service.

Returning the USPS to congressional control is only a matter of time because the American taxpayer is saying loudly and clearly that he will no longer buy "blank check" bureaucracy.

And when Congressmen and Senators running for reelection this November get this message from home, reform of the postal mess is inevitable.

I believe, as strongly now as I did 5 years ago when I began looking into the failings of our Postal Service, that the

proper course of action is to restore accountability of the postal management to the Congress and the people.

Accountability can be attained by:

Requiring an annual or biennial authorization and appropriation for the Postal Service; and

Requiring that the Postmaster General and his Chief Deputy be appointed by the President and confirmed by the Senate.

I still maintain that the primary problems with the Postal Service are not financial. They are managerial. And until this Congress retrieves this quasi-independent body from its isolation and its management from its ivory tower existence, then Congress will continue to submit to writing the Postal Service a blank check year after year, the price of a stamp will continue to increase, USPS will continue to lose millions of dollars daily, and most tragic of all, the service will continue to deteriorate.

I find it rather ironic, Mr. Chairman, that the House is considering the budget resolution and this postal subsidy bill in the same week.

The reason this conference report will pass today is that President Ford has said he will sign the bill and thus join the Congress in passing the buck on postal reform.

While on the one hand, President Ford asks the Congress to balance the budget, he supports another "blank check" for the Postal Service on the other.

If integrity and credibility are issues in the November Presidential election, then I believe the President owes the American people an explanation as to how he can balance the budget and at the same time support blank check bureaucracy.

Mr. Chairman, I urge, in the interest of the American taxpayer, the defeat of this conference report because it will serve to perpetuate "blank check" bureaucracy.

The CHAIRMAN. The gentleman from Illinois (Mr. DERWINSKI) is recognized for 30 minutes.

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report before this body represents the last chance we will have this session to respond in a responsible manner to the problems of the U.S. Postal Service. In adopting the conference report on H.R. 8603—Postal Reorganization Act Amendments of 1976—and clearing the legislation for the President's signature, we will be signifying to the Nation's postal patrons, the postal craft unions, and postal management we recognize the need for stability in postal operations in the months ahead.

There is nothing illusory about this legislation. Its objectives are to provide the Postal Service with much needed immediate financial relief, to head off another round of postal rate increases, and to prevent post office closings and further reductions in Postal Service pending a report and recommendations from a special Postal Service Study Commission. It is a realistic approach which already has won the approval of the other body. It is the end product of protracted negotiations involving the ranking majority and minority members of the two Post Office Committees in shaping legislation that would be acceptable to the Office of Management and Budget and the White House. As a testimonial to our efforts, the legislation now pending has the support of the mail-using public, the postal unions, the postmaster general, and even the United Parcel Service.

From a practical standpoint, H.R. 8603 will buy us time for a careful study which will provide the foundation upon which we can build comprehensive postal legislation in the next session of Congress.

To deal with the postal financial problem, conferees agreed to authorize two $500 million appropriations which will be applied to the accumulated indebtedness of the Postal Service. The legislation authorizes $500 million for the transition period ending September 30, and $500 million for fiscal year 1977.

The moratorium on rate increases and service cutbacks will remain in effect through March 15, 1977, the reporting date for the Study Commission. To forestall arbitrary post office closings after the March 15 deadline, the legislation imposes strict procedures which provide for maximum input from concerned segments of the public. If, after the moratorium, the Postal Service proposes to close a post office, the public will be allowed sufficient time for notice and comment and will have the right to appeal any decision on a post office closing to the Postal Rate Commission.

Under the Postal Reorganization Act of 1970, the Postal Service can increase rates on a temporary basis 90 days after filing a rate request with the Postal Rate Commission, and those rates can remain in effect indefinitely since there is no deadline on Commission deliberations. In H.R. 8603, there is a provision which extends the time for the imposition of temporary rate increases from 90 days to 10 months, and other provision which puts a 10-month deadline on Postal Rate Commission deliberations.

The legislation also provides for Senate confirmation of Presidential appointees to the Postal Rate Commission, and retains all of the language contained in the earlier House-approved version of this legislation relating to second-class mailing privileges. It also provides that parcel post rates will not be reduced more than 10 percent as a result of any postal subsidies.

This is forward-looking legislation which proposes realistic solutions to pressing problems in the time frame in which we are operating. We cannot tolerate any more delay while we grope for a solution. The conference report deserves an overwhelming vote of support.

Mr. Speaker, I would like to point out that the gentleman who preceded me in this brief discussion, the gentleman from North Carolina (Mr. HENDERSON), chairman of the committee, and the gentleman from California (Mr. CHARLES H. WILSON), one of the most dynamic Members, and of course the gentleman from Arkansas (Mr. ALEXANDER) are all great statesmen and all extremely knowledgeable and all have done their homework on this legislation. But their difference of opinion merely shows us that even the greatest of minds do differ on a subject regardless of the detail and concentration which they have given it.

Let me present this conference report to the Members in what I consider a necessarily practical fashion.

First of all, the conference report has been approved by the Senate, so the only issue before us is: Shall we or shall we not approve the conference report? I strongly recommend approval.

What have we done in this conference?

First of all, we provided for $500 million in the transition period and then $500 million in fiscal year 1977 to be applied against the indebtedness of the Postal Service. For those Members who are economy minded, this is approximately $800 million less over a 2-year period than the bill that passed the House a little over a year ago.

In order to help the Members in dealing with their constituents in this fascinating time of the year called an election period, we provide for a moratorium on raising rates until March 15, 1977, so when the Members will go back home for the next several weeks they will not have to explain why under their leadership and their sponsorship the postal rates have gone up again.

We further provide for a moratorium on cuts in service and a moratorium on the closing of small post offices, so again the Members will not have to explain.

So basically what this bill does is in a very practical but timely and necessary fashion provide the necessary time for a commission to look into these matters, for the committees at the start of the next Congress to look into them. We remove from this immediate period any concern the Members and their constituents have over budgetary problems of the Postal Service, or any possibility of a rate increase, or any possibility of service cuts or any possibility of small post office closings.

In addition, most Members have been contacted and in turn have contacted the gentleman from North Carolina (Mr. HENDERSON), the gentleman from New York (Mr. HANLEY), the gentleman from California (Mr. CHARLES H. WILSON), and myself and other committee members about the views of the U.S. Parcel Service.

The language in this bill as it applies to parcel post is, let us say, in compatibility with the views of the United Parcel Service, so those who have written to the gentleman from North Carolina (Mr. HENDERSON) can thank the gentleman for providing proper language in this report.

The gentleman from New York (Mr. HANLEY) who worked along with the gentleman from California (Mr. WILSON) on this subject will acknowledge the fact that this is compatible with the letters they have received from the United Parcel Service.

Mr. Speaker, the real issue is this. The post office has problems. The answer to the problems of the Postal Service does not include the Congress of the United States suddenly taking sole jurisdiction at this time, which is the proposal

the gentleman from Arkansas (Mr. ALEXANDER) would have us follow.

The answers to the problems of the post office are not simple answers. They are going to be solved on soap boxes. They are going to be solved by necessary objective studies at a time when we are not subject to artificial pressures. So the logical position and really the only position one could take at this time is to support this conference report. It is not going to solve all the problems of the Postal Service. It is a stopgap measure, if we wish to call it that, but it is logical, it is sensible, and it will give us the mechanics to address this subject in much more detail and in a much more effective fashion at the start of the next part of Congress.

Mr. Chairman, I urge overwhelming support of the conference report.

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Speaker, I cannot help but be disappointed at some of the changes that were wrought in the conference. There is one relatively small matter that I find difficult to understand. When the bill was being debated on the floor, I thought it was the intent of Congress to clarify language as to the nature of postal services. We had indicated that if the Postal Service brought about a change in the major postal services that was nationwide or substantially nationwide in scope, they should first submit in writing that change to the Postal Rate Commission. The Postal Rate Commission should hold hearings so that interested parties could state their case for or against that proposed change and the changes not be implemented until after the Postal Rate Commission had given an advisory opinion in writing to the Postal Service.

Now, this was done to protect people from declining services, that the Postal Service should go through this procedure for increases in rate; but also for a decline in services.

Many Americans have been concerned, and among them my own people that I represent, over the Postal Service's high-handed decisions in some instances to radically alter and cut back services without going through this procedure.

I personally filed suit in the Federal Court, which became a landmark case, to force this the first time they went before the Postal Rate Commission on a services case and that was done and we did win substantially.

I thought by clarifying the intent of Congress and the law we could make clear that we do not want them to cut back services to the people, to their customers, without going through a procedure in which the people can have their day in court and express their concern about this when it is on a nationwide basis.

I know that clarifying language was cut out of the bill in conference. I wonder if the gentleman would explain that to us?

Mr. DERWINSKI. Mr. Speaker, first, may I point out to the gentleman from Alabama, we do have provisions in the bill for the moratorium on the closing of offices and services; but more importantly, we have permanent procedures to apply to the closing of small post offices. That includes a provision whereby any patron may appeal a decision to close a post office to the Postal Rate Commission. That partially meets the point that the gentleman is addressing.

Now, the specific point is covered by the gentleman's amendment. We ran into a brick wall with the other body. Their conference advised us that they would not accept that amendment. It was one of the two or three things in which we found ourselves deadlocked and it was one of the points in which we had to recede. It was just that the other body was adamant.

Mr. BUCHANAN. Mr. Speaker, if the gentleman will yield further, I commend the gentleman for including language about closing branches, because in my district what was involved, without any notification or any notice to their own advisory board, they were about to close some 27 branches in an urban area and make other radical changes, with no advance warning, with no consultation, with no chance for people to have a hearing on the matter.

I had to go to Federal court to stop it. That certainly ought not to happen over and over again, so I am glad that the gentleman included that language. But, I would hope that this action on the part of the conferees would not infer that this section of the law is meaningless, because we said they had to run these changes in the nature of services by the Postal Rate Commission where they were substantially nationwide. I hope we are not forgetting that is already a part of the law, and imply that they can bring about ridiculous changes in services with no consultation with the Postal Rate Commission.

Mr. DERWINSKI. I think the implication the gentleman draws from this is that the Senate at this time, in this bill, set this limit in application to March 15, 1977. The Senate just would not take the gentleman's amendment. We have advised them in the conference that we come back with a major bill next session, and obviously the gentleman's point will again be included in our bill.

I have no doubt that this will be the committee position that will be sustained on the floor of the House.

Mr. BUCHANAN. I thank the gentleman.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I rise in support of the conference report on H.R. 8603, Postal Reorganization Act Amendments of 1976, although not without some reservations.

Mr. Speaker, I am deeply disappointed that after 2 years of labor, the Congress has conceived a bill that really satisfies no one, yet seemingly possesses one undeniably attractive quality—aside from the not-to-be-overlooked factor that the President will sign this measure—and that is that H.R. 8603 enables the Congress in the midst of an election year fight to side step the very hard political decisions that must be made if we are to correct the burgeoning problems of the U.S. Postal Service.

Consider the compromise we have wrought: two $500 million emergency appropriations for each of fiscal years 1976 and 1977 to be applied strictly to USPS debts, authorization of the regular $920 million annual public service subsidy, a temporary freeze on further service cutbacks and postal rate hikes, and creation of a seven-member blue-ribbon commission to analyze the problems of the Postal Service and then hopefully to arrive at solutions that should, if truth be told, already appear in this legislation. Fortunately, we have moved wisely to preserve vital second-class mailing privileges for college catalogs and looseleaf publications and to apply library rates to books mailed to and from libraries and educational institutions. Equally important, we have assured ourselves and our constitutents that no longer will there be indiscriminate closures of post offices.

Over the past 2 years since becoming a member of the Postal Office and Civil Service Committee, I have watched with growing dismay a Postal Service deficit that is predicated to reach $4.5 billion by the end of fiscal year 1977, undue delays in the ratemaking process—although some of these problems have been administratively rectified—costing the Postal Service thousands of dollars each day in lost revenues, revelation after revelation of incredibly sloppy postal management, and irrational, potentially harmful Postal Service cutbacks.

Mr. Speaker, I was truly hopeful that H.R. 8603 would have attempted to address most, if not all, of these very serious problems.

I am, of course, aware that the President has threatened to veto any postal bill save the compromise now before us. I acknowledge the fact that both postmasters and postal employees, fearing further service cutbacks, and consequently, layoffs, freezes and reassignments, support this legislation. I grant that educators, librarians, professional groups, and trade associations will be pleased by the continuations of special mailing-class privileges, and rightly so. I recognize that Postal Union leaders, because they perceive this bill as not endangering collective-bargaining agreements, feel that they can live with this bill until something more favorable to their cause can be passed. And I allow that most Members want to be rid of this issue in a difficult election year.

But, Mr. Speaker, the day of reckoning cannot indefinitely be postponed. Whether today, March 15, 1977, or later, we must face the hard truth that the problems of the Postal Service will not fade away, and by temporizing, we can only compound the difficulties of the Postal Service and the Congress. Fiscal accountability, promotion of experienced, seasoned veterans to positions of management, and rational service opera-

tions cannot be magically conjured up one day, as much as we would like that to happen. It will only result from the will of Congress imposed on those who run the Postal Service.

Accordingly, I urge my colleagues to support this measure, not only because, in all practicality, this bill is the only one that will fly this year, but also to at least temporarily save the public from the action of the Postal Service, to save the Postal Service from its own follies, and to permit the 95th Congress to address these critical issues 5 months hence from a vantage that is at least hopefully no worse that it is today.

Mr. DERWINSKI. The gentleman's comments are to the point. This Postal Service has imperfections—that is an understatement. This bill is not the perfect, final solution, but it is the necessary vehicle that we must approve at this time.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the very distinguished gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman, and return his generous characterization.

Could the distinguished gentleman tell us why one of the letters circulated to the Members, signed by the conferees, says that the conference report prevents the closing of most post offices until March 15, 1977, whereas the letter the gentleman from Illinois sent around made the unequivocal statement that it stops all closings? Is there some conflict here? If some are to be closed, what post offices and what criteria are to be used?

Mr. DERWINSKI. It is a technical difference. Let me specifically quote. The conference report places a moratorium on closing post offices serving 35 or more families. Post offices serving fewer families, fewer than 35 families, cannot be closed unless 60 percent of the patrons approve. That is the only exception. In other words, any post office serving less than 35 families may be closed if 60 percent of the patrons being served approve that closing.

Of course, the condition attached thereto would be equivalent service to be available from a facility equally comfortable for use of these patrons.

With over 35, 35 or more families served by the post office, there is an absolute moratorium until March 15, 1977.

Mr. BAUMAN. Then this moratorium covers all post offices regardless of whether they actually have been proposed for closing or have been under consideration, or whatever the status may be?

Mr. DERWINSKI. That is right. The moment we pass this bill and it is signed by the President, that moratorium will be effective.

Mr. BAUMAN. I thank the gentleman for his explanation. This provision offers some temporary comfort to me and the many Members from rural areas where severe curtailment of postal service has been proposed.

Mr. HENDERSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. BURKE).

Mr. BURKE of Massachusetts. Mr. Speaker, I would like to address a question to the distinguished chairman of the Committee on Post Office and Civil Service. But before I make my inquiry, I would like to commend the chairman, the gentleman from New York (Mr. HANLEY), the gentleman from Illinois (Mr. DERWINSKI), the gentleman from California (Mr. WILSON) and other members of the conference committee, for the work they have done on this conference report.

My question is in the nature of the personnel problems that are faced at the South Postal Annex in the city of Boston. The area Congressmen up there, including the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL), the gentleman from Massachusetts (Mr. MOAKLEY) and myself have received numerous complaints from the personnel there about the policies that are now in effect. Many of the employees are being faced with transfers up to the western part of the State on very short notice. There are shifts in the hours of those working on the late shift in the evening. The shift in the hours has been changed to the point that when the termination of time is reached, there is no local transportation for them to get home.

I talked with a lady last week who works at the South Postal Annex, and she said if she cannot leave 5 or 10 minutes ahead of time. she is obliged to take a taxicab home and it costs her $7 to get home at night.

I have talked to other employees who sleep at the South Postal Annex at night because there is no way for them to get back home.

I was wondering if the chairman can inform me what the Post Office Committee has done as a result of the requests from the area Congressmen.

Mr. HENDERSON. Mr. Speaker, I thank the gentleman for his comments in regard to the conference report.

In regard to the specific situation raised affecting the area represented by the gentleman from Massachusetts (Mr. BURKE), the gentleman from Massachusetts (Mr. O'NEILL), and the gentleman from Massachusetts (Mr. MOAKLEY), we dispatched our staff personnel to that facility for an investigation, when this problem was brought to our attention by the area Congressmen. They are completing their preliminary investigations. I was informed this morning that they are now prepared to talk with the area Members. It will be the intention of the chairman and the committee to pursue this matter, working with the gentleman and his colleagues in that area and the postal officials, to bring about the best solution that we can to the personnel problems in that area. I believe that it can be done very quickly and very effectively. But certainly the Members of Congress are to be commended for bringing this to our attention.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. BURKE of Massachusetts. I yield to the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. I thank the gentleman for yielding.

In connection with that particular problem, we have held many hearings in my Subcommittee on Postal Facilities, Mail, and Labor Management, and we have found many things of this type that are being done wrong and that we disagree with, but we run into this bind that we cannot do anything about them because they are an autonomous organization. Next year we must make an effort to try to get congressional control over the Postal Service. It is the only way we as Congressmen can do anything to straighten out this very serious problem. It is too late this year, but we can hold hearings and bring attention to these problems.

Mr. BURKE of Massachusetts. I want to thank the gentleman.

Mr. Speaker, I think it should be brought to the attention of the post office officials that they are dealing with human beings. I think it is harsh treatment to tell a woman employee that she has to work until a certain hour at night and yet she is unable to get transportation to her home.

There is enough crime on the streets today without subjecting the postal employees to further risks of their lives. Can we imagine letting somebody out of work at night just 10 minutes after the last train has gone or after the last rapid transit has left? It does not seem to me that the post office officials should allow such cold and harsh treatment.

Mr. Speaker, I want to thank the gentleman for sending the investigators up there, and I hope we do bring about a solution of this problem so that they will be more humane in the treatment of their employees.

Mr. HENDERSON. Mr. Speaker, if the gentleman will yield, I am delighted to have had this colloquy with the gentleman from Massachusetts (Mr. BURKE). I appreciate his interest in this conference report and his interest in the personnel problems in this area.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. FORD), a very valuable member of the Committee on Post Office and Civil Service and, more especially, of the conference committee that brought us the conference report that is now before us.

Mr. FORD of Michigan. Mr. Speaker, I rise in support of the conference report, and I would like at this time to take the opportunity to add my heartfelt congratulations to the gentleman from New York, JIM HANLEY, who has spent several years trying to get to the point we have now reached on this floor.

The gentleman from New York worked very, very diligently during all of that time. Without that kind of devotion we would be without a bill, and we would be

facing perhaps an immediate disaster in the Postal Service, one that would far surpass the worst that anybody has described.

I would also like to say that it has been a very distinct privilege for me to work on this committee with the committee chairman, the gentleman from North Carolina, DAVE HENDERSON, who will be leaving us at the end of this term of Congress, having announced his retirement. He certainly deserves the appreciation of this body and of the members of the committee for the time that he has spent and the effort that he has put into moving this bill to this point. I commend him particularly for the success that he has displayed in recent months in moving an otherwise sluggish other body to recognize the urgency of this legislation.

Mr. Speaker, there are two provisions in this bill which I think should be noted in particular and upon which I would like to engage in a colloquy with the chairman of our committee as to the legislative intent of the conference report.

The first provision is section 11 of the conference report, which declares that, as a matter of law, college catalogs, post-bar admission mail announcements, and looseleaf reporting service publications relating to law or public policy, are entitled to be entered as second-class mail matter if they meet the entry conditions prescribed in former section 4354 through 4357 of title 39, as that law existed immediately prior to the Postal Reorganization Act.

In recent years, relying on language in a Supreme Court decision issued in 1904, officials in the Postal Service have undertaken a fairly active campaign to revoke the permits of second-class publications on the grounds that they do not meet this particular definition of what is a "periodical publication." College catalogs, looseleaf publications and post-bar admission educational materials are among those who have lost, or are in the process of losing, their second-class permits. Section 11 of H.R. 8603 requires that such publications be entered at second-class rates. It will be merely a ministerial duty for the Postal Service to reissue these permits as soon as this legislation is signed into law in the case of publications which have already had their permits revoked.

I would like, however, for it to be made clear, and I would like for the chairman of our committee, who was the chairman of the conference committee, to make it clear, that in singling out these three types of publications for legislative protection, there be no misunderstanding by the Postmaster General or his subordinates, that our committee or the conference committee were, by not including any other publications, implying approval of the Postal Service's actions in revoking other second-class permits. The three classes of publications which we have included in this legislation are three types which have come to our attention. They were threatened with losing their publication status at the Postal Service and they came to Congress to seek relief. Relief has been granted. No other implication should be drawn.

Mr. HENDERSON. Mr. Speaker, if the gentleman will yield, I concur totally with his interpretation, and I commend the gentleman for permitting us to have this legislative history. It does reflect the intent of the conferees that any other interpretation would be absolutely wrong.

Mr. FORD of Michigan. Mr. Speaker, I thank the chairman of the committee.

Mr. Speaker, I think it might be appropriate if the new Commission on Postal Service give attention to this problem because there are undoubtedly other second-class publications whose very existence is threatened by such administrative action. The Postal Service may be behaving responsibly, fairly, and with even-handed justice; but for a Federal agency today to apply a 72-year-old rule of questionable applicability to the definition of what is a periodical publication in this computer age at the very least raises questions which should be examined more carefully by the Congress. Recommendations on this issue by the Commission on Postal Service might prove helpful before any further action is taken.

The second provision I wish to mention is section 10 of the conference report, which establishes a new criterion for setting postal rates. Existing law does not require the Postal Rate Commission to consider the subjective values of the various kinds of mail in recommending postal rates. The law is designed to accomplish that in mail classification proceedings, but those proceedings have progressed so very slowly that postal rates may go through the roof before the Postal Rate Commission ever gets around to deciding that a book, a magazine, or a newspaper has more intrinsic value to the public than a brick. They may all have the same shape, size, and weight, but they are not all the "same." The conference report includes a new criterion which requires that the Postal Rate Commission take into account the "educational, cultural, scientific, and informational value" of mail matter in fixing postal rates.

Heretofore, the Postal Rate Commission has seemed to concentrate on cost factors almost exclusively. The U.S. Court of Appeals for the District of Columbia Circuit once expressed the view, in a lengthy concurring opinion which had nothing to do with the issue in the case, that the cost factors in section 3622(b)(3), and the attribution of cost to the maximum extent possible, were of overriding importance in fixing postal rates. There has been a great deal of discussion on that issue.

It is not my purpose today to attempt to insinuate in the columns of the CONGRESSIONAL RECORD any legislative support for a particular view beyond this specific and unmistakable point: Congress has now enacted legislation to require that the educational, cultural scientific, and informational value of mail matter must be considered in fixing postal rates.

Mr. DERWINSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. JOHNSON).

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I would like verification from the gentleman from Illinois (Mr. DERWINSKI) that the conference report includes the special library rate for books mailed to and from libraries and educational institutions.

Mr. DERWINSKI. Yes. Mr. Speaker, if the gentleman will yield, that is the amendment that the gentleman offered and which was adopted in the original Hanley bill. That was included in the conference report, yes.

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I want to thank the gentleman very much.

Mr. HENDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. HENDERSON. I yield briefly to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, I want to ask this question: We have read that there is a general agreement that the Postal Service will not be curtailed. While that agreement is supposed to be enforced, we found sometimes that they did not even deliver the mail. It is reported that they are in the process of changing regional offices and doing other things, and that is typical of the way they have treated the average Member of Congress since this law was changed. Of course, I voted against the change, and have and do have a bill pending to return to the former law.

I am just wondering whether we can count on this committee to ride herd and see that they leave things alone and do not give us lipservice and do things that certainly my friends on the committee have not been aware of, nor have my friends on the Committee on Appropriations been aware of. Therefore, I am just wondering how far this commitment with the Postal Service goes because we are just about to lose the mail service; there is no question about it.

Mr. HENDERSON. Mr. Speaker, to answer the gentleman's question, we have provisions clearly in the language in the conference report against the closing of offices or reduction in service. More importantly, the study commission provided for here will report early to the Congress on these matters. Certainly I can assure the gentleman that any service curtailment between now and the time that the moritorium expires will be properly investigated by our committee.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield further?

Mr. HENDERSON. Mr. Speaker, I wonder whether the gentleman from Illinois (Mr. DERWINSKI) might yield to the gentleman from Mississippi (Mr. WHITTEN).

Mr. DERWINSKI. Yes, Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, I do not know any group for which I have a higher regard than I have for members of this committee; but I do think that the committee members to whom I have talked are unaware of many things that are actually going on at the local level.

Perhaps it is true that they have not let anybody go, but in my section they have changed the location of jobs so that people have had to retire because in order to keep the jobs, they would have had to go 100 miles away.

My home town has a postmaster from 30 miles away. He is a fine fellow and my friend. In turn they moved the assistant from my town to his. The office employees are from another direction, so that everybody is being dragged all over the place. The purpose seems to be to get them to quit so that they can name somebody who suits them.

Under this agreement, are they going to leave conditions alone and quit this practice of moving people all around, particularly regional offices? They are getting ready to move people in my State to the adjoining State, so I am advised under the guise of changing regional offices.

Mr. DERWINSKI. If the gentleman will yield, the gentleman is correct that one of the administrative decisions of the Postal Service which ought to be reviewed is this new tendency to totally disregard residential factors when appointing a postmaster.

This was done supposedly to give management greater flexibility in the proper use of personnel. However, it has had an adverse effect in weakening the traditional relationship of the postmaster to his home community.

I think that is the point the gentleman is making.

Mr. WHITTEN. No; the point is a little different from that. If they disregard it, that might be all right. However, they are not doing that. Instead, they are deliberately doing the things that I have been talking about. They move people from here to there and from there to here. This upsets their living conditions. They make a man sell his house and buy a new house or travel many miles daily, and many of them are retiring, which seems to be the Postal Service's purpose so that they can name new people whom they want to name.

The point I am making is that as we have gone along here, we could, in my opinion, have changed this practice a long time ago.

Are we getting a commitment to leave things alone or are they going to do the same things during these months except where it is specifically set out in the language of the report? The language, by the way, does not go nearly so far as what I am talking about, as I read it.

Mr. DERWINSKI. The organization representing postmasters has protested what they consider abuses and have negotiated, on behalf of individual postmasters, with the postal officials.

Mr. WHITTEN. A Member of Congress cannot even meet with these people.

Mr. DERWINSKI. Right.

Mr. WHITTEN. Has that been changed under the agreement?

Mr. DERWINSKI. As the gentleman will recall, under the postal reform law, we are prohibited from anything which is considered political involvement in personnel matters.

Mr. WHITTEN. That was the way it was sold, but what we have done is that we have taken service away from the people.

Nobody wants the job of naming postmasters, but as long as an elected official has the responsibility, he is going to try to serve the public. When we take away service to the public insisted upon by the elected official, the public is bound to be up in arms.

Mr. HENDERSON. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from North Carolina.

Mr. HENDERSON. Mr. Speaker, I thank the gentleman for yielding. I wanted to respond as briefly and as effectively as I could to the gentleman from Mississippi (Mr. WHITTEN).

Mr. Speaker, it was absolutely impossible to get into all of the matters that the gentleman from Mississippi has mentioned in this legislation.

Mr. Speaker, we have before us a conference report that we think reflects the best product we can work out at this time. Let me add that the things that the gentleman from Mississippi (Mr. WHITTEN) has brought to the attention of the Members today will definitely have the attention of the committee in the next Congress and as far as possible in the interim we will do the best we can to continue our congressional oversight. But the conference report that we have before us goes a long way toward resolving many of the problems that have given concern to many Members of the Congress. That was our immediate objective in the conference and is reflected in the report we bring to the House today.

Mr. WAGGONNER. Mr. Speaker, will the gentleman from Illinois yield?

Mr. DERWINSKI. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Speaker, I thank the gentleman for yielding to me and I requested the time so as to pursue for just a moment further the concern expressed by the gentleman from Mississippi (Mr. WHITTEN). During the time he was talking I had just picked up a letter while sorting through my mail and also listening to the debate, and that letter deals with exactly that same subject.

I appreciate the remarks of the gentleman from North Carolina (Mr. HENDERSON) and I know that that gentleman fully intends that the thoughts he has expressed will be continued in the next Congress. However, just to elaborate a little further, here is a specific case much in the nature of that which the gentleman from Mississippi (Mr. WHITTEN), was discussing. This is a letter addressed to me by a postal employee and it says:

> I work for the Postal Service and in June they excessed me from Spring Hill and transferred me to Shreveport. They said they were doing away with the TC route then. Since I was transferred they did not do away with the route but are running it with substitutes.
>
> I would like for you people in Congress to know how our Postal Service is being run. I was driving about 12 miles to work, now I have to drive about 60 miles.

That is the type of thing that the gentleman from Mississippi (Mr. WHITTEN) was referring to.

Mr. DERWINSKI. Mr. Speaker, in reply to the gentleman from Louisiana, let me say to the gentleman to please remember that the Postal Service does have major personnel problems. I will be the first one to acknowledge that they have made some major mistakes in their personnel relations and in the handling of their personnel. But this vehicle before us the Members must remember, is a stopgap measure so as to get us through until next March, and if there are certain major problems such as the very points the gentleman from Mississippi (Mr. WHITTEN) and the gentleman from Louisiana (Mr. WAGGONNER) have mentioned, those problems will be major items of review under the chairmanship of the gentleman from New York (Mr. HANLEY), and the gentleman from California (Mr. CHARLES H. WILSON) during the next Congress.

Mr. WHITTEN. Mr. Speaker, if the gentleman will yield further, I appreciate what our friends here are doing, they are doing the best they can. What I am trying to do is find out what did the Postal Service promise? The Postal Service can destroy the last remnants of public service between now and the time that Congress can take this up next year. I hope they will at least leave what service we have left.

The point I want to know, are they going to continue these disruptive practices in the interim? If they are, we will not have anything left when the committee gets to it.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield 3 minutes to the very distinguished gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. Mr. Speaker, I do not believe that I will need that much time, I would say to the gentleman from Illinois (Mr. DERWINSKI) and I appreciate the gentleman yielding to me. I would like to state that there is an obligation here on behalf of the employee unions, the postal unions, to look into matters of this type, as well as criticizing the Postal Service. They are the ones who are supposed to be representing the employees. If they have problems of this type, they should straighten those things out. The union has the responsibility.

The Postal Service has been making some very drastic and sad mistakes, I think I would agree with the gentleman from Illinois on that. They are trying to get rid of as many of their postal employees as they can, trying to discourage them from staying on as career people. They are deliberately doing this so they can hire casual employees. They feel it is less expensive because of the benefits involved with their full time employees. There are some very serious matters involved which again I say is responsible for my feeling that the Congress has to have a greater say in the work of the Postal Service.

Mr. HUNGATE. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Missouri.

Mr. HUNGATE. I thank the gentleman for yielding.

I commend the committee certainly on the improvement in the area of our Postal Service problems. I did want to say that the gentleman from Mississippi and the gentleman who followed him from Louisiana have eloquently described the situation that does exist, that is, the problem with the Postal Service in my district. I commend them, and I urge the committee to keep that under study.

Mr. DERWINSKI. I would also urge the committee not to let illegitimate complaints interfere with its support of the conference report.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HENDERSON. Mr. Speaker, I yield the remaining 5 minutes to the Chairman of the Postal Service Subcommittee, the gentleman from New York (Mr. HANLEY).

Mr. HANLEY. Mr. Speaker, on Monday, August 30, a House-Senate conference approved the final version of H.R. 8603, the Postal Reorganization Act of 1976. The next day the Senate approved the conference report.

We are all aware that the Postal Service is on the verge of bankruptcy. Its financial pinch has been transmitted to our constituents in the form of declining postal service.

Since last October, much has transpired which makes immediate action almost imperative. We have had another unpopular rate increase, rules governing the closing of small post offices have been liberalized, placing literally thousands of small post offices under the gun. The Postal Service's financial condition has worsened to the extent that draconian service cuts are being contemplated.

Postal Service officials tell us that they must implement these cuts if they are to break even financially by 1984 as stipulated in the Postal Reorganization Act of 1970.

It was obvious that the time had come for Congress to examine the 1970 Act in order to determine what legislative changes should be instituted to assist not only the Postal Service, but to assist the American people as well.

We have had debates on this bill that I believe reflected the extreme frustration of this House with the policies of the Postal Service; a frustration which I wholeheartedly share. It indicated to me that the House was insisting that it have a greater voice in establishing postal policy, a goal which I share.

In conference consideration was given to the strong sentiments of some of the Members on the matter of additional funding for the Postal Service, and on the degree of congressional oversight.

It also authorizes $1 billion in two incerements of $500 million each to be applied against the accumulated debt.

It sets up a seven-member commission to examine the postal system and report its findings by March 15, 1977, to the President and the Congress.

But most important, from the point of view of our constituents, it provides for a moratorium on postal rate increases, service cuts, and post office closings until March 15, 1977.

It provides rigorous procedures allowing maximum public input before any post office can be closed after the moratorium period is over.

As you well know, our constituents are demanding postal reform now. I believe that H.R. 8603 is in step with the will of all Americans, and the will of the House, that Congress become more intimately involved in the development of postal policy. This bill lays the groundwork for greater and more fruitful congressional involvement in the future.

This bill must reach the President for signature as soon as possible. It is imperative that postal reform legislation be acted upon by this Congress.

I urge you to support the conference report on H.R. 8603.

The following is a comparison of the House version of H.R. 8603 and what was agreed to in the conference on August 30, 1976.

The House version required that all postal revenues be deposited in the general fund of the Treasury and that Congress annually appropriate all of the Postal Service funds. All operating expenses would have been appropriated annually, with all postal revenues going to the Treasury. No specific provision for a subsidy was provided for in the House version, though the authorization was permanent and open ended.

The conferees approved a provision requiring the Postal Service to submit budget and other material to Congress annually. It requires Postal Service officials to testify before House and Senate Post Office Committees by March 15 of each year.

It also authorizes $500 million for the transition period ending September 30 and $500 million for fiscal year 1977 to be applied against the Postal Service's accumulated operation indebtedness.

The House-passed bill required the Postal Service to provide door or curbline delivery to residential addresses under conditions essentially determined by local authorities. The conferees adopted language requiring the Postal Service to provide door or curbline delivery and prohibits installation of cluster-boxes delivery in new areas from the day the first $500 million appropriation is made until March 15, 1977.

This compromise is a responsible one which puts a temporary halt to the seemingly constant rate increases and declining service. The House bill did not include language regarding a moratorium on rate increases and service cuts. In the conference report there is a moratorium on rate increases, service cuts, and post office closing that would run from the day the first $500 million appropriation is made until March 15, 1977.

The House bill provided that parcel post rates will not be reduced more than 10 percent as a result of any postal subsidies. This was accepted by the Senate in conference.

The House bill defined service changes as "any change or alteration in type, quality, terms or conditions of providing for the receipt, transmission or delivery of mail matter of any type." All Postal Service decisions to initiate a service change will be appealed to the Postal Rate Commission. This was deleted by the conference.

The conference accepted the House section addition "educational, cultural and scientific and informational value to criteria for setting rates." The House version preserving second-class mailing privileges for college catalogs and certain looseleaf publications was accepted by the conference.

The conference adopted the House provisions relating to publications of State fish and wildlife agencies and relating to the definition of an agricultural nonprofit association or organization.

The conference also accepted the House bill that contained a provision making the rates applicable for books mailed between schools and libraries applicable to the rates for books when mailed by a publisher or distributor to schools and libraries.

After the moratorium period, the bill establishes specific procedures for closing post offices, giving the public sufficient time and notice for comment. Any patron may appeal a decision to close a post office to the Postal Rate Commission.

The House bill established the Commission on Postal Service, lasting 2 years, consisting of five members to study specific areas, particularly the public service aspects of the Postal Service, and the method of establishing postal rates.

The conferees adopted language establishing a seven-member commission: three appointed by the Senate, and two each by the President pro tempore of the Senate and the Speaker of the House. The Commission has general responsibility to study postal problems and is required to study and issue recommendations on several specific areas of interest, including public service aspects of the Postal Service.

The Commission will be appointed within 15 days after the enactment of the bill. The Commission must report its findings by March 15, 1977.

The House bill contained a provision which required that the Postmaster General and the Deputy Postmaster General must be confirmed by the Senate. It was decided in conference, instead, that the Commission would issue recommendations on the feasibility and desirability of alternate means of appointment.

The House bill required that the Postal Rate Commission would be subject to Senate confirmation. This was accepted in conference.

The House version requires that the Postal Rate Commission be subject to a 10-month period for consideration of rates and classification cases. The conference accepted a 10-month waiting period for rate increases but retained the 90-day waiting period for classification cases.

The House version removed the proceedings of the Postal Rate Commission from the Administration Procedure Act. In conference it was decided that the existing law would not be changed.

Mr. ADAMS. Mr. Speaker, the conference report on H.R. 8603 is substantially different from the bill passed by the House several months ago. This conference report provides for authorization for two back-to-back appropriations of $500 million each for additional Federal subsidies to the U.S. Postal Service.

As Members know, Mr. Speaker, the Budget Committee does not ordinarily comment on authorization bills, since they do not in themselves provide budget authority. However, the situation with respect to authorizations for appropriations for postal subsidies is different. Typically, the Appropriations Committees have considered authorization action by the Congress to be a principal expression of the will of Congress on the subsidy question. Therefore, although this legislation is not an entitlement, nor does it provide budget authority, it must be viewed in the nature of a very powerful advance commitment.

The first budget resolution for fiscal year 1977 did not provide additional funds for postal subsidies over and above those which had heretofore been authorized under existing law. The second budget resolution which we adopted yesterday likewise made no provision for additional postal subsidies.

If I understand the intentions of the proponents of this legislation, it is expected that the President will transmit a supplemental appropriation request at the same time he signs this bill. I understand that a request for $500 million will be made for the transition quarter and a further request for $500 million for fiscal year 1977.

Based upon the most recent analysis of actions by Congress on transition quarter amounts, sufficient funds remain within the ceilings to accommodate an appropriation of $500 million prior to October 1.

However, the situation with respect to funds for fiscal year 1977 is uncertain. The second budget resolution passed by the House yesterday did not make provision for an additional $500 million appropriation; the Senate resolution, also passed yesterday, is understood to include these funds. I cannot, of course, predict what the outcome of the conference may be.

It seems clear, Mr. Speaker, that enactment of additional postal subsidies for fiscal year 1977 may require that an equal amount of funds be withheld from some other program or the deficit be raised because the second budget resolution is very tight. The third alternative is to have this force a third budget resolution. This disclosure puts the public on notice of the problems involved in this.

Mr. AuCOIN. Mr. Speaker, this legislation calls for a moratorium on lowering the levels or types of services offered as of July 1, 1977. Whether or not a Postal Service action constitutes a lowering of the level or type of service is not always clear. Before passing this legislation, we need to clarify what kind of evidence Congress intends to accept as proof that a change in the function of a post office does not represent a lowering of the level of service. I say this because it is too easy for the Postal Service to make changes by simply claiming that service will improve or costs will be cut. In my district, for example, the Postal Service district manager proposes to transfer the mail distribution function out of the Beaverton Post Office. He claims that—

> The net result will be a reduction in total operating costs while the level of service to the Beaverton and Portland communities will not be affected adversely in any way.

I have asked him to show me the figures which he used to determine that a reduction in total operating costs will be achieved, but I have received no reply. I am not convinced that the transfer will not result in a lowering of the level of service to the community. If the transfer takes place, fewer clerks will be available to serve customers at the windows, where 20-minute lines are not uncommon now, according to the Beaverton postmaster. Although first- and third-class letter mail can be processed faster by machine. I have seen no evidence that a comparison study of error rates has even been done. I am concerned about the effect on delivery of flats and packages which cannot be machine processed.

If the Postal Service can prove that the proposed transfer will reduce operating costs without adversely affecting service, I will support it. But Congress should not merely accept promises while being denied access to the figures and methodology to back them up.

Mr. HENDERSON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 276, nays 33, answered "present" 1, not voting 120, as follows:

[Roll No. 710]

YEAS—276

Allen
Ambro
Anderson, Ill.
Andrews, N.C.
Archer
Ashley
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bennett
Bevill
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bowen
Breaux
Breckinridge
Brinkley
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Burke, Fla.
Burke, Mass.
Burton, John
Butler
Byron
Carr
Carter
Cederberg
Chappell
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derwinski
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Eilberg
Emery
Erlenborn
Evans, Ind.
Evins, Tenn.
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Gaydos
Giaimo
Gibbons
Gilman
Goldwater
Goodling
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Hillis
Holt
Holtzman
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kemp
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lundine
McClory
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Martin
Mathis
Meeds
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Preyer
Price
Pritchard
Quillen
Regula
Reuss
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Vander Jagt
Vanik
Wampler
Whalen
White
Whitehurst
Winn
Wirth
Wolff
Wylie
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki

NAYS—33

Adams
Alexander
Anderson, Calif.
Armstrong
Ashbrook
Broomfield
Buchanan
Burleson, Tex.
Burlison, Mo.
Collins, Tex.
de la Garza
Devine
Findley
Ginn
Gradison
Hall, Tex.
Hébert
Ichord
Jarman
Kasten
Kazen
Kindness
McDonald
Mottl
Ottinger
Poage
Satterfield
Schulze
Skubitz
Taylor, Mo.
Waggonner
Whitten
Wilson, C. H.

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—120

Abdnor
Abzug
Addabbo
Andrews, N. Dak.
Annunzio
Aspin
AuCoin
Badillo
Beard, R.I.
Bell
Bergland
Biaggi
Biester
Bonker
Brademas
Brodhead
Brooks
Burgener
Burke, Calif.
Burton, Phillip
Carney
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Conable
Conlan
Corman
Crane
Derrick
Diggs
du Pont
Early
Edwards, Ala.
Edwards, Calif.
English
Esch
Eshleman
Evans, Colo.
Fary
Ford, Tenn.
Fuqua
Green
Hammer-schmidt
Hansen
Harrington
Heinz
Helstoski

Hinshaw
Holland
Horton
Howe
Johnson, Colo.
Jones, N.C.
Karth
Kelly
Ketchum
Lujan
McCloskey
McCollister
Mann
Matsunaga
Mazzoli
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Mink
Mitchell, N.Y.
Mollohan
Morgan
Murphy, Ill.
Murphy, N.Y.
Nichols
O'Neill
Paul
Peyser
Pressler
Quie
Railsback
Randall
Rangel
Rees
Rhodes
Richmond
Roncalio
Rose
Rousselot
Runnels
Ruppe
Russo
Ryan
St Germain
Sebelius
Sikes
Sisk
Snyder
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Symms
Van Deerlin
Vander Veen
Vigorito
Walsh
Waxman
Weaver
Wiggins
Wilson, Bob
Wilson, Tex.
Wright
Wydler
Young, Alaska
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. du Pont for, with Mr. Clancy against.
Mr. Heinz for, with Mr. Del Clawson against.
Mr. Horton for, with Mr. Hansen against.
Mr. Kelly for, with Mr. Paul against.
Mr. Railsback for, with Mr. Rousselot against.
Mr. Walsh for, with Mr. Symms against.
Mr. Wydler for, with Mr. Snyder against.

Until further notice:

Mr. Annunzio with Mr. Abdnor.
Mr. O'Neill with Mr. Hammerschmidt.
Mr. Brademas with Mr. Bell.
Mr. St Germain with Mr. Lujan.
Mr. Fary with Mr. Mitchell of New York.
Mr. Addabbo with Mr. Andrews of North Dakota.
Mr. Corman with Mr. Edwards of Alabama.
Mr. Zeferetti with Mr. Sebelius.
Mrs. Chisholm with Mr. Biester.
Mr. Phillip Burton with Mr. McCloskey.
Mr. Murphy of New York with Mr. Crane.
Mr. Fuqua with Mr. Michel.
Mr. Bonker with Mr. Aspin.
Mr. Biaggi with Mr. Peyser.
Mr. Vander Veen with Mr. Ruppe.
Mr. AuCoin with Mr. Bergland.
Mr. Helstoski with Mr. Esch.
Ms. Abzug with Mr. Steelman.
Mrs. Meyner with Mr. Don H. Clausen.
Mr. Mikva with Mr. Pressler.
Mr. Nichols with Mr. Wiggins.
Mr. Rose with Mr. Young of Alaska.
Mr. Sikes with Mr. Karth.
Mr. Badillo with Mr. Steiger of Arizona.
Mr. Beard of Rhode Island with Mr. Conlan.
Mr. Rangel with Mr. McCollister.
Mr. Edwards of California with Mr. Quie.
Mr. Howe with Mr. Conable.
Mr. Murphy of Illinois with Mr. Bob Wilson.
Mr. Morgan with Mrs. Burke of California.
Mr. Matsunaga with Mr. Eshleman.
Mrs. Mink with Mr. Brodhead.
Mr. Harrington with Mr. Burgener.
Mr. Metcalfe with Mr. Young of Georgia.
Mr. Jones of North Carolina with Mr. Brooks.
Mr. Ford of Tennessee with Mr. Diggs.
Mr. Carney with Mr. English.
Mr. Derrick with Mr. Holland.
Mr. Early with Mr. Mazzoli.
Mr. Evans of Colorado with Mr. Melcher.
Mr. Green with Mr. Milford.
Mr. Mann with Mr. Randall.
Mr. Mollohan with Mr. Rees.
Mr. Richmond with Mr. Runnels.
Mr. Roncalio with Mr. Ryan.
Mr. Weaver with Mr. Charles Wilson of Texas.
Mr. Waxman with Mr. Sisk.
Mr. Wright with Mr. Stephens.
Mr. Vigorito with Mr. Steed.
Mr. Van Deerlin with Mr. James V. Stanton.

Mr. KAZEN changed his vote from "yea" to "nay."

Mr. HOWARD changed his vote from "present" to "yea."

Mr. GONZALEZ changed his vote from "yea" to "present."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 8603 just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONFERENCE REPORT ON H.R. 5465, RETIREMENT BENEFITS FOR CERTAIN EMPLOYEES OF THE BUREAU OF INDIAN AFFAIRS AND THE INDIAN HEALTH SERVICE

Mr. HENDERSON. Mr. Speaker, I call up the conference report on the bill (H.R. 5465) to allow Federal employment preference to certain employees of the Bureau of Indian Affairs, and to certain employees of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of, certain Federal laws allowing employment preference to Indians, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 1, 1976.)

Mr. HENDERSON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. HENDERSON) is recognized for 30 minutes.

Mr. HENDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on H.R. 5465 differs in several respects from the bill as it originally passed the House on May 3, 1976.

The emphasis in the House bill was on moving employees of the Bureau of Indian Affairs and the Indian Health Service, whose careers have been adversely affected by the Indian preference laws, out of those agencies and into vacant positions within the Department of the Interior or the Department of Health, Education, and Welfare, as appropriate.

To accomplish this objective, the House bill provided that such adversely affected employees would be given priority consideration for appointments to vacant positions within their Department.

In addition, the House bill permitted an employee to elect to retire under the involuntary retirement provisions of existing law, if he were passed over on three occasions for appointment to a vacant position.

The Senate amended H.R. 5465 by striking out all of the provisions of the House bill and substituting an entirely new text.

The Senate version of the bill provided retirement benefits only; it did not provide placement assistance or appointment preference for those employees who are adversely affected by the Indian preference provisions.

The Senate committee rejected the placement assistance program established under the House-passed bill primarily for two reasons:

No. 1, the Department of the Interior has had a similar placement assistance program for BIA employees in effect since December 1975.

No. 2, notwithstanding a strong placement assistance program, the opportunities for careers outside of the Indian services agencies are nonexistent or severely restricted for many employees.

A majority of the House conferees accepted the Senate amendment to H.R. 5465 and recommend adoption of the conference substitute which is essentially the same as the Senate amendment.

The conference substitute authorizes payment of an immediate annuity to employees of the Bureau of Indian Affairs or the Indian Health Service who are not entitled to the benefits of the Indian preference laws and who retire before December 31, 1985, provided they satisfy certain requirements.

To be eligible for retirement under the conference substitute, an employee must:

First, have completed 25 years of service or attained age 50 and completed 20 years of service;

Second, have been continuously employed in the Bureau of Indian Affairs or the Indian Health Service since June 17, 1974;

Third, have been twice passed over for promotion or transfer because of the Indian preference laws; and

Fourth, not otherwise be entitled to full retirement benefits.

An employee who meets all of those requirements will be entitled to an annuity computed at the rate of 2½ percent of his average pay for the first 20 years of service plus 2 percent of his average pay for all of his service in excess of 20 years.

It is estimated that the conference substitute will affect approximately 2,700 employees and result in additional budget authority of $8.4 million and outlays of $3 million for fiscal year 1977.

Mr. Speaker, these employees need and deserve our help. No other group of Federal employees is subjected to such legally sanctioned discrimination. They

have little or no opportunity to advance in their careers.

For these reasons, I urge the adoption of the conference report.

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the conference report on H.R. 5465.

This is a product of separate House and Senate "conferences," whose members never met as a group to carefully consider the differences in the bill. Instead, each member merely signed the report acceding entirely to the Senate version. Congressman TAYLOR and I refused to sign the conference report.

I think most Members would agree this is a rather unique legislation exercise.

Nevertheless, this procedure might be overlooked if it were not for the conference agreement. As mentioned, the House conferees completely capitulated to the Senate position, thereby making the bill unacceptable.

The House passed bill was the lesser of two evils in response to the June 17, 1974, Supreme Court decision which reaffrmed and upheld the policy, as enunciated by Congress in prior legislation, of providing Indian employees of the Bureau of Indian Affairs with employment and promotional preferences. This decision and its likely impact on the careers of non-Indian employees of the Bureau of Indian Affairs was recognized.

The House version provided assistance to non-Indian employees of the Bureau of Indian Affairs and the Indian Health Service by requiring that such employees be given preferential consideration for appointments to vacant positions within the Department of Interior or the Department of Health, Education and Welfare. In addition, the bill provided for retirement in accordance with the involuntary retirement provisions of the civil service retirement law.

That is, these employees may retire upon completion of 20 years of service and attainment of age 50, or upon completion of 25 years of service under the regular computation formula.

The Senate struck all of the House language and substituted a completely new text. It provides solely for preferential retirement benefits for non-Indian employees of the Bureau of Indian Affairs and the Indian Health Service. Specifically, an affected employee may retire under the involuntary separation standards except that the annuity will be computed at 2½ percent for each of the first 20 years, and 2 percent for each year thereafter

The retirement benefits proposed are more liberal than the benefits available to other groups of Federal employees that have been granted special treatment. For example, firefighters, law enforcement personnel, and air traffic controllers are subject to the same liberal retirement qualification provisions and multiplication factor as proposed in the Senate amendment, however, these employees must serve as an air traffic controller, law enforcement officer, or firefighter 20 years in that occupation to qualify for early preferential retirement. This is not the case of non-Indians in the Bureau of Indian Affairs and the Indian Health Service. The conference report only provides that these employees must have been "continuously employed in the Bureau of Indian Affairs or the Indian Health Service since June 17, 1974." This means any type of Federal service could come under the special formula.

The bill also provides that an employee separated from the service from June 17, 1974, would qualify for special preferential retirement. Such employees would not receive retroactive benefits, but would be entitled to the more liberal computation formula proposed under this bill.

Further, the cost of the Senate amendment is over 500 percent more than the House-passed bill. Specifically, the Senate amendment will increase the unfunded liability of the civil service retirement fund by $136 million, while the House proposal cost $25 million.

Mr. Speaker, the conference report on H.R. 5465 is unacceptable. It is a costly, unimaginative, narrow approach to a difficult problem. It is another example of solely using the civil service retirement system to solve a personnel management problem. It is not a workable solution.

Mr. HENDERSON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill H.R. 5465, just agreed to.

The SPEAKER pro tempore (Mr. NEDZI). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONFERENCE REPORT ON S. 327, AMENDING THE LAND AND WATER CONSERVATION FUND ACT OF 1965, AS AMENDED, TO ESTABLISH THE NATIONAL HISTORIC PRESERVATION FUND

Mr. TAYLOR of North Carolina. Mr. Speaker, I call up the conference report on the Senate bill (S. 327) to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 2, 1976.)

Mr. TAYLOR of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. TAYLOR) is recognized for 30 minutes, and the gentleman from Kansas (Mr. SKUBITZ) is recognized for 30 minutes.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

I am happy today to bring to the House of Representatives the conference report on the bill S. 327—a bill which amends both the Land and Water Conservation Fund Act and the Historic Preservation Act of 1966.

This is an historic measure. It is one of the most important and constructive conservation bills presented during the 94th Congress. Perhaps more than any other bill, this legislation will enhance the ability of our Nation to promote and protect its natural and historic heritage.

As recommended in the conference report the authorization for the land and water conservation fund would be increased from $300 million this fiscal year to $600 million in fiscal 1978, $750 million in 1979, and $900 million in 1980 and thereafter for the life of the fund. The committee accepted the House version which increased this authorization in steps, so that no increase occurs until fiscal year 1978.

The report clearly indicates that 60 percent of the fund should continue to go to the States in the form of matching grants for recreation programs. These grants have gone to every State in the Union to help establish and develop local park and recreation projects. The conferees did agree, however, that if the States should be unable to match their share of the funds appropriated in any particular fiscal year, then the unmatched portion should be put to use for the land acquisition needs of the Federal agencies having outdoor recreation responsibilities.

Another important issue addressed by the conferees involved the allocation of moneys among the States. The House version of the bill revised the distribution formula with respect to the portion divided equally among the States. We did this because we recognized that the inequity of the existing formula would be compounded as the level of the fund increases. In resolving this issue, the conferees compromised the point so that as the level of the fund increases, the portion distributed equally decreases. This will assure every State that it will receive more money, but will help the more populated States at a greater rate as the level of the fund goes up.

The conferees also addressed the sheltered facilities issue. As the Members of the House will recall, the House version of the bill precluded the use of Federal matching funds for sheltering facilities constructed with land and water conservation fund moneys. The Senate approved language which allowed up to 25

percent of a State's allocated moneys to be used to shelter facilities. To resolve this dilemma, the conferees recommend a compromise which would allow ice skating rinks and swimming pools to be covered where severely cold climates require shelters, but not more than 10 percent of a State's share of its land and water conservation fund allocation is permitted to be used for this purpose.

The second principal feature of the conference report establishes a fund for an expanded historic preservation matching grants program. All of the money in this program has been, and will continue to be, provided on a basis to encourage the preservation of historic places.

The authorization for fiscal year 1977 totals $24.4 million. Under the provisions recommended in the conference report, a fund similar to the land and water conservation fund would be created and the level of funding would be increased to $100 million annually in fiscal years 1978 and 1979 and to $150 million in 1980 and 1981. While this represents an increase over the House provisions for these years, the program is limited to 5 years rather than being extended to 1989 as the House bill provided.

The conferees recommend acceptance of provisions in the Senate version of the bill dealing with the Advisory Board on Historic Preservation. Basically the Senate language converted this Board into an independent agency because it deals with a variety of Federal activities. It increases the membership on the Board to include representation from the Departments of State, Defense, and Health, Education, and Welfare, as well as the Council on Environmental Quality, the Council on the Arts and Humanities, and the Architect of the Capitol. In addition, it includes the president of the National Conference on Historic Preservation and two more public members. While this should assure the independence of the Council, it should not result in any significant increase in the administrative costs, since its functions remain largely unchanged.

Finally, the conferees considered two provisions in the Senate bill which were not in the House version. One dealt with Senate confirmation of various officials in the Department of the Interior. The Senate agreed to drop this provision. The other provision permits those States receiving payments for oil shale resources on public domain lands to use these moneys for such public purposes as the State legislatures provide. At the present time, the law limits the use of these payments to schools and roads. In any event these are moneys which will be paid to the States involved, so that the only change is to allow the States more flexibility in determining how the moneys can best be used.

In conclusion, I want to say that the land and water conservation fund program, as it has developed since 1965, has proven itself. It is the sole source of funding for our Federal outdoor recreation land acquisition program. It has encouraged the States to expand their efforts to meet the outdoor recreation needs of their people. It is a popular, useful, and desirable program that deserves the continued support of this Congress. The House bill passed by a vote of 392 to 3 and I am confident that both the House and Senate will approve this conference report and that, in keeping with his recent statements regarding park and recreation needs, that the President will sign this legislation into law.

Mr. Speaker, I urge my colleagues to approve the conference report on the bill S. 327.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

Mr. Speaker, I congratulate the chairman of our subcommittee and the other conferees on bringing back a sound, solid piece of legislation. It is badly needed, and it will help parks all over America, State, local, and Federal. I hope it will be approved this afternoon with a resounding vote.

Mr. TAYLOR of North Carolina. I thank the gentleman for his comments.

Mr. TSONGAS. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. I thank the gentleman for yielding.

Mr. Speaker, I should like to commend the gentleman in his last year in Congress for bringing forth a bill as critically important as is this one.

If one looks back over 100 years of expenditures and what has happened to Federal moneys, the moneys that have been invested in national parks are far and away the best investment ever made. What is done in this bill is a strong step further in that direction. I would hope that in the future the backlog of acquisitions of park land can be resolved and that we can get into the increasingly important issue of urban national park lands.

Mr. TAYLOR of North Carolina. I appreciate the gentleman's comments.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Speaker, I thank the gentleman for yielding. I would like to say I too have enormously enjoyed the privilege of working with the chairman of the subcommittee on this legislation. I think that he has done a superb job with it under difficult circumstances. This conference report is not all that we would have hoped for but I think it is a reasonable compromise considering the fact that the Senate started out in what they termed to be adamant opposition to certain provisions of the House bill and particularly the modification of the formula, and I think we emerged with what is a satisfactory solution at least in the long run.

In the long run, as the Members will note, the formula does move to the type of formula that was adopted in the House bill.

I want to salute the gentleman for his leadership in this field and again say it has been a pleasure working with him.

Mr. TAYLOR of North Carolina. I thank the gentleman from New York and I would state at this time that the cooperation of the gentleman from New York has been very helpful.

One of the controversies we had, and which I knew we would have, dealt with this change in the allocation formula. Here in the House we go according to State population. Of course in the Senate each State has the same representation. Our conferees included the gentleman from California (Mr. JOHNSON) the gentleman from Texas (Mr. KAZEN) the gentleman from New York (Mr. BINGHAM) the gentleman from Ohio (Mr. SEIBERLING) and the gentleman from Texas (Mr. ECKHARDT) all from larger States. We wanted the larger States to be fully represented and one of the most difficult decisions for us to reach was this change in the formula. The Senate conferees started out by taking a firm position that they had a mandate from the Senate to make no change in the formula. We said we had a mandate from the House to make one. It looked as if we could fail to get a bill on that issue, just as we did fail 2 years ago when there was a deadlock on that issue and we failed to get a bill because we could not resolve the difficulty.

But this time, after we conferred with the Members of the other body, and they conferred with their people, they came back to the conference with a willingness to meet us halfway, and that is the compromise that took place.

Mr. BINGHAM. Mr. Speaker, I am glad that the House is to take final action today on the land and water conservation and historic preservation fund bill. The bill will raise the annual authorization for the land and water conservation fund from the present $300 million to $900 million by 1980 and will make other improvements in the fund. Hopefully, President Ford, a new convert to the parks cause, will break with the past and sign this bill. That would indeed be a Bicentennial gift to the Nation.

This legislation was first considered in the Committee on Interior and Insular Affairs in the 93d Congress. At that time I urged that the existing formula for distributing the States share of the funds be drastically changed to correct the injustice that had been written into the original legislation. Under the distribution formula then in effect—and still in effect—only 60 percent of the funds for States was distributed according to need; 40 percent was distributed to each State equally, with Delaware and Alaska receiving the same amount as New York and California. This resulted in extreme disparities in the funds distributed when measured on a per capita basis: for example, the per capita share of the fund received in New York State was 61 cents, as against $5 in Alaska.

Under the leadership of the chairman of the Parks and Recreation Subcommittee, Mr. TAYLOR, a compromise was finally worked out in the committee which provided that the old formula would apply for the first $240 million of funds to be distributed to the States, but

that above that amount the per-State distribution formula would apply to only 20 percent of the States share. The bill passed the House with that compromise formula included, but was not enacted into law because the House and Senate conferees were unable to agree. The Senate, which is of course composed of two Senators for each State regardless of population, stood firm against any change in the formula.

In the current Congress the Committee again recommended the compromise formula previously agreed upon, and the House passed the bill in that form by a large majority, but once again the Senators on the conference committee reacted strongly against any change in the formula. Finally, the formula contained in the present conference report was agreed to; under this formula, 40 percent of the first $225 million—reduced from $240 million—will be evenly distributed; only 30 percent of the next $275 million will be so distributed, and above the level of $500 million the 20 percent figure will apply. This means that eventually—and hopefully not too far in the future—the 80–20 division provided for in the house bill will apply.

It should be noted that, while the larger States benefit by the proposed benefits, the amounts actually received by the smaller States will in all cases increase, so that no State gets hurt.

Other sections of the bill also will benefit New York and the other large States. The bill raises from 7 to 10 percent the amount any one State can receive from the fund. Frankly, I do not see the need for any ceiling whatsoever. But, obviously, a ceiling of 10 percent is superior to one of 7 percent.

The bill will also permit States with cold weather to use up to 10 percent of their matching grants to construct sheltered swimming pools and ice skating rinks. Again, I see no need to so severely limit such expenditure. But the position that land and water conservation funds should be used solely for outdoor recreation is strongly held by many Members. The modest move away from that position contained in this conference report represents some progress.

The bill as recommended by the conference committee also calls upon the Secretary of the Interior to undertake a serious study of the country's needs for urban recreation and how they may best be met, to be submitted to the Congress within a year. Hopefully, this study may lead to more effective action by the Congress in providing for Federal assistance to States in the area of urban recreation.

Mr. GOLDWATER. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Speaker, I thank the gentleman for yielding.

I rise in support of the conference report.

Mr. Speaker, I also want to recognize the invaluable leadership of the gentleman from North Carolina (Mr. TAYLOR). I think over the years he has evolved a recognition of the importance of open spaces, parks, and recreation facilities for the American people, and especially as it pertains and applies to those who live in urban areas, the highly concentrated population centers.

This concept, this idea that people need an opportunity to expand, to get away from the inner cities is important to the health and welfare of our American people. This vehicle, the Land and Water Conservation Fund Act, is the only vehicle that truly existed that allowed a cooperative spirit between the Federal Government and the States, to expand these open spaces.

Obviously throughout the time period of this program there have been those who have had various opinions and points of view, some conflicts, and I believe we owe a debt of gratitude to the gentleman from North Carolina (Mr. TAYLOR), the chairman of this committee. He has demonstrated a tremendous amount of leadership in ironing out the difference and points of view and eventually over the last year and a half or two coming up with a piece of legislation that accommodates those who had different points of view but also expands the program and allows an expanded development of these open spaces, especially in such areas as my own area of Los Angeles, Calif.

I thank the gentleman for yielding and I urge support for the conference report.

Mr. TAYLOR of North Carolina. Mr. Speaker, let me state in response to the gentleman that the members of the House Committee on Interior and Insular Affairs share the gentleman's concern for the development of urban parks. We have created some urban parks at the Federal level where a particular area had national significance.

This bill which we have before us today contains a provision added first by the House and retained in conference, directing the Department of the Interior to make a study of urban park needs, to identify urban park lands, and to make a report back to Congress recommending a range of options for meeting these very important recreation needs, hopefully at the State level. In conference, that provision was left in the bill, so when we approve this today, we will be directing the Secretary of the Interior to make a study and give us both guidance and information in viewing this urban park problem.

Mr. GOLDWATER. Mr. Speaker, if the gentleman will yield further, the gentleman certainly has been a guiding light and has demonstrated great foresight in pursuing this relatively new concept, at least to many, of the plight and the need of those in the inner cities that, in fact, need to get out. Hopefully, we can resolve this question and create an opportunity to explore and expand on that concept.

Mr. TAYLOR of North Carolina. Mr. Speaker, I might state that the Committee on the Interior spent 30 minutes yesterday just talking about the urban park problem.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I also join in commending the chairman for his efforts in bringing forth this important measure. I think this is a great milestone, and it certainly will be something that we will think of when we remember ROY TAYLOR, a truly fitting memorial to him. I am sure it will be passed overwhelmingly.

I should like to ask the chairman a question, if I might.

Mr. Speaker, both the Senate and House bills, and the conference report, provide for the sheltering of certain outdoor facilities under specified circumstances. Neither the House or Senate bills, nor the conference report, were specific in defining what constituted a shelter, or how elaborate it could be.

However, in the measure adopted by the House, the record is quite clear that a shelter would not be construed to constitute a totally and permanently enclosed building which is enclosed for all time. The conference report is clear in its use of the word "shelter" and certainly purposely does not refer to these as "enclosure." I would expect therefore, that the intent of what constitutes a shelter would continue to be in accord with the understanding as adopted by the House.

I would ask the chairman of the Parks Subcommittee, the gentleman from North Carolina (Mr. TAYLOR), if he would concur in this statement?

Mr. TAYLOR of North Carolina. Yes, I would generally concur. I think the conference report makes it very definite as to the facilities that can be sheltered and under what circumstances.

First, it must be in a northern climate and approved by the Secretary.

Next, it must be either a swimming pool or an ice skating rink.

Third, the State can use only 10 percent of its Federal matching funds for sheltering such facilities. If a State wishes to shelter more facilities, we go back to the provisions of the House-passed bill and provide for sheltering swimming pools and ice skating rinks in a northern climate. The State may proceed to provide such shelters as it sees fit at its own expense and with its own money.

Mr. LAGOMARSINO. I thank the gentleman.

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Speaker, for purposes of legislative history, I would like to cover a couple of points in colloquy with the distinguished chairman, the gentleman from North Carolina.

First, with respect to the allocation of funds for Federal and State purposes, a large measure of the importance and political vitality of the land and water conservation fund lies in the fact that its resources have, over the life of the program, had a significant impact on all the States and thousands of communities nationwide. The original sponsors of the act recognize the wisdom of sharing these national resources with the States on a 60 State, local 40 Federal basis.

The House of Reperensentatives in approving amendments to the act in May, directed that this ratio become fixed and that appropriations be allocated accordingly.

The net effect of a section of the con-

ference report could be to alter this ratio. At section 5 "Allocation", found on page 2, the language now reads:

That not less than 40 percent of such appropriations shall be available for Federal purposes.

This, of course, can be construed to mean the opposite of what the House originally approved; that is, the 40 percent for Federal agencies is a floor or minimum. It protects only the Federal agencies and leaves the States and communities largely unprotected under the law.

It is my understanding, however, after reading the statement of the committee of conference, at page 16, paragraph 2, that it remains the intent of Congress that appropriations from the fund should continue to reflect the 60 State, local 40 Federal allocation ratio.

Is this the understanding of the chairman of the intent of the conference and of this Congress?

Mr. TAYLOR of North Carolina. Mr. Speaker, I do share that understanding. It is the intent of Congress that 60 percent of the funds go to the States and 40 percent to the Federal agencies.

Now, in some past years the bulk of the Fund has been appropriated, first to the Federal agencies, and then to the States. I cannot help but think we would have a sounder program if we would stick to the 60-40 ratio each year.

Mr. MAGUIRE. Mr. Speaker, if the gentleman will yield further, with respect to disposition of any unobligated money, as the gentleman is aware, no State has, over the life of the fund, lost 1 cent of its apportionment because of the State's failure to match the Federal portion. In fact, the apportionment to most States has been woefully inadequate. This condition has led to recommending the increases contained in this bill.

Another section of the proposed amendment, and the corresponding references in the explanatory language, I believe, need clarification. It is my understanding that section 6(a)(4) directs the Secretary of the Interior to distribute any Fund resources not obligated by a State after the allowable 3-year period to be reapportioned to the other States on the basis of need.

The conference report, however, again at page 16, paragraph 2, states:

. . . the conference believes that if the situation arises when the States are unable to match their portion of a full appropriation, then the unmatched monies should be distributed to the Federal agencies.

It is my understanding, consistent with the language of the law which I previously recited, that only when the States collectively are unable to utilize their portion of a full appropriation, that this money would then be made available to the various Federal agencies.

Is this the intention of the conference and of the Congress?

Mr. TAYLOR of North Carolina. I would state that the sense of the agreement is just what is stated. The conference report intends that if a State cannot use its allocation during a 3-year period, this money can be assigned to other States which can use it. It further provides that if States collectively are not able to use the funds that are allocated to them, then these funds can be allocated to Federal agencies to purchase the backlog of land that we need to purchase. Again, I say that the National Park Service alone has a half billion dollars in outstanding obligations to acquire lands that have been authorized.

Mr. MAGUIRE. I thank the gentleman. If he would yield further, I want to join in commending the distinguished chairman and his committee for their work on this bill as a whole. I am, however, going to be constrained to vote against the conference report for two reasons, and I want to clarify those reasons in the RECORD at this point.

I offered an amendment during the discussion of this bill on the floor which received 177 favorable votes, which would have insisted that moneys allocated above the current level of the States' share of $180 million should be allocated on the basis of a 20 percent equal division between the States. and 80 percent on need. Unfortunately, in the conference the House has moved away even from its minimum position, that the 20 percent–80 percent distribution formula should click in at $240 million, and it now does not click in at the current $180 million or even at a future $240 million level.

It clicks in at $500 million, which is a level of appropriation which we may not soon reach. Therefore, the new formula, which so many of the Members of this House favored for allocations above $180 million, or at least above $240 million, has little, if any, reality when the "click-in" point becomes $500 million, under these conditions, the new formula is merely a theoretical change.

This is a classic example of a case in which the allocation formula is prejudicial to and unsatisfactory for our larger, more populated States, and particularly our urban areas, where needs are greatest. When will we overcome our parochialism and address needs, wherever they are, in a fair and effective way?

The second problem is the arbitrary distinction between indoor and outdoor facilities. We are going to do things with swimming pools and skating rinks, but we are going to ignore, apparently, the tremendous resources in other existing recreation facilities which provide significant opportunities for citizens in many of our older, major cities. Those resources, if they are allowed to deteriorate, will not be able to be recaptured. They will be lost for all time.

I believe the indoor versus outdoor and the swimming pool-skating rink versus all other indoor recreation distinctions are arbitrary. Surely we should look at recreation as recreation and as a whole, whether urban or rural, indoor or outdoor. People in different places and with different resources have different but equally legitimate recreational needs.

For the above two reasons, I feel constrained to vote against the conference report, although I do, of course, endorse the overall approach of the bill and compliment the committee on its work.

Mr. TAYLOR of North Carolina. In responding to the gentleman, let me just state that if his attitude is one of voting against every bill that he does not regard as perfect, he will cast many a negative vote. This bill, as approved by the conference, with the full $900 million funding, would give the State of New Jersey $18,522,000 a year for outdoor recreation development. Under the Senate formula, without the amendment we were able to get approved in conference, New Jersey would get $15,160,000. So, New Jersey stands to gain over $3 million every year under the amendment which was agreed to in conference over that which it would have received under the Senate formula.

So, I would state to the gentleman from New Jersey that we have put up as hard a fight as we can to help his State. We think it will get a fair deal.

Mr. MAGUIRE. I voted for this bill when we reported it out of the House. The House did not go far enough, in my judgment, in improving the formula, but it was at least far better than the Senate formula. The conference has now gone beyond the line which I think is minimally acceptable on this very important provision, and I am voting against it for that reason only.

Mr. SKUBITZ. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I want to commend the conferees on this bill for having achieved a very satisfactory conclusion in ironing out differences between the House and Senate bills. I sincerely believe that the result has incorporated the best features of both bills, and where conflicts had occurred, the resolution of them has come through in a very satisfactory manner. The parks and outdoor recreation programs, and most importantly, the American public of present and future generations, will benefit greatly from the enactment and implementation of this legislation.

This legislation, if implemented at the funding levels authorized would provide a tremendous and urgently needed boost to the preservation of the best of our natural and historical heritage. We all should be greatly heartened by the strength of support we should now be able to expect from the administration for the signing into law of this legislation. The President's proposed Bicentennial land heritage program, recently announced at Yellowstone National Park, has some identical and many similar objectives to that proposed by this legislation now before us. Enactment of this legislation provides an opportunity for the Congress and the administration to be mutually supportive of a major funding effort to protect some of the best of our natural and historical landscape. I would expect that the President's announcement is tantamount to a virtual assurance that we can expect his signature on this very important piece of legislation. Moreover, in oversight hearings held September 1 by the Senate Interior Committee relative to the President's newly proposed Bicentennial land heritage program, Interior Secretary Thomas Kleppe indicated that he was favorably inclined to support the land and water

conservation and historic preservation legislation the House is now considering, and hopefully, he would provide a favorable recommendation to the President to sign this bill.

In view of the tremendous support shown for this very similar legislation when acted on by the House recently—favorably adopted 392 to 3—coupled with the vigorous support for greater aid to parks and outdoor recreation needs as reflected by the President's recent Bicentennial land heritage program proposal, I would certainly hope that this legislation, when enacted into law, will receive full funding to its authorized limits. For without that type of follow-through, this mere authorization legislation constitutes no more than an empty promise to the American people.

I urge the adoption of this conference report, and hope that the support given it by the House in its adoption today will equal the enthusiastic degree of support given it when it was before the House in its most recent appearance, at which time it received nearly unanimous support.

Mr. SKUBITZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with regret that I oppose the adoption of this conference report during the consideration of this bill on the floor. I offered amendments that reduced the authorization to a figure that I thought the Executive Department could live with.

The land and water conservation fund presently has a funding ceiling of $300 million per year. The administration opposes any increase in that amount, arguing that an excessive growth in Federal spending would result in an eroding inflation and seriously undermine our economic recovery. Nevertheless, the House adopted H.R. 12234, which increased authorizations to $450 million in fiscal year 1978, $625 million in 1979, and $800 million for each year from 1980–81, as I have said.

And now these authorizations have been increased even more; more money has been specified in the conference agreement. You see, the Senate bill called for $1 billion a year from next year until 1989. And rather than insisting on the lower, more reasonable House figures, the House conferees compromised with the Senate and raised the funding levels even more. Instead of the present $300 million per year, if you pass this bill, the authorizations will be increased to $600 million in 1978, $750 million in 1979, and $900 million in 1980 until 1989. One might ask, "Was this the result of some carefully-orchestrated noble compromise"? Hardly. Where is the evidence which justifies a funding level that reaches nearly $1 billion in 1980 more than 230-percent increase?

I submit that the only reason the conference recommended a final ceiling of $900 million was because that was halfway between the House version of $800 million and the Senate version of $1 billion. There was no attempt made to determine exactly how much was necessary to satisfy the demand of the States for recreational projects. There was no attempt to hammer out a proposal that the President could accept. Instead, the conferees ask you to endorse a $900-million figure, a total which invites a Presidential veto.

Even if it were true that the conferees had determined that there would be $900 million available each year in OCS receipts, remember this: Every dollar taken from OCS receipts for the land and water conservation fund is another dollar which must be made up in the general treasury either by increasing taxes or adding to the national debt. It is not the 8 Senators or 10 Congressmen who made up the conference committee who must fork out the $900 million; no, we find it so easy to double, indeed triple, the expenditures for a certain program and charge the taxpayers for our "noble compromises." If Congress does not have the guts to hold down Federal spending, I hope the President does.

Finally, you might recall what money from this fund is used for: To help create parks and recreational areas. More and more Federal dollars will be available to create more and more recreational areas. Consider what this body has done at the urging of the Interior Committee—the House has passed the payments-in-lieu-of-taxes bill which supplies millions of additional Federal tax dollars to State and local treasuries. In this bill we have directed the Park Service to submit a report on urban parks. We are going to pay taxes on any new park we create for a city—since 1971 and hereafter—we are going to pay taxes on the land in our national parks, forests, wilderness areas, and wild and scenic rivers.

And now I just get the news that the Senate Interior Committee has also passed a payment in lieu of taxes bill which is some $30 million a year more expensive than ours and they are going to include all Indian lands to receive Federal payment.

Recently, I introduced for the administration its $1.5 billion parks bill. Think of it and an administration parks bill for $1.5 billion. A payment in lieu of taxes bill. Now we raise the land and water conservation fund to $900 million a year.

How much recreation do we need?

Should the Government provide funds from the land and water conservation fund to acquire and develop parks—at the request of the States and localities—and then pay taxes on the land they ask us to take?

How ridiculous can you get?

I ask you to reject this conference report, but, in doing so, I do not expect miracles. It is always easier to shrink from your responsibilities as a legislator and routinely accept a conference committee recommendation. And it is always easier to vote to spend, spend, spend when it is not your own money you are spending.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, of course, the increase to $900 million is phased out over a period of 4 years.

I think the gentleman from Kansas (Mr. SKUBITZ) left out one factor, and that is that we hope we are going to have an expanding economy and therefore, the increase will not necessarily result in an increase in either the deficit or the taxes.

Mr. SKUBITZ. To answer the gentleman, Mr. Speaker, I have found in my 14 years in the House that as the economy expanded, the spending kept going up, up, and up.

Is it not true, I ask the gentleman from Ohio (Mr. SEIBERLING), that this bill does call for an expenditure of $900 million in 1980?

Mr. SEIBERLING. Authorized in 1980.

Mr. SKUBITZ. That is right. Now we get to the old cry: This is just an authorization, which proves that we on the legislative committee are great guys for living in a world of dreams. We push our responsibilities over to the Committee on Appropriations which has to be practical.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, first of all, let me express my personal commendation of the chairman of the subcommittee, the gentleman from North Carolina (Mr. TAYLOR). The people of this country owe him a debt which they will never be able to repay in terms of the tremendous devotion he has given to the cause of recreation for people all over this country. This bill is a monument to him, if it is to anybody in Congress.

Mr. Speaker, I would like to ask the gentleman from North Carolina (Mr. TAYLOR) one question: There is a section in the bill which requires the National Park Service, the Department of the Interior, to make a study of urban recreation needs. I understand that to mean that they are not just to make a prototype or a hypothetical study, but they are actually to look at the major urban areas of this country and evaluate the urban needs and make some recommendations as to the resources available to meet them, and that then they will take the other smaller communities of the country and perhaps study them on a more random sampling basis. Is that the intention of the bill, as far as the gentleman understands?

Mr. TAYLOR of North Carolina. Mr. Speaker, if the gentleman will yield, my answer is "Yes": that is the intent of that section, as I understand it, that the Park Service make a list of areas near cities that have national significance, which probably should be acquired at the Federal level, and that it study other areas that probably should be acquired at the city level, and that it come forth with a program or plan as to how we can proceed in securing these areas.

Mr. SEIBERLING. Therefore, this bill is a net gain for urban recreation, no matter how one looks at it dollarwise or in terms of developing a basis for future action to meet those needs.

Mr. Speaker, I commend the chairman and the conferees for working out this formula.

Mr. PICKLE. Mr. Speaker, I rise in support of S. 327 land and water conservation fund, that will provide for a substantial expansion of the land and water conservation fund that will permit

the States to have the necessary supplementary funds to accomplish needed historic preservation, as well as other conservation of land and water resources. I had the honor to cosponsor a bill (H.R. 2764), whose provisions are similar to those contained in this conference report, that would establish a program for the preservation of additional historic properties throughout the Nation.

In this our Bicentennnial Year, it is appropriate that we not only talk about history but that we take active steps to preserve the remaining historic properties that we have. The rich heritage of our country can be visually passed on to later generations if these historic properties are preserved. Unfortunately, sometimes in our haste to develop something new, we overlook the importance of preserving the good things that we already have. Once the wrecker's ball has destroyed a property, it is gone forever.

I commend the conference committee, in its work on this bill it has furthered the quality of life for future generations.

Mr. TAYLOR of North Carolina. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. Without objection the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken and the Speaker pro tempore announced that the ayes appear to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 281, nays 3, not voting 146, as follows:

[Roll No. 711]

YEAS—281

Adams	Burlison, Mo.	Eilberg
Alexander	Burton, John	Emery
Allen	Butler	Erlenborn
Ambro	Byron	Evans, Ind.
Anderson, Calif.	Carr	Evins, Tenn.
Anderson, Ill.	Cederberg	Fascell
Andrews, N.C.	Chappell	Fenwick
Archer	Clay	Fisher
Armstrong	Cochran	Fithian
Ashbrook	Cohen	Flood
Ashley	Collins, Ill.	Florio
Bafalis	Collins, Tex.	Flowers
Baldus	Conte	Flynt
Baucus	Cornell	Foley
Bauman	Cotter	Ford, Mich.
Beard, Tenn.	Crane	Forsythe
Bedell	D'Amours	Fountain
Bennett	Daniel, Dan	Fraser
Bevill	Daniel, R. W.	Frenzel
Bingham	Daniels, N.J.	Gaydos
Blanchard	Danielson	Giaimo
Blouin	Davis	Gibbons
Boggs	de la Garza	Gilman
Boland	Delaney	Ginn
Bowen	Dellums	Goldwater
Breaux	Dent	Gonzalez
Breckinridge	Derwinski	Goodling
Brinkley	Devine	Gradison
Brown, Calif.	Dingell	Grassley
Brown, Mich.	Dodd	Gude
Brown, Ohio	Downey, N.Y.	Guyer
Broyhill	Downing, Va.	Hagedorn
Buchanan	Drinan	Haley
Burke, Fla.	Duncan, Oreg.	Hall, Ill.
Burke, Mass.	Duncan, Tenn.	Hall, Tex.
Burleson, Tex.	Eckhardt	Hamilton
	Edgar	Hanley
Hannaford	Mathis	Santini
Harkin	Meeds	Sarasin
Harris	Michel	Sarbanes
Harsha	Miller, Calif.	Satterfield
Hawkins	Miller, Ohio	Scheuer
Hayes, Ind.	Mills	Schneebeli
Hébert	Mineta	Schroeder
Heckler, Mass.	Minish	Schulze
Hefner	Mitchell, Md.	Seiberling
Hicks	Moakley	Sharp
Hightower	Moffett	Shipley
Hillis	Montgomery	Shriver
Holt	Moore	Shuster
Holtzman	Moorhead, Calif.	Slack
Howard	Moorhead, Pa.	Smith, Iowa
Hubbard	Mosher	Solarz
Hughes	Moss	Spellman
Hungate	Mottl	Spence
Hutchinson	Murtha	Staggers
Hyde	Myers, Ind.	Stanton, J. William
Ichord	Myers, Pa.	Stark
Jarman	Natcher	Steiger, Wis.
Jeffords	Neal	Stokes
Jenrette	Nedzi	Stratton
Johnson, Calif.	Nolan	Stuckey
Jones, Ala.	Nowak	Studds
Jones, Tenn.	Oberstar	Sullivan
Jordan	Obey	Symington
Kasten	Ottinger	Talcott
Kastenmeier	Patten, N.J.	Taylor, Mo.
Kazen	Patterson, Calif.	Taylor, N.C.
Kindness	Pattison, N.Y.	Teague
Koch	Pepper	Thompson
Krebs	Perkins	Thone
Krueger	Pettis	Thornton
LaFalce	Pickle	Traxler
Lagomarsino	Poage	Treen
Latta	Preyer	Tsongas
Leggett	Price	Udall
Lehman	Pritchard	Ullman
Lent	Quillen	Vander Jagt
Levitas	Regula	Vanik
Lloyd, Calif.	Reuss	Waggonner
Lloyd, Tenn.	Riegle	Whalen
Long, La.	Rinaldo	White
Long, Md.	Risenhoover	Whitehurst
Lott	Roberts	Whitten
McClory	Robinson	Wilson, C. H.
McCormack	Rodino	Winn
McDade	Roe	Wirth
McEwen	Rogers	Wolff
McFall	Rooney	Wylie
McHugh	Rosenthal	Yates
McKay	Rostenkowski	Yatron
McKinney	Roush	Young, Fla.
Madden	Roybal	Young, Tex.
Mahon		Zablocki
Martin		

NAYS—3

McDonald	Maguire	Skubitz

NOT VOTING—146

Abdnor	Edwards, Calif.	Mazzoli
Abzug	English	Melcher
Addabbo	Esch	Metcalfe
Andrews, N. Dak.	Eshleman	Meyner
Annunzio	Evans, Colo.	Mezvinsky
Aspin	Fary	Mikva
AuCoin	Findley	Milford
Badillo	Fish	Mink
Beard, R.I.	Ford, Tenn.	Mitchell, N.Y.
Bell	Frey	Mollohan
Bergland	Fuqua	Morgan
Biaggi	Green	Murphy, Ill.
Biester	Hammer-schmidt	Murphy, N.Y.
Bolling	Hansen	Nichols
Bonker	Harrington	Nix
Brademas	Hechler, W. Va.	O'Brien
Brodhead	Heinz	O'Hara
Brooks	Helstoski	O'Neill
Broomfield	Henderson	Passman
Burgener	Hinshaw	Paul
Burke, Calif.	Holland	Peyser
Burton, Phillip	Horton	Pike
Carney	Howe	Pressler
Carter	Jacobs	Quie
Chisholm	Johnson, Colo.	Railsback
Clancy	Johnson, Pa.	Randall
Clausen, Don H.	Jones, N.C.	Rangel
Clawson, Del	Jones, Okla.	Rees
Cleveland	Karth	Rhodes
Conable	Kelly	Richmond
Conlan	Kemp	Roncalio
Conyers	Ketchum	Rose
Corman	Keys	Rousselot
Coughlin	Landrum	Runnels
Derrick	Lujan	Ruppe
Dickinson	Lundine	Russo
Diggs	McCloskey	Ryan
du Pont	McCollister	St Germain
Early	Madigan	Sebelius
Edwards, Ala.	Mann	Sikes
	Matsunaga	Simon
Smith, Nebr.	Symms	Sisk
Snyder	Van Deerlin	Wiggins
Stanton, James V.	Vander Veen	Wilson, Bob
Steed	Vigorito	Wilson, Tex.
Steelman	Walsh	Wright
Steiger, Ariz.	Wampler	Wydler
Stephens	Waxman	Young, Alaska
	Weaver	Young, Ga.
		Zeferetti

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Aspin.
Mr. Fary with Mr. Lujan.
Mrs. Keys with Mr. Hammerschmidt.
Mr. O'Neill with Mr. Bell.
Mr. Brademas with Mr. Sebelius.
Mr. Addabbo with Mr. Mitchell of New York.
Mr. Corman with Mr. Andrews of North Dakota.
Mr. Jacobs with Mr. Edwards of Alabama.
Mr. Zeferetti with Mr. Biester.
Mr. Weaver with Mr. McCloskey.
Mrs. Chisholm with Mr. Beard of Rhode Island.
Mr. Phillip Burton with Mr. Peyser.
Mr. Murphy of New York with Mr. Ruppe.
Mr. Fuqua with Mr. Esch.
Mr. Bonker with Mr. Steelman.
Mr. Biaggi with Mr. Young of Alaska.
Ms. Abzug with Mr. Conlan.
Mr. Vander Veen with Mr. Wiggins.
Mr. AuCoin with Mr. Pressler.
Mr. Helstoski with Mr. Don H. Clausen.
Mrs. Meyner with Mr. Karth.
Mr. Mikva with Mr. McCollister.
Mr. Nichols with Mr. Quie.
Mr. Rose with Mr. Steiger of Arizona.
Mr. Sikes with Mr. Conable.
Mr. Badillo with Mr. Bob Wilson.
Mr. Rangel with Mr. Burgener.
Mr. Murphy of Illinois with Mr. Abdnor.
Mr. Morgan with Mr. du Pont.
Mr. Matsunaga with Mr. Wydler.
Mr. Jones of North Carolina with Mr. Walsh.
Mr. Ford of Tennessee with Mr. Railsback.
Mr. Metcalfe with Mr. Snyder.
Mr. Howe with Mr. Symms.
Mr. St Germain with Mr. Rousselot.
Mrs. Burke of California with Mr. Paul.
Mr. Carney with Mr. Horton.
Mr. Brodhead with Mr. Kelly.
Mr. Young of Georgia with Mr. Clancy.
Mr. Diggs with Mr. Hansen.
Mr. Brooks with Mr. English.
Mr. Derrick with Mr. Holland.
Mr. Early with Mr. Mazzoli.
Mr. Evans of Colorado with Mr. Sisk.
Mr. Green with Mr. Charles Wilson of Texas.
Mr. Mann with Mr. Ryan.
Mr. Mollohan with Mr. Runnels.
Mr. Richmond with Mr. Randall.
Mr. Roncalio with Mr. Milford.
Mr. Waxman with Mr. Melcher.
Mr. Vigorito with Mr. Stephens.
Mr. Van Deerlin with Mr. Steed.
Mr. Wright with Mr. James V. Stanton.
Mr. Broomfield with Mr. Pike.
Mr. Bergland with Mr. Del Clawson.
Mr. Carter with Mr. Coughlin.
Mr. Dickinson with Mr. Cleveland.
Mr. Conyers with Mr. Harrington.
Mr. Findley with Mr. Eshleman.
Mr. Fish with Mr. Hechler of West Virginia.
Mr. Johnson of Pennsylvania with Mr. Frey.
Mr. Kemp with Mr. Heinz.
Mr. Lundine with Mr. Henderson.
Mr. Madigan with Mr. Landrum.
Mr. O'Brien with Mrs. Mink.
Mr. Nix with Mr. O'Hara.
Mr. Rhodes with Mr. Passman.
Mr. Simon with Mr. Rees.
Mrs. Smith of Nebraska with Mr. Wampler.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that the House recede from its amendment to the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

DIRECTING CLERK OF THE SENATE TO MAKE CORRECTIONS IN THE ENROLLMENT OF S. 327

Mr. TAYLOR of North Carolina. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 745) directing the clerk in the Senate to make corrections in the enrollment of the Senate bill (S. 327) to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes, and ask unanimous consent for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 745

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (S. 327), To amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes, the Clerk of the Senate shall make the following corrections:

(1) In paragraph (1) of section 101 (amending Section 2), strike out "June 30," and insert "September 30,".

(2) In paragraph (3) of Section 101 (amending Section 6(f)), strike out "acquired to be developed" and insert "acquired or developed".

(3) In paragraph (5) of section 201 (amending section 201(a)), strike out "(17) The President of the National Conference; and" and insert "(17) The President of the National Conference of State Historic Preservation Officers; and".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on S. 327, just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 521, OUTER CONTINENTAL SHELF LANDS ACT OF 1953

Mr. UDALL. Mr. Speaker, on behalf of the gentleman from New York (Mr. MURPHY), chairman of the Ad Hoc Select Committee on the Outer Continental Shelf, I ask unanimous consent to take from the Speaker's table the bill (S. 521) to amend the Outer Continental Shelf Lands Act of 1953, with the House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. FORSYTHE. Mr. Speaker, reserving the right to object, and I will not object, but purely to ask the gentleman from Arizona if the gentleman has any information as to the time of the start of this conference?

Mr. UDALL. No. The chairman of the Ad Hoc Committee is not in town. The chairman tells me they will go to conference as soon as they can.

Mr. FORSYTHE. Mr. Speaker, if the gentleman will yield further, as I understand, the chairman and ranking Member are occupied through Tuesday of next week and that enters into the consideration.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arizona? The Chair hears none and appoints the following conferees: Messrs. MURPHY of New York, UDALL, Mrs. MINK, Messrs. EILBERG, BREAUX, STUDDS, DODD, HUGHES, MILLER of California, FISH, FORSYTHE, DU PONT, and YOUNG of Alaska.

CONFERENCE REPORT ON S. 2184, OLYMPIC WINTER GAMES AUTHORIZATION ACT

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the Senate bill (S. 2184) to authorize appropriations for the Winter Olympic Games, and for other purposes, and ask unanimous consent that the statement of the Managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see Proceedings of the House of August 31, 1976.)

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The SPEAKER. The gentleman from West Virginia is recognized for 30 minutes.

Mr. STAGGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report authorizes the Secretary of Commerce to provide financial assistance in connection with the staging of the Winter Olympic Games at Lake Placid, N.Y., in 1980. The major points of difference between the House and Senate versions of this legislation related to the amount of financial assistance which could be provided, the types of facilities for which such assistance would be provided, and the manner in which the Secretary would be required to assure the preservation and enhancement of the outdoor recreational and wilderness values of Adirondack Park and the Lake Placid area.

FINANCIAL ASSISTANCE

Under the conference agreement, the Secretary is required to make grants to the Lake Placid 1980 Olympic Games, Incorporated—a not-for-profit corporation incorporated under the laws of the State of New York—or State, local, or other governmental agengies, for purposes of staging the 1980 Olympic Winter Games.

The conference agreement follows the House provision in placing an overall limit of $49,040,000 on the total amount of money authorized to be appropriated for making grants, and also in providing an overall limit of $250,000 for the administrative expenses of the Secretary.

Under the conference agreement, the grant is not based initially on the estimated cost of the project. Any cost savings may be applied to the cost overruns of any other project. If any project exceeds the original estimated cost, plus any cost savings applied to that project, the Secretary cannot make a grant for more than 50 percent of the remaining costs of that project. The total amount expended for all grants must remain within the $49,040,000 limitation.

TYPES OF FACILITIES

The conference agreement provides for the planning, design, and construction or improvement of existing or proposed winter games facilities. The term "winter games facilities" is defined to include all of the winter sports facilities, and related supporting facilities, necessary to the staging of the 1980 Winter Olympic Games.

The conference agreement also includes a House provision requiring that all facilities receiving assistance under this act must be designed and constructed in a manner which will provide maximum continued public use and benefit following completion of the games.

ENVIRONMENTAL PROTECTION

The conference agreement also contains a modification of the House provision relating to environmental protection.

The conference agreement provides that the Secretary must require that all facilities be planned, designed, and constructed in a manner consistent with State laws and regulations governing the use and development of Adirondack Park. The Secretary is also required to take whatever action is necessary to provide that activities relating to the Olympic Games will be carried out in a manner designed to recognize the outdoor recreational and wilderness values of Adirondack Park and the Lake Placid area and meet the needs of the Olympic Games. It is the intent of the conferees that the Secretary take whatever steps are necessary to preserve wilderness values to the maximum extent possible consistent with the provisions of adequate facilities necessary for the Olympic Games.

REPORTS, RECORDS AND AUDIT

The conference report also contains a modification of the House provision requiring progress reports to both the Congress and the President and also a final report summarizing all activities undertaken by the Secretary under this legislation.

The conference agreement also follows the House provision requiring each recipient of financial assistance to keep whatever records the Secretary might describe disclosing the amount and disposition of grants and giving both the Secretary and the Comptroller General of the United States access to the books and records of each grant recipient for purposes of audit and examination for a period of 3 years after the completion of the project for which the grant was made.

Mr. Speaker, I urge the adoption of this conference report.

Mr. WIRTH. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from California.

Mr. WIRTH. I thank the gentleman for yielding to me.

As the chairman knows, I opposed this bill when it came through the House previously, and I oppose it again today. The 1972 Olympics were going to be held in Colorado, in the district which I represent. At that time, we found out that the Olympic game cost was going to be a bottomless pit. The citizens of the State of Colorado had the good judgment to vote down having the Olympics in our State.

I only stand here for two reasons: First, I am happy that the games will not be held in Colorado; second, to warn my colleagues that I am convinced that the Olympic games will be back to this body asking for further funding in the future.

Mr. ROONEY. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Pennsylvania.

Mr. ROONEY. Mr. Speaker, the Olympic Winter Games Authorization Act recommended by the conferees is substantially the same as the one passed by the House on June 11. The recommended bill contains the same amount of authorized funds—that is, $49,290,000—as was contained in the House-passed version whereas the Senate-passed version contained only $28 million.

Similarly, the recommended bill contains the same provisions contained in the House-passed version pertaining to reports by the Secretary of Commerce and audits by the Comptroller General of the United States which were not in the Senate-passed version. The Senate receded from its version because it was readily seen that the facilities necessary for conducting the games could not be constructed with the limited funds provided in the Senate bill and because the reports and audits provided in the House version were essential to good administration.

The only changes between the recommended bill and the House-passed version pertain to cost overruns and environmental protection.

The House passed version provided that if the actual cost for a facility exceeded the estimate used as a basis for a grant, not more than 50 percent of such excess cost could be provided by Federal funds. The Senate-passed version did not have a similar provision.

The conferees agreed, however, that the House cost overrun provision was unduly restrictive and that any cost savings on a particular project should be applied to the cost overruns on any other project without regard to the 50-percent limitation, so long as the overall expenditures remain within the $59 million limitation.

With regard to environmental protection, the House-passed version required that the games be carried out in a manner designed to assure the preservation and enhancement of the recreational and wilderness values of the Adirondack and the Lake Placid area. In addition, it provided that the activities and plans must be consistent with existing State laws, rules and regulations governing the use, management and development of Adirondack Park.

Again, the Senate-passed version did not have a similar provision. The conferees agreed that the House version could be difficult to administer. For example, since "wilderness" by State definition means that no changes can be made, not even removing fallen trees, it would be impossible to enhance recreation values and still preserve the wilderness.

Therefore, the conferees agreed to modify the environmental protection provision to permit the Secretary of Commerce to take whatever action may be necessary to provide that the games will be carried out in a manner designed to "recognize" outdoor recreational and wilderness values.

Also, by limiting activities to existing State laws it appeared that the State was unnecessarily being precluded from changing its State laws. This restriction was therefore removed.

I believe that the recommended bill provides an adequate but modest amount of funds. We have been assured that the necessary facilities for conducting the games can be improved and constructed with the $49 million being provided by the bill and the contributions by the State and local community. At the same time the amount is considered modest especially as compared to other recent Olympic events. With this modest amount we are assured that the 1980 Olympic winter games will not degenerate into an extravaganza and the "spectacle" aspects will be kept to a minimum. The facilities to be improved and constructed are to be designed in a manner to assure maximum continued public use after the completion of the games.

I am sure that you will agree that the holding of the 1980 Olympic winter games at Lake Placid, N.Y., will be a great honor for all of the people of the United States. I believe that we will be proud of our athletes, proud of our country, and by passing this bill, be proud that we took this forthright action.

Mr. SKUBITZ. Mr. Speaker, I rise in support of the adoption of the conference report on legislation authorizing funds for the Winter Olympic games in 1980. As I have previously told this body, I went to Lake Placid, N.Y., last spring to review with members of the committee staff the plan for the 1980 Winter Olympic games. The bill which we passed earlier this year is essentially the same as the one reported from conference.

The sum of $49 millionis authorized to be used for the construction of specific facilities needed for the 1980 Winter Olympic games. The safeguards contained in our bill with respect to cost overruns is contained in the bill reported by conference. While there is some difference between the administration and the Congress with respect to the total amount of money needed, there is no difference with respect to the desirability of the legislation.

I urge the adoption of the report of the conferees on S. 2184.

The SPEAKER. Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. ANDERSON of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. ANDERSON of Illinois. Mr. Speaker, I have asked for this time in order to inquire of the acting majority leader, the distinguished gentleman from California (Mr. McFALL) if he can inform us as to the program for the week of September 13.

Mr. McFALL. If the distinguished acting minority leader will yield to me, I will be happy to respond.

Mr. ANDERSON of Illinois. I yield to the gentleman from California.

Mr. McFALL. Mr. Speaker, there is no further legislative business for today. After announcing the program for next week, we will go over to Monday, September 13.

The program for the House of Representatives for next week is as follows:

Monday is District day. There is one bill, H.R. 15276, U.S. Park Police. Then, we will have three bills:

H.R. 13958, defense officer personnel, with an open rule and 1 hour of debate; H.R. 13615, CIA retirement, with an open rule and 1 hour of debate; and H.R. 3605, reduction in beer tax for small brewers, closed rule, 1 hour of debate.

On Tuesday, we will have H.R. 15319, habeas corpus rules, open rule and 1 hour of debate; H.R. 14940, Treaty of Friendship—Spain-United States of America, with an open rule and 1 hour of debate; followed by S. 2371, mining in national parks, with an open rule and 1 hour of debate.

On Wednesday, we will have the House Concurrent Resolution 728, second budget resolution for fiscal year 1977, conference report; H.R. 10498, Clean Air

Act amendments, conclude consideration.

Thursday and the balance of the week:

H.R. 10612, tax reform, conference report;

H.R. 15069, national forest timber management reform, the so-called Monongahela bill, under an open rule, with 1 hour of debate;

H.R. 15377, Export Administration Act amendments, subject to a rule being granted; and

H.R. 12112, synthetic fuels, subject to a rule being granted.

Of course, conference reports may be brought up at any time, and any further program will be announced later.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday Rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I only do so to inquire of the gentleman about the rumor that a rule has been requested on the tax reform bill, which would in some way allow a separate vote on the estate tax.

It is my understanding that the estate tax provisions of the conference report are germane and there is no need for a separate vote on them.

Is such a plan afoot, and why?

Mr. McFALL. If the gentleman will yield, I have discussed this matter with the chairman of the committee this morning. It is my understanding at this time that he does not intend to ask for a rule. I do not see a member of the Committee on Ways and Means here who would like to discuss this, but there would be some kind of a separate vote involved because there is some technical disagreement. That is one of the issues involved. But there is no rule planned at this time, if that is the gentleman's request for information.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

Mr. McFALL. Mr. Speaker, if the gentleman from Illinois will yield further, I would like to point out that on Wednesday the second budget resolution will be up first. It is a conference report. It ought not to take too long. Then we will go back to the Clean Air Act amendments. We plan to finish that on that night. So the Members should probably look forward to working a little later on Wednesday night.

I understand that on Thursday we will probably finish about 6 o'clock because of scheduled matters.

The perennial question is whether or not we are going to work on Friday. This schedule would have us working on Friday. There are two bills and, as we can see on the calendar, the Export Administration Act amendments and the synthetic fuels are scheduled on which rules have not yet been granted, and we will have to find out later on in the week concerning both those measures.

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. I thank the gentleman for yielding.

Mr. Speaker, I would like to ask our distinguished majority whip whether he knows that there are already some 75 amendments that are contemplated on the synthetic fuels bill. It is one of the most controversial bills to come before the Congress. It was already defeated once by the House.

Mr. McFALL. If the gentleman from Illinois will yield, I will say to the gentleman from New York that I have discussed this matter with the gentleman previously, and I know there is considerable controversy over the synthetic fuels bill. The gentleman's committee has one point of view and the Committee on Science and Technology has another view. The matter has been scheduled by the Speaker and the majority leader. If there is a rule granted—I have no assurance there will be a rule granted—it is on the schedule and it will probably have to come up and we will have to resolve all of the conflicts that are involved on the floor.

FOOD STAMP REFORM

The SPEAKER pro tempore (Mr. HUNGATE). Under a previous order of the House, the gentleman from Vermont (Mr. JEFFORDS) is recognized for 10 minutes.

Mr. JEFFORDS. Mr. Speaker, in the 21 months I have served in this House, I have learned a great deal about the inefficiency of Congress, and its slowness in responding to national needs.

On many occasions, I have defended Congress, in the face of complaints by constituents, and have explained that a representative government cannot always be efficient. At other times, I have been somewhat upset myself over the inability or unwillingness of Congress as a whole to respond to a clear national need.

But I have never been so astonished as when I learned, recently, that this House will probably not have a chance to vote on the food stamp reform bill.

Having served on the food stamp study group as well as the full Agriculture Committee, I have personally devoted more than 9 months of work to this legislation.

Our study group held 12 meetings, just to analyze the data. The full committee held nine hearings, and spent 36 legislative days marking up the bill.

We paid $160,000 for a food stamp study, and at least another $150,000 in salaries for committee staff assistance on this issue.

In my own office, my staff and I have spent countless hours working on this legislation, including development of a major amendment which I introduced and which was accepted by the committee. The same is true of many other committee members and their staffs.

There is no possible way to quantify the dollar value of this effort. But if we were able to do it, the sum would easily exceed $1 million, and probably be much higher.

But the money spent is hardly the only factor in my concern. Members of this House are busy people. We budget our time carefully, zeroing in on a relatively small number of issues which we, and our constituents, consider to be of high priority.

Mr. Speaker, from the correspondence and conversations I have had with my constituents, I know that reforming the food stamp program is considered by Vermonters to be one of the most important things that Congress should be doing. I know that the same is true of many of my colleagues and their constituents.

It is for that reason that we devoted an extreme of time and effort to this legislation. This time and effort could well have been spent on other important issues. But because we felt food stamp reform was a priority issue, we wanted to make sure that a bill would be prepared, for consideration on the House floor. The issues involved are highly complex. We knew that when we started, and it was confirmed every day that we met.

Hardly a sentence in this bill was unanimously agreed upon by the diverse membership of our committee. Progressing through the markup, word by word and paragraph by paragraph, was often like pulling teeth. Working on this bill was difficult and frustrating, but we continued to pursue it because we considered it to be something that had to be done.

Certainly, the end product was not a perfect bill. It is impossible to come up with a perfect bill in this complex and controversial area. I certainly do not agree with all of its provisions, and neither does any other member of the committee, or any other Member of the House.

But a lot of good people spent a tremendous amount of time and energy—not to mention money—coming up with the best bill we could develop.

What does this bill do?

For one thing, it makes food stamp benefits more accessible and available to the people who are most in need. My own amendment alone is expected to increase participation by 775,000 of the neediest of the needy among the elderly, blind, and disabled.

At the same time, the bill makes food stamp benefits less available to people who are not needy. The recipients who have tended to give this program a bad name, because they are using up taxpayer money which they do not need, would largely be cut from the program.

A third benefit to be derived from this bill is the saving of taxpayer money. The bill is projected to reduce the overall cost of the food program by $100 million—a significant amount of money even by the Federal Government's standards.

Mr. Speaker, I would submit that the Agriculture Committee—every Demo-

cratic and Republican member, and every staff assistant, acted with wisdom and sincerity in developing this bill. Chairman FOLEY and the full committee proceeded in exemplary fashion in difficult circumstances. The $1 million or so which it cost to prepare this legislation was money well spent—or at least would be, if the bill were to be presented on the House floor.

Some Members of the House, including some of the committee members, object strongly to individual provisions in the bill, and do not support it in its present form. However, if the bill is presented on the floor, nothing will prevent those members from offering amendments.

But for now, we have a bill which is necessarily imperfect, but which was developed at considerable time, effort, and expense; which would provide substantial help for the neediest of the needy; which would allow the taxpayers to stop subsidizing many non-needy persons' and which would save about $100 million a year.

Are we now going to tell our constituents that this House cannot spare an afternoon or two to debate and vote on such a bill? Are we to tell our constituents that this House had plenty of time to make George Washington a six star general, and to make Robert E. Lee eligible to apply for a Federal job, but not to address the needs of huge numbers of living Americans?

Mr. Speaker, if this bill is voted on in the House and defeated, that will exemplify the kind of waste which is unfortunate, but which is inherent in a representative government. But there can be no possible excuse for refusal by the leadership to bring this bill to the floor for a vote.

SOLARZ CRITICIZES KISSINGER "LONE RANGER" DIPLOMACY IN AFRICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SOLARZ) is recognized for 10 minutes.

Mr. SOLARZ. Mr. Speaker, I am deeply concerned that the Secretary of State insists on duplicating his previous diplomatic errors by operating another "Lone Ranger" foreign policy mission, this time to southern Africa. I say this not because I disapprove of his laudable objective to effect a peaceful transition to majority rule in Namibia and Rhodesia but because the Secretary is continuing his apparent policy of committing the Congress to policies which he has not in any way discussed in advance with the Congress and which Congress might not be willing to accept.

I would like to emphasize that there is little doubt about the importance to world peace of a successful conclusion to Secretary Kissinger's current efforts. The bloody warfare that is in store for Rhodesia and Namibia, unless a peaceful transition to majority rule is accomplished, can only lead to tragic consequences for all parties concerned.

However, it is most disturbing that Mr. Kissinger insists on continuing what Democratic Presidential candidate Jimmy Carter has characterized as a Lone Ranger form of diplomacy.

The Secretary is willing to talk with the South African Prime Minister, the heads of state of several black "front line" states, and even to consult with some of our important European allies. Yet the Congress is the one responsible party with which Kissinger has refused to talk.

Secretary Kissinger may be in the process of concluding major commitments on behalf of the Congress and the U.S. people without any serious effort to consult Congress—except perhaps for the usual briefing well after the negotiations have taken place.

If this were a mere matter of personal pique for not being listened to, that would be one thing. However it is a matter of far more seriousness than mere courtesy.

Last year the administration made important—if nonpublic—commitments to aid one of the parties struggling for power in Angola without any attempt to gain advance congressional approval. The Congress, upon discovering the secret funding, massively repudiated a policy with which we could not abide. The resulting imbroglio was a double disaster for U.S. foreign policy: Not only did the United States embark on a woefully mistaken strategy but we also suffered a tremendous loss of credibility and deep embarassment by repudiating that policy once it became known. I am afraid that we may be heading in the same direction.

There is talk of guarantees to various parties in Rhodesia and Namibia as well as financial compensation running over a billion dollars—presumably in substantial part at the expense of the American taxpayer. It is vital that the Secretary of State determine before he makes any new commitments for the United States what is politically possible—in other words, what the Congress will accept.

At a minimum, I would hope that the Secretary, before he undertakes his next round of shuttle diplomacy, consult the Members of Congress on the relevant committees. I would think that it would be useful for Kissinger to appear before the Foreign Relations and Armed Services Committees, whether in public or executive session, for genuine consultation, rather than a hasty briefing.

It would be a genuine disaster for the United States to conclude an agreement that is subsequently repudiated by this Congress. I would have hoped that in the waning days of the Kissinger tenure, he might have learned from some previous bitter experiences. I would hate to conclude that the Lone Ranger will continue his solitary forays right up to the end of his stay in office.

U.S. SPECIALTY CROP EXPORTS TO THE COMMON MARKET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. MCFALL) is recognized for 5 minutes.

Mr. MCFALL. Mr. Speaker, I am today introducing a House resolution that addresses a very serious point in our trading relations with the European Economic Community. As a result of efforts and actions by the EEC over the past many months, it has become clear that the EEC is determined to establish and maintain a hostile posture regarding European importation of American dried prunes and walnuts.

The economic stability of America's domestic dried prune and walnut industries are of great importance to both my congressional district and the State of California generally. First, nearly 100 percent of the domestic production of these crops is in California. Additionally, these crops represent a major segment of America's agricultural community. Approximately 15,000 growers of these crops employ nearly 50,000 year-round employees, and about 150,000 workers during harvest. The combined annual sales of these crops now exceed $320 million.

In regards to dried prunes, the EEC's hostility toward the importation of this U.S. specialty crop became particularly clear in the late summer and early fall of 1975. During that period the EEC unilaterally imposed several restrictive regulations without benefit of hearings, prior notice, or explanation. This action was taken in spite of a long period of mutually acceptable and economically sound trade between U.S. suppliers of dried prunes and their customers in the EEC.

These regulations take effect in January 1978. They relate to license systems, prior deposit schemes, and put in place a mechanism for establishment of minimum import prices at some future time.

The EEC imports of dried prunes represent approximately 55 percent of the total U.S. dried prune export market. By the end of the 1976 crop year, the value of EEC imports of U.S. dried prunes had become nearly $48 million. Because of the importance of the EEC segment of dried prune exports to the total success of the American dried prune industry, the EEC's restrictive importation regulations promise to have a very serious depressing effect on this segment of the American specialty crop industry.

As a matter of fact, industry representatives have advised me that these regulations have already adversely affected future marketing contracts between U.S. suppliers and their EEC customers.

I also wish to point out that in light of the level of internal EEC production of dried prunes, the need for these restrictive regulations is nonexistent. France is the only EEC member nation that produces dried prunes, and France's total production is consumed within the EEC. This accounts for only 28 percent of the EEC's total consumption, however. Obviously, if France doubled its

production, or even tripled it, the EEC would still have to import dried prunes to meet its needs. A similar situation exists in reference to EEC internal production of walnuts.

In regards to U.S. walnut exports to the EEC, the EEC represents approximately 55 percent of the total export market for U.S. walnuts, amounting to about $36 million for the crop year ending July 1976. At present, the EEC has yet to impose restrictive importation regulation for U.S. walnuts.

However, efforts have been undertaken within the EEC to promulgate such regulations, and as recently as June 1976, U.S. walnut industry representatives were advised that unless U.S. producers voluntarily restrict their exports to the EEC, the imposition of such regulations could become a reality. Needless to say, this harassment by the EEC has had a dampening effect on the sales and general health of the U.S. walnut industry. U.S. producers are operating under a constant threat that at any time unilateral action by the EEC may cause havoc with their crop production and export calculations.

Mr. Speaker, the resolution I am introducing today expresses the sense of the House that the President shall use all means at his disposal to obtain the immediate removal of these restrictive trade regulations as well as obtain agreement from the EEC Commission that similar regulations will not be imposed in the future. In light of GATT, the Trade Act of 1974, and the spirit of the Rambouillet Conference, this is a totally consistent position for the United States to adopt, and I urge the favorable consideration of this resolution by the House.

GENERAL HAIG'S IMPROPRIETY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 15 minutes.

Ms. HOLTZMAN. Mr. Speaker, revelations in Leon Jaworski's recently published memoirs, "The Right and the Power," indicate that Alexander Haig acted in a grossly improper way while serving as President Nixon's Chief of Staff. Mr. Jaworski says that, when he was called to Washington to discuss the job of Special Prosecutor, Haig raised the possibility that Jaworski might be appointed to the Supreme Court. Specifically, Jaworski recounts that Haig told him:

> You're highly regarded, and it's no secret that you're high on the list for appointment to the Supreme Court.

It was vital that the Special Prosecutor be independent. His mandate was to investigate all Watergate-related crimes, including any committed by the President. It was, therefore, grossly improper for the President's Chief of Staff to dangle a possible Supreme Court appointment in front of the next Special Prcsecutor. Haig's reprehensible remarks resemble John Ehrlichman's discussion of a possible appointment to the FBI directorship with Judge Byrne, while the latter was presiding at Daniel Ellsberg's trial.

Nonetheless, Haig continues to hold a position of importance and trust as Chief of our NATO Forces. After this revelation of his impropriety, I fail to understand why he is permitted to retain this position.

SYNFUELS BILL DESERVES TO BE DEFEATED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HAYES) is recognized for 10 minutes.

Mr. HAYES of Indiana. Mr. Speaker, for the benefit of my undecided colleagues, I am having here reprinted Representative RICHARD OTTINGER's recent testimony before the House Rules Committee in opposition to H.R. 12112, the "SynFuels" bill.

In a clear and concise manner, Congressman OTTINGER details the many reasons this $4 billion boondoggle deserves to be defeated. His statement should be recommended reading for those Members who have yet to join us in recognizing the economic folly H.R. 12112 represents.

The testimony follows:

OTTINGER STATEMENT AGAINST H.R. 12112

Mr. Chairman: I am in strong opposition to H.R. 12112 for the following reasons:

1. H.R. 12112 seeks to resurrect legislation already defeated once in this Congress.

The Motion to Reconsider this legislation has already been laid upon the table. There is no earthly reason to require the House to consider it a second time.

A virtually identical bill was soundly defeated by the House on December 11, 1975, by a resounding vote of 263–140.

The only significant difference is cosmetic: The defeated bill authorized $6 billion in loan guarantees while this bill purports to authorize $4 billion. But the President made clear in his July 22 Message to Congress of "Must" legislation that this is just a $4 billion bite on the same $6 billion apple, saying:

"A total of $6 billion in loan guarantees is expected to be necessary over the 1976 to 1978 period in order to reach the 1985 objective of 350,000 barrels per day of synthetic fuel production capacity."

ERDA testified that the package really comes to $11.5 billion, requiring in addition to the loan guarantees, $4.5 billion price supports and $.5 billion construction grants.

While the original bill came to us from the Senate without opportunity for full House hearings, those hearings that have now been held have only served to cast further doubt on the wisdom of the program. There is no reason for second consideration of this huge commitment to technology that according to the GAO is likely to become obsolete before the plants are completed.

2. The GAO has confirmed that H.R. 12112 is unsound from economic, environmental and energy priority points of view.

In a report just issued on August 24, 1976, on this legislation, the GAO concludes:

"Serious questions exist regarding any national commitment at the present time to uneconomic, high-cost supply technologies which substantially exceed the cost of imported oil. Certainly, larger commitment to building complex, highly capital-intensive energy sources will result in less incentive in future years to develop alternative lower cost energy sources. In addition technologies producing energy that costs more than energy from imported oil would put exporting countries in a position to increase energy prices."

* * * * *

"The large investments required to build synthetic fuel plants would direct Federal incentives primarily to the large industries which have access to capital."

* * * * *

"In the present circumstances, GAO believes Government financial assistance for commercial development of synthetic fuels should not be provided at this time. Full priority should be directed to development of improved synthetic fuels technologies, however; it appears possible to gain adequate information of an environmental and regulatory nature from smaller plants under Government control. When commercialization of the technology becomes a prime objective, consideration should also be given to approaches other than loan guarantees for gaining private industry interest."

3. H.R. 12112 is bad, special-interest legislation to subsidize a handful of giant energy corporations in obsolete technology.

H.R. 12112 reeks of special interest favoritism to a handful of multi-billion dollar corporations that are promoting it, primarily Texas Eastern Transmission Corp. and its collaborators in the consortium called WESCO, but also American Natural Gas, Pacific Lighting, and Exxon. It is a "sweetheart" arrangement whereby the Government will take all the risks—so great that the GAO says these loan guarantees should be included in full in the budget—while, should OPEC prices unexpectedly soar to the $18–30 per barrel equivalent at which fuel is expected to be produced so as to permit economic operation under this program, the companies would make all the profits, with the government retaining no interest.

ERDA testified repeatedly that the purpose of the legislation is not even to produce fuel, however—not really so surprising because the $11½ billion total price tag to produce an estimated 350,000 barrel equivalent a day comes to a staggering cost of over $90 per barrel—but only to ascertain the environmental and socio-economic effects of a commercial size plant! That would make this the most expensive environmental impact statement in history.

4. Key plant-size studies commissioned by ERDA have not been completed.

Incredibly, ERDA is asking us to undertake this multi-billion dollar environmental impact statement before key studies it has commissioned have been completed. In particular, two $100,000 studies by Stamford Research Corp. on the size plant needed to demonstrate the environmental and socio-economic effects under this program are not to be completed until November—yet we are being asked to rush through this giant program said to be just to ascertain environmental and socio-economic effects before the knowledge is acquired! ERDA testified that no interim reports have been delivered under these studies (as was required by the contract) and no preliminary data is available.

Yet, ERDA is financing second generation technology with very substantial-size demonstration plants ¼ to ⅙ the size of those on which this program is based on a 50–50 basis with industry. These plants will come on line before any of the plants sought to be financed by this legislation and are estimated to be 15% more cost-effective, likely permitting private financing without Government help at all for commercialization.

These studies may well show that these second generation plants are adequate to test environmental and socio-economic effects, and it seems outrageous to finance an $11½ billion program with old technology just to ascertain environmental and socio-economic effects that may be discoverable under existing contracts to be complete in just a couple of months.

5. The legislation is too controversial for end-of-session consideration, opposed by a broad bi-partisan spectrum of the House, and Democratic Presidential nominee, Jimmy Carter.

The attached "Dear Colleague" letters

show the breadth of opposition to this program, ranging from the most conservative Republicans, such as Reps. Broyhill, Goldwater and Simms, to the most liberal of Democrats.

In addition, the bill is opposed by the American Public Power Association, the UAW, virtually all environmental and consumer groups, and the Wall St. Journal.

Presidential candidate Jimmy Carter specifically opposed this kind of program in his energy statement of December saying:

"A decision to subsidize the production of fuels for which there is no genuine market—for example, the synthetic fuels commercialization now before Congress—would divert capital away from the production of useful energy and create even more pressure to raise the price of all energy. A commitment to initiate synthetic fuels industries in the water-short states of the West, instead of in Midwestern states closer to adequate water supplies, would sacrifice water needed for the growth of industry and agriculture in the Pacific Northwest, northern Plains, or Colorado River basin."

It makes no sense at all to saddle the next Administration with a multi-billion dollar commitment it doesn't support if a change of Administration occurs; if President Ford is re-elected, there will be plenty of time in the next Congress to consider synthetic fuels commercialization, then with the benefit of the studies that ERDA has payed so much taxpayers' money to commission.

Four Committees have considered this legislation coming out with four different recommendations, and in the case of the Commerce Committee, striking loan guarantees for coal gasification altogether and substituting a vehicle to facilitate private financing of commercial coal gasification, removing a number of what are said to be the principal roadblocks to private financing at the present time.

If a Rule were to be granted, there would be an absolute donneybrook on the floor of the House similar to that which occurred upon consideration of the Energy Policy and Conservation Act. In addition, time would have to be allotted to each of the four Committees and procedures devised to accommodate each of the four versions as amendments. It would be difficult to ascertain who was managing which portions of the bill and what amendments were germain to which version. There were 75 amendments to the legislation considered in the Science and many to each of the other versions. Surely, consideration of the bill would take days at a time when so much really important end-of-session legislation must be considered in the short period left.

6. Teague substitute breaks the budget and was not approved by the Science Committee.

I would also like to point out that, contrary to the assertions of Chairman Teague, the Science Committee has never considered the fifth version of this legislation which he proposed to offer as the principal vehicle for consideration of this legislation, and in fact specifically rejected in its May 15, 1976 Report the price supports which are included to the tune of $1½ billion in this version which also permits multiple-subsidies and "double-dipping."

Also, the Teague version violated the budgeting provision for this program which was based on a $500,000,000 reserve for loan guarantee defaults without any provision for the $500,000,000 price supports included in the Teague version.

This will result in many more of the Science Committee members rejecting the bill, as already indicated by a letter from various Committee members to the Chairman (copy attached,) and will result in a bill less palatable than that resoundingly defeated by the House last year.

7. Opposition to this bill does not constitute opposition to synthetic fuels development.

I, and so far as I know, all of those opposing this bill support synthetic fuels development. What we oppose is this foul arrangement to subsidize the energy giants into commercialization of unsound, uneconomic, obsolete technology in the name of environmental and socio-economic research and development.

I personally supported the $416 million R.D. & D. money presently in the ERDA budget for Synfuels development which includes funding of two high-BTU coal gasification plants, and supported Congressman Hechler's proposed amendment even to increase those funds.

The issue here is not whether or not we should proceed with development of synfuels, but how.

As the GAO Report stated: "Full priority should be given to development of synthetic fuels technologies; however, it appears possible to gain adequate information of an environmental and regulatory nature from smaller plants under government control."

The GAO went on to point out:

"Research and development on 'second generation' synthetic gas technologies is expected to reduce costs by about 15 percent."

What we are saying is, let's pursue with all speed synthetic fuels research, development and demonstration to the point at which private commercial development becomes attractive and feasible. But leave us not, in desperation to "do something about energy" enter into an unsound, uneconomic, special interest, already defeated program that will unjustly enrich and extend the power of a few giant energy corporations at tremendous risk and cost to the taxpayer, rushing in even before the key ERDA-financed studies are complete, and at the end of a session take on legislation that is very controversial, time-consuming, and is likely to be defeated anyway in the House.

STATEMENT OF BROCK ADAMS ON TAX REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. ADAMS) is recognized for 5 minutes.

Mr. ADAMS. Mr. Speaker, I am very pleased at the news that the conferees on the tax reform bill have agreed on provisions which will save almost $1.6 billion in tax expenditures in fiscal year 1977. These reforms are fully consistent with the assumptions made in the second concurrent budget resolution as it passed the House.

Chairman ULLMAN and the other members of the Committee on Ways and Means have provided an outstanding service to the cause of tax reform and fiscal responsibility by securing the adoption, in conference, of most of the reform provision originally contained in the bill as it passed the House. Considering the fact that the Senate version of the bill would have lost $300 million in fiscal 1977, this accomplishment clearly represents a substantial victory.

The conference agreement also represents a substantial victory for the congressional budget process. In the spring, Congress adopted a budget resolution which sought to raise $2 billion in tax reform. Last week the House agreed to assume a savings of $1.6 billion. By holding to the amounts assumed in the second resolution, the tax conferees have demonstrated that Congress is willing to live within its budget and begin the lengthy and arduous task of instituting responsible reform in sensitive areas such as tax expenditures.

SYNFUELS—AGAIN

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, the House is being asked by its proponents to consider H.R. 12112—the synthetic fuels loan guarantee and price support bill—with only a few legislative days left in the 94th Congress.

PROPONENTS DELAY CONSIDERATION

H.R. 12112 was introduced on February 25, 1976, which was nearly 3 months after the House rejected a $6 billion version on December 11, 1975, by a vote of 263 to 140.

The Science and Technology Committee reported it on May 15, 1976.

The Banking, Currency and Housing and Ways and Means and Interstate and Foreign Commerce Committees all reported it by June 25, 1976, before the recess for Democratic Convention.

However, no rule was requested by the principal committee, Science and Technology, until August 27, 1976.

Now the Rules Committee is being stampeded by the proponents to rush this complicated and controversial bill to the floor with an assurance by the proponents that far less than a bare majority of the House favors it.

Why must this be when there are numerous other important bills in conference, bills for which a rule has been granted, appropriations, and so forth. Why cannot H.R. 12112 wait a few more months until the 95th Congress and the election of the next President of the United States? We will not lose any appreciable amount of energy in the next decade if we wait.

PROPONENTS WANT HOUSE TO CONSIDER SUBSTITUTE NOT APPROVED BY ANY COMMITTEE

In requesting the rule, the proponents asked that the House consider a substitute amendment "as an original bill" which is purportedly "agreed" to by three of four committees. The substitute amendment is printed in six pages of the CONGRESSIONAL RECORD of August 26, 1976—pages 27908–27913.

However, the substitute was, in fact, never considered by the House Science and Technology Committee. It contains some provisions from the versions of three committees, but in several instances those versions have been changed from the way they were reported to the House. This destroys the very fabric of the committee system and asks the House to consider and vote on a version that is not backed or explained in any committee approved report to the House.

I stress that Chairman TEAGUE conceded to Congressman HECHLER of West Virginia and me that the substitute was not "agreed" to by the three committees.

PRICE SUPPORT PROVISIONS OF SUBSTITUTE REJECTED BY SCIENCE AND TECHNOLOGY COMMITTEE

The new substitute authorizes $500 million in direct price supports, as well as

$3.5 billion loan guarantees, for synthetic fuel modular and commercial size demonstration plants. It gives ERDA "blank check" authority to establish the support price with no standards, guidelines, or criteria.

Mr. Speaker, the Science and Technology Committee in its May 15 report on H.R. 12112 specifically and unequivocably rejected price supports for these plants. The committee's report states—pages 45–46:

The Committee especially emphasized that the approval of Section 18 in no way constitutes an expression of approval of approaches for assistance beyond loan guarantees or cooperative agreements. Nothing in section 18 authorizes construction grants, price supports or price guarantees for the products from demonstration projects nor does the approval of Section 18 constitute any expression of Congressional commitment to other proposals which are pending or may be advanced in the future.

We were not alone in this view. The House-Senate conferees, in commenting on the ill-fated $6 billion loan guarantee proposal of last December, made a similar declaration. (H. Rept. 94–696, Dec. 8, 1975, p. 68.)

THIS IS SPECIAL INTEREST LEGISLATION

Some have been saying this bill will help farmers get loan guarantees to build small facilities to convert animal wastes to energy. Make no mistake, this bill does not provide such assistance to farmers. The proponents admitted this in questioning before the Rules Committee.

This bill is special-interest legislation. Its chief proponents are the oil and gas industry.

Up to 80 percent of the $4 billion in loan guarantees is earmarked for gasification and oil shale projects. The beneficiaries are: Texas Eastern Transmission Corp. and its other partners in the WESCO project in New Mexico; American Natural Gas Service Co.; Exxon, Shell Oil Co., Ashland Oil, Oil Shale Corp., Sunoco, and Gulf Oil, to name just a few. Also, the Wall Street banks and financial houses whose loans and interest therein will be guaranteed 100 percent by the Federal Government will benefit.

The individual taxpayers who will have to bail out these white elephants will get only 350,000 barrels of oil a day by 1985 at a cost of $11.5 billion, or $90 per barrel.

Mr. Speaker, I hope that the Rules Committee will exercise its proper role and decline next Wednesday to grant a rule to this substitute amendment or H.R. 12112 so that the House may move expeditiously toward adjournment sine die on October 2. If that committee does not do so, we will undoubtedly spend a long time on this complicated legislation and severely jeopardize our October 2 adjournment.

TOPSY-TURVEY JOBS PRIORITIES

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, I want to bring to the attention of my colleagues a most poignant letter I received from one of my constituents in Yonkers, N.Y., Mr. Carmine La Magna, vice president of the Westchester County Civil Service Employees Association. Mr. La Magna has taken the time to register an all-too-familiar complaint: the frustration faced by the middle-income taxpayer at a time when the Federal Government is struggling to meet its responsibility to those suffering from continued unemployment. I am sure my colleagues will appreciate the tragic irony in Mr. La Magna's letter: He is wondering why Government is laying off people and at the same time creating programs to have new people. Mr. La Magna, himself a civil servant, has recently seen several of his colleagues' employment terminated in the name of cutting Government spending at the same time jobs are created by CETA. I think Mr. La Magna has raised some thought-provoking questions pertaining to our spending priorities which I feel many more citizens, as well as my colleagues in the House, would do well to consider.

The letter I refer to follows:

YONKERS, N.Y., *July 29, 1976.*

Hon. RICHARD OTTINGER,
Washington, D.C.

DEAR CONGRESSMAN OTTINGER: I am one who believes in helping those who really need help but when I see what is going on and I as a tax payer am pretty well perturbed at what I see. When West County Playland Commission can lay off 14 Employees and then see the waste going on I say when is our Government going to do something about it?

The Agricultural Dept distributes out Food. Drink and Money for the Minorities and when you see cases of Orange Drinks, Food thrown away into the garbage while millions are starving. Summer help just putting in time and getting paid for it.

I am VP West Co CSEA and if I bring this to their attention and when they might be the next one laid off simply because the news media and TV News say the waste lies in government employees, I say it is about time some Politician who has created these conditions get up and let the people know that it is not all Government Employees that are to blame for these conditions.

If Mayor Beame and a lot of other Mayors can raise salaries of Management while laying off Police and Firemen who are essential then there should be something done about it.

I feel that just once I would like to address my self to congress to see what reaction I would get. Some of us are Democrats and some Republicans but I think it is about time we become Americans like our men of 200 years ago. If Your Country Will Pray To Me, There is Nothing I Will Do For You, So Sayeth The Lord. You don't know how much I believe in Him.

Sincerely,

CARMINE LA MAGNA.

Ps. Could you read this letter in Congress and I would take the time off to be there.

MCPL EDUCATION FUND SPEAKERS SERIES MEETING WITH DR. SEYMOUR MELMAN, COLUMBIA UNIVERSITY, ON MARCH 31, 1976, TO DISCUSS "THE IMPACT OF DEFENSE SPENDING ON THE U.S. ECONOMY"

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, I am offering for the RECORD a summary of the remarks of Dr. Seymour Melman, professor of economics at Columbia University, on "The Impact of Defense Spending on the U.S. Economy," which he made before Members of Congress and their staffs in a seminar on March 31, 1976, as part of the MCPL education fund speakers series.

Dr. Melman is one of the Nation's leading experts in this field. The summary of Dr. Melman's remarks follows:

THE LIMITS OF MILITARY POWER

To date very little discussion has taken place on the limits of military power. There has been lots of discussion of the competence and capability of military power, but very little discussion of its limits. But there are limits. In 1963, then-Secretary of Defense McNamara laid out before the House of Representatives the thesis of "mutual deterrence," that is, the reciprocal ability of the United States and the Soviet Union to destroy each other, an era which he said was approaching rapidly. One member of Congress repeatedly questioned this thesis, calling it a "grim prospect," and "refusing to concede that the energy and industry of 180 million Americans" could not prevent it. That Congressman was Gerald Ford. This is the point of view that sees no limit to military power, and this is a characteristic of the American people. But this point of view is not a guide to the real world. It leads to an even more dangerous collateral assumption: that you can continually add to military power in the nuclear age, and have it be meaningful. This point of view also has disastrous economic ramifications.

The Impact of a War Economy. This society is in the midst of an ideological crisis. The ideas that purport to show how the world works are in conflict with reality, with observable events.

Economy as a field is in an ideological crisis. In the center, the theory is (from Keynes) that either we have government spending to prime the pump, or recession/depression. In the recent past, we have had both simultaneously.

On the right, the theory is that unemployment is a trade-off for curbing inflation. There too, we've had both simultaneously.

On the left, the theory of monopoly capital says that we must have either a war economy or economic stagnation. And we've had both. Never before, even in the great depression, have the conventional tenets of economics been so much in question.

In all of the theories, there are three assumptions:

(1) Economic problems are superstructural; they pertain to matters of money, magnitude, interest and flow.

(2) If an allocation of resources is made, there will be people waiting for orders to proceed, and they will then do so.

(3) The underlying production system is fully competent, and only waits for the order to produce.

This third assumption is no longer valid. In the past, it was typically assumed, confidently based on experience, that the underlying production system of the United States was so efficient that the U.S. could pay the world's highest wages and still compete against cheap foreign wages. In fact, our productivity was the highest in the world. For example, the automobile industry in the United States, in the early post World War II period, produced the lowest priced vehicles in the world, in price per pound. This, however, has ceased to be the case, and it has ceased because of the sustained war economy.

A war economy is an economy in which war production is both on a large scale and sustained over a long period of time, is treated

as if it were any other kind of production, and aggregated into the gross national product. Such aggregation misleads, because an increase in part of the economy, is treated as an increase in the whole, even though it causes stagnation elsewhere.

In science, categories have no autonomous validity. They have no use except as they have predictivity. What is a product? To Marx, Adam Smith, and Keynes, a product was something valued in money. By doing that, you lose sight of what the product will be used for. It took Thorstein Veblen to formulate the idea of the difference between the pecuniary and the industrial employment of capital, that is the difference between use for monetary gain and serviceable use.

In Smith, Marx, and Keynes, you classify by exchange value, in Veblen by use value. The Veblenian type of class is essential to understanding the U.S. economy. Crucial elements in the economy, especially the use of money capital, have been converted to military purposes. In the thirty years since the end of World War II, 75–80% of Federal research and development funds, which dominated all research and development, have been for military purposes. If you give attention to the use of capital, the budgets alloted to one element, the Defense Department, exceeded every year since the end of World War II the corporate after-tax profits. It was President Eisenhower who first underscored that relationship. Nobody has ever mentioned it since, much less credited it to Eisenhower. The functional use of technology and capital has a controlling effect, and been decisive in the growth of the American economy, especially in the growth of productivity. The rate of growth of the economy, per civilian, has lagged dramatically behind that of the Europeans and Japan in the last decade. Output per man-hour in the United States is far behind much of the rest of the industrialized world.

Why has the economic performance of the rest of the industrialized world been so spectacular, and that of the U.S. so lackluster? The United States has used its output gains for the military.

Why has West Germany no currency inflation? Primarily because its technology has been used with overwhelming emphasis on productivity growth.

Consequence: Unemployment. As civilian technology advanced less, as the civilian economy slowed, people holding funds for civilian capital investment discovered that if you invested abroad, you got a more rapid rate-of-return. So, capital investment went abroad, a niagara of capital export—$47 billion in the decade of the 1960's, a historically unprecedented level. This was direct, fixed investment.

If we leave out the mining/extractive industries, which have to be located where the ore is, you cannot escape finding that between 3 and 4 million job opportunities were thereby exported. If you allow for a modest calculation of the multiplier effect, between 6 and 8 million jobs were terminated. The United States is becoming a community that cannot organize production efficiently. And you cannot escape the link between the permanent war economy and this loss of jobs.

The magnitude of this job loss is strikingly similar to the level of unemployment shown to exist by the President's Council of Economic Advisers, and that which they think likely to continue, and for which they offer no explanation. Their methods (unintentionally) make it impossible for them to understand the effect of the permanent war economy.

U.S. plants now operate the oldest stock of metal-working machinery in the world. The keystone of production technology, electric power generation, has risen in price for the first time practically since it was introduced onto the scene. The underlying production system of the United States is no longer in good shape.

Crisis of the Cities. The cities are involved in this common problem. The older cities of the Northeast have had a massive removal of capital funds elsewhere to go for federal enterprises. $16 billion has been taken from New York City, $7.5 billion from New York state. This is seven times the naughty budget deficit which Mayor Beame ran up. At the same time, $13 billion of revenues in excess of collections was spent in the so-called Sunbelt states. Other federal policies have lead to the creation of a "lumpenproletariat" in the cities which require all manner of community services.

A baleful feature of the present election campaign is that not a single one of these topics have been dealt with in the course of this election campaign. This is a pity because a campaign offers a platform to discuss such things, and if there is even a fractional validity to this argument, it should be discussed.

SELECTED QUESTIONS AND ANSWERS

(All questions and answers have been paraphrased and condensed.)

Q: One thing you didn't touch on, were recent studies by Roger Bezdek showing that military expenditures directly produced unemployment. Are you in accord with this view?

A: Yes. That is a slightly different problem, which generates proximate effects. I'm trying to get at an underlying assumption, which is that the means of production are decaying. Literally, our machines are second best. We now have the oldest stock of metal working machinery in the world. Oldest means a slow-down in the rate of replacement. We are replacing at a slower rate because the cost of new machinery is higher than the cost of the labor it is replacing. This is because machinery producers have become less competent. They have been confronted by the Defense Department, NASA, the AEC, all organizations which demand cost maximization, rather than minimization. This has meant that the end of a long increase in the attractiveness of machines versus manual production. Productivity is not a planned effect, it is a derived effect. As it pays to mechanize, the derived effect is larger output per worker. When there is no incentive, the process is cut off. That has led to the aging of our stock of machinery.

Q: Since World War II, we've spent, by various estimates, between $1.5 and $2 trillion on defense. What does that mean in terms of economic effect? Is that a diversion?

A: It is emphatically that. To give you an idea of the magnitude, you can compare it with the money value of the *reproducible wealth* of the United States. Taking the lowest figure for defense expenditures, that is, $1.5 trillion, that is 63% of all the reproducible national wealth, i.e., the quantity of resources required to rebuild ⅔ of what is man-made on the surface of the U.S. And this is what has been forgone by the United States.

Q: If we had not spent this on military items, could we have raised the standard of living 63%?

A: Probably not, but we could have terminated economic underdevelopment in the United States, and we could have redone the capital assets of the United States, including our cities, to a standard at or close to the highest that the professionals in each field know how to design. This society is still marvelously wealthy. It is the presence of this wealth that blinds us to the absence of wealth (i.e. pockets of poverty in U.S. society).

Q: What would it take to redistribute the expenditures of the defense budget and convert to a peacetime economy?

A: (1) A clear plan for the productive use of the capital investment needed was given in January 1969, by the Council of Economic Advisers, which published a report: *The Economy After Viet Nam.* That report proposed new programs derived from various proposals. The whole unmet national needs agenda amounted to $39.7 billion per year. In current dollars, about $50 billion per year. This was a hard enumeration of the uses to which the so-called "peace dividend" could be put to. The report was ignored. The importance of such a document is that it constitutes an effective new market to direct the military industry and bases towards, and to prepare new industry. Such planning is best done locally, with local responsibility, and authority. The reason for this is to make sure that real needs are met.

(2) Defense-oriented companies probably would not be able to plan effectively their own civilian conversion, because cost maximizers tend to fall on their faces in the civilian economy. So you need measures to guarantee employment and income to defense workers.

(3) You need a National Economic Conversion Committee to oversee capital investment, and to encourage people to do it in a competent way.

Q: Wouldn't such a plan make us fall behind the Soviet Union in military forces?

A: On the basis of all available evidence, there is no way either country can achieve first strike capability. Even if there was, there would be no possibility of avoiding a radiation backlash on the launching country. The U.S. can destroy the 219 Soviet communities of 100,000 people or more forty times over. The Soviet Union can destroy us twenty times over. When I address American military officers concerned about the Soviet threat, I always ask them if there would be any difference if the nuclear forces of the two sides were reversed.

Q: This is a losing game for both the United States and the Soviet Union. It would seem that the job of leadership is to negotiate a freeze, and then a mutual reduction of weapons. The importance of the 1969 report is that it gives a decision-maker ways to provide such leadership, that here is an alternative to simply cutting off defense industries.

A: May I report that I asked an astonished House Armed Services Committee what activity they've pursued to lead to reducing our armed forces, preferably jointly. I didn't get a very lengthy reply. The bitter truth is that the United States is simply not interested in reversing the arms race. There have been no proposals, no schemes, no committees of Congress have undertaken hearings on the reversal of the arms race. That means that newspapermen don't know about such ideas, many writers of textbooks know that there is no money in writing about the reversal of the arms race. And ACDA is a less than vigorous advocate of such things.

MCPL EDUCATION SPEAKERS SERIES MEETING WITH PROF. GRAHAM ALLISON, HARVARD UNIVERSITY, ON APRIL 28, 1976, ON "IMPROVING U.S. FOREIGN POLICY DECISIONMAKING"

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, I am offering for insertion in the RECORD a summary of the remarks of Dr. Graham Allison, Harvard University professor of political science and consultant to the Murphy Commission, on the subject of "Improving U.S. Foreign Policy De-

cisions: Some Highlights from the Murphy Commission Report." Dr. Allison talked with Members of Congress and their staffs on April 28, 1976, in one of a series of meetings on new directions in foreign policy, defense policy and arms control policy sponsored by the MCPL Education Fund.

The summary of Dr. Allison's remarks follows:

SUMMARY OF REMARKS BY DR. GRAHAM ALLISON

A recent James Reston column characterized our present foreign policy decision-making system as an "incoherent mess," in which Congress and the President "can't seem to agree on anything."

The relative virtues of Congress and the Presidency with respect to foreign policy decision-making are uncertain, and both have their liimtations. However, as has been observed, the Constitution invited a struggle and a struggle has ensued. The purpose of the Murphy Commission was to examine how to best organize the U.S. government for foreign policy decision-making and how it could be improved. In addition to the Murphy Commission report Dr. Peter Szanton and I have recently written a book on how to improve the decision system and I choose to outline those ideas rather than the report itself. Nevertheless, in passing, the Murphy Commission Report inspired the best line in a government document in the past decade, penned by Senator Mike Mansfield, a member of the Commission, who observed that the report represented "thin gruel served up in a thick bowl."

SENSIBLE CHANGES

Peter Szanton and I in our book recommend several changes in foreign policy decision-making as it relates to Congress. These include:

(1) Restore a workable level of trust and comity, and strengthen centripetal forces.

(2) In relations between the President and the Departments, the role of the President and his appointees should be enlarged to ensure that they are able to shape policy and that the broader national interest is served. This means an active President, and strong Secretaries.

Secretaries should be the chief substantive policy officers and principal advisors to the President in their areas.

There should be an executive cabinet, with the principal Secretaries as members.

(3) Strengthen the Secretaries and lengthen their terms, improve intra- and inter-team relationships, and improve the level of understanding of political appointees.

KEY PROBLEMS

What are the problems of the current organization, and why does organization matter, and what objectives should we strive for?

(1) How does one conduct foreign policy on behalf of the larger national interest, under conditions of broadly dispersed power?

This is a problem that is not new in town, but is new in the degree of dispersion of power. State, Defense, Treasury, and also the Departments of Labor, Agriculture, Commerce, almost everyone is involved in foreign policy decisions now. The tightening economic and physical interdependence of nations causes foreign and domestic policy to impact on one another, and diffuse power through the Executive Branch.

There is also a diffusion of power in the Congress. This is caused partly by weak leadership, partly by the Committee system.

Also, there is more dispersion of power between government and the private sector. Many of our key industries are multinationalized and we tend to lose some influence over them as a result.

Lastly, there is more dispersion among nations. There are now two superpowers, eight to ten large powers, many middle-sized states, and 100 odd others.

If you look at the oil issue, a decision by a dozen oil-producing states could create 10% inflation in the U.S., long lines of cars at gas stations, and impact on the prosperity, stability, and economic development of the Fourth World. While this was met with more success than we had hoped for, as the multinational oil companies divvied up the oil equitably, it was not done with government guidance.

Nixon's "Project Independence" may or may not be just a piece of rhetoric, but in any event the response of the rest of the government was not impressive. Henry Kissinger argued for a floor price for oil, while William Simon disagreed with him. A dozen Congressional Committees held hearings, and virtually every government agency—the EPA, ICC, FEA, State, Commerce—all got involved. The administration was not able, however, to get an energy policy bill through Congress until 1975, and it was a weak bill, which has been weakened further by inaction since then.

(2) How to meet rapidly changing conditions with foreign policy structures which persist from the late 1940's.

A small example: we have had export controls on trade with the Communist states since 1950 or so, on national security grounds, until, in 1969, the policy was changed, on Congressional initiative. Previously, the policy had two objectives:

(A) don't sell anything that could help the Soviet military;

(B) don't sell anything that could help the Soviet economy grow.

In 1969 the Legislature said, "Wipe out the economic warfare objective, and focus only on trying to control high technology exports."

This change was followed by no directives for its administration, no change in administrative procedures, and the same people in Defense, State and the CIA remained in charge of determining what should be controlled. Although the rationale changed, behaviour changed very little indeed.

The problem is how to change these organizational structures that were put together in the 1950's for Cold War purposes. These structures matter because any particular organizational structure creates a capability for doing particular things, and vests decisionmaking weight on particular actors. Which department makes a judgement will have a predictable effect. If you want a decision made differently, change the departmental actor making the decision.

In 1961, the Arms Control and Disarmament Agency (ACDA) was created and more recently, the Arms Control Impact Statements were instituted, these give the Executive Branch more hoops to jump through when they make a decision.

GENERAL OBJECTIVES

While almost at the level of platitudes, these are essential:

(1) Restore trust in government.

(2) Rethink and restate U.S. objectives in the world. For people who became conscious of foreign policy in the Vietnam era, there is a substantial gap between rhetoric and reality, which we should try to do away with. E.g., it makes little sense to refer to a shaky and unstable relaxation of tensions with the U.S.S.R. as a "generation of peace."

(3) Advance national interests over particular interests, and long-run objectives over short-run.

(4) Adjust to U.S. interdependence. There are many new threats and opportunities in the world, and we should organize to meet them.

(5) Making government work. Many people in the country are anti-Washington, because they don't see why we need it. The depth of this feeling is surprising. Also, there is a lot of inflated rhetoric, part fashionable, part true. At the moment, intra-government relations could hardly be worse.

IMPORTANT, NEEDED CHANGES

Executive-Legislative relations. The factor most likely to disrupt U.S. foreign policy will be the shift in power from the Executive towards Congress. This will not be motivated mainly by public suspicion of Presidential adventurism, but because of a shift in the content of foreign policy. Most of our relations will not be security, but the tightening of economic and physical interdependence. These economic issues are the very stuff of domestic politics, so a greater Congressional role is inevitable.

However, Congress can be deeply involved without being either responsible or effective. People who observe the shortcomings of Congress tend to want to turn it into either a Brookings or a Systems Analysis office, which ignores the inherent nature of the institution. But changes can be made.

The first is to assist in the reconstruction of trust and comity between the President and Congress. In doing this, the Presidential attitude is important. But, there are also a number of informal steps that can be taken.

There should be steady and genuine coordination between the President and Congress. There is a role for Cabinet and Subcabinet officers to consult, early-on, and ungrudgingly, and also between Congressional and Presidential staffs.

Also, there should be a willingness by the Executive Branch to share the credit for a successful foreign policy, and to be seen as willing to share the credit.

More Effective Congressional Organization. The Congress should be organized so that it can actually deal with issues. To this end, there should be a sharp reduction in the number of subcommittees, perhaps a merging of the authorization and appropriations process, maybe changing the constitutional term of House members to four years. There are many interesting reforms that deserve debate, without gainsaying the possibility of more radical changes.

There are also more informal changes that would be desirable. The President should make an effort to strengthen his political influence on the Hill, perhaps through party caucuses.

Another good idea would be to have the President make a biennial statement on U.S. foreign policy objectives, and, in addition, White Papers on specific issues at a rate of perhaps ten or fifteen per year. Second, Committees should be created in both Houses of Congress, functionally committees on interdependence, whose purpose would be to receive these documents, prepare a response, and to propose a Congressional response to the program. The membership would be drawn from the Congressional leadership, the chairmen and ranking minority members of the key committees.

This biennial statement has precedents which have not been particularly useful, but they could be, if used systematically, and if ways were found of tying these documents to on-going processes (for example, tying the biennial statement to pressing legislation, as in making the preface to the military posture statement as an annual Joint State-Defense White Paper, and using specific White Papers as framework for ongoing policy decisions).

Such committees would (without unduly encroaching on the Executive) provide an opportunity for the Congress to do something in this field.

Another recommendation is for a longer foreign policy appropriations process. This should be at least biennial. Even longer periods would be sensible.

Better means for dealing with substantive areas. Particularly the War-making powers. The War Powers Act is clearly a step in the

right direction, though it is rather mild compared to, say, the Constitution. Congress should also have a greater role in the first use of nuclear weapons, and also in economic management. The Trade Act of 1974 is a step backwards.

In intelligence oversight, a Joint Committee with teeth is required, more like those originally suggested than those which the House prefers. Messrs. Allison and Zamlan think a most important problem is for there to be a serious check on intelligence activities. They hope that a Joint Committee would exercise jurisdiction over the intelligence community, confirm Directors of Central Intelligence, and that its staff would receive all intelligence estimates, as well as receiving advance notice of all covert operations, in association with responsible rules and procedures to protect confidentiality.

SELECTED QUESTIONS AND ANSWERS

(All questions and answers have been paraphrased and condensed.)

Q: How would the practice of "comity" fit with the separation of powers? It seems to me that we got into the Gulf of Tonkin through comity.

A: That's a good hard one. Sometimes, when an executive calls for comity, it means, "I'll call you into a meeting, and tell you what you'll do."

The call is to the Executive Branch. If you read the Nixon tapes, the Executive's views of Congress could hardly be less charitable, and could be characterized as: "how do you manipulate this rather sleepy uncle?" The tone had to make Congress alert, and made it more likely to play a more serious role as a check. While a danger is that it may become corrupting, it is not so serious if one considers the alternative. The Tonkin Gulf Resolution is not comity, but deference. On the other hand, we see the problems—with Most Favored Nation status for the Soviet Union, oil, Turkey, exports of nuclear technology—arising from the lack of comity.

Q: Henry Kissinger has said that he would like to deal with Congress, if only some one could tell him who to deal with. My answer was that people in Congress could tell him, were he to ask.

A: I think that's right. Kissinger's relations with Congress are not based on comity, and people who have dealt with him say he doesn't know much about Congress. The Congress doesn't trust him, particularly since he tells different things to different people, and Congressmen talk to each other.

If a President is interested in seriously consulting with Congress, he can find out who to talk to. If a Senator Humphrey were to become President, there would be a most ready opportunity to create a consultative relationship.

Q: How important is talking about policy and organization, if policy has no impact on the budget?

A: That's true of any project. There is a story about a friend of mine who worked in the ABM project office in the Defense Department. They were working on a city-defense ABM system, when McNamara announced that it was an anti-Chinese system. Later on, it became a site defense to protect Minuteman missiles. The Program Director, when asked, professed to be willing to call it an anti-Martian system if that would get it through Congress. The words justifying a system are the easiest things to change. However, justifications are useful, because Congress can be educated, and it creates incentives for rationality in the Defense Department, though the link between forces and justifications will never be very fine.

Q: Getting information around here is a closed shop. On the oil bill all our information was from the oil industry, and on the defense budget all our information was from the defense industry.

A: I agree very much. Congress should have its own group. The Office of Technology Assessment and the General Accounting Office are a help.

But the largest part of the problem is getting information already in the possession of the Executive Branch. On the one hand, most Committees with responsibilities have not generally been interested in getting Executive information. On the other hand, if the Chairman of the Senate Armed Services Committee says "I want this," he is likely to get it that same day.

WHY NOT A REAL NUCLEAR TEST BAN?

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, I offer for the RECORD an article by Thomas A. Halsted, "Why Not a Real Nuclear Test Ban?" from the June issue of Arms Control Today, a newsletter published by the Arms Control Association. Mr. Halsted is executive director of the association.

Mr. Halsted's article closely parallels a talk he gave to Members of Congress and their staffs at one of the series on new directions in foreign policy, defense policy, and arms control policy, sponsored by the MCPL Education Fund on March 24, 1976.

Mr. Halsted makes a point that needs underscoring, namely, that a comprehensive test ban agreement is feasible and is more desirable than a threshold test ban treaty of the type recently negotiated by the United States and the Soviet Union. Mr. Halsted's article follows these remarks:

WHY NOT A REAL NUCLEAR TEST BAN?

(By Thomas A. Halsted)

On May 28, 1976, in separate ceremonies in Washington and Moscow, President Ford and Soviet General Secretary Brezhnev signed a Treaty on Underground Explosions for Peaceful Purposes (the "PNE" Treaty). It was negotiated as a companion agreement to a Treaty on the Limitation of Underground Nuclear Weapon Tests (the Threshold Test Ban or the "TTB" Treaty). Both Treaties are to be submitted to the Senate for ratification.

The Arms Control Association believes that both new Treaties represent a step backward from responsibility. Now is not the time for agreements which will tend to legitimize nuclear weapon testing at high yields and endow nuclear explosions for peaceful purposes with unwarranted new respectability. What is needed now is an end to all nuclear testing. Accordingly, the ACA has called on President Ford to reopen negotiations toward a comprehensive test ban treaty (CTB).

Why can't we quit testing nuclear weapons? In thirty-one years the United States and Soviet Union alone have conducted more than 1,000 nuclear tests between them, yet by agreeing to these two Treaties they are declaring that there is a need for still more. Meanwhile a growing number of critics in the United States and abroad are complaining that agreements like the TTB and PNE Treaties, in the guise of setting new controls are really only devices for setting new rules to continue doing as they please. As the ACA statement points out, the limits imposed by the Treaties are hardly limits at all. (There is even an escape clause in the PNE Treaty—Article III, Paragraph 3, allowing for tests larger than the 150 kiloton ceiling: "The question of carrying out an individual explosion having a yield exceeding [150 kilotons] . . . will be considered by the Parties at an appropriate time to be agreed.") Is it any wonder that some critics of the Treaties call them worse than nothing?

The reasons that the Threshold Test Ban and Peaceful Nuclear Explosion Treaties are inadequate are spelled out in the ACA statement (see page 4). The case for the harder, but only acceptable course—a complete test ban—is not a complicated one.

Simply put, a CTB would be a clear and unambiguous signal that the nuclear weapons states were at last willing to take a major step away from the nuclear brink. Since the nuclear weapons age began, only one of the arms control agreements between the nuclear superpowers—the 1972 ABM Treaty—has resulted in stopping a nuclear weapons development. After nearly twenty years of negotiations, the failure to achieve a comprehensive nuclear test ban treaty has become a symbol of superpower unwillingness to end a wasteful and destructive arms race which has produced more and more lethal weaponry, but has only diminished world security. Agreeing to a CTB would be a positive sign that the United States and the Soveit Union were at last moving away from dependence on nuclear weapons and from the beliefs that the possession of nuclear weapons is the hallmark of a great power, and that nuclear wars are thinkable, fightable, and even winnable.

Three of the six countries that have conducted nuclear tests are parties to the Treaty on the Non-Proliferation of Nuclear Weapons (the NPT). Year after year since that Treaty went into effect, and particularly at the 1975 NPT Review Conference, the non-nuclear weapons states party to the Treaty have warned the nuclear weapons states that they cannot go on forever building up nuclear arsenals, threatening to use nuclear weapons, and most of all, continuing to test nuclear weapons while still expecting other nations to agree to forgo nuclear weapons of their own. A CTB would undeniably be a symbolic gesture towards these critics. By itself it would not end the arms race, but it would be a symbol badly needed if mankind is to avoid almost certain destruction at his own hand.

WHAT ARE THE OBSTACLES TO A CTB?

The Threshold Test Ban, like the Limited Test Ban and the Non-Proliferation Treaty, gives lip service to a commitment to end all nuclear weapons testing, but neither the United States nor the U.S.S.R. has adopted a public position which would make achievement of a CTB realistic. The United States contends that it would be possible for the U.S.S.R. to conduct militarily significant tests in secret unless the CTB included a provision for on-site inspection to resolve any ambiguities. The U.S.S.R. asserts that such inspections are unnecessary, but insists on the right to conduct PNEs, and further declares that all nuclear weapons states must be party to a comprehensive test—a condition to which China and France, neither of them a party to the 1963 Limited Test Ban or the Non-Proliferation Treaty, are unlikely to agree.

Both sides' arguments are a smokescreen for a more basic objection to a CTB: neither the U.S. nor the U.S.S.R. wants to give up the option to conduct nuclear weapons tests. As far as the capability of identifying small nuclear tests is concerned, it is highly improbable that the Soviet Union could confidently conduct clandestine, *militarily important* nuclear tests without detection by a combination of seismic and other intelligence means—chiefly photographic satellites. On-site inspection is no longer necessary. Furthermore, a test ban observed by only the United States and Soviet Union, without the participation of other nuclear

weapons states, would not affect the security interests of either superpower for many years, regardless of the amount of testing France or China conducted. The utility of PNEs is so dubious that further efforts should be made to persuade the U.S.S.R. to shelve its PNE program, as the United States already has. In no event should the unlikely prospect that they might some day prove to be useful be allowed to stand in the way of a ban on all nuclear tests.

A recent Energy Research and Development Administration (ERDA) report * provides for the first time some public details of the accomplishments of thirty years of U.S. nuclear testing: 74 different types of weapons have been tested, 50 of them accepted in the stockpile at one time or another, 26 of them currently in the stockpile in 33 different weapons systems. It can be assumed that Soviet weapons development is at a comparable level of diversity. There is hardly any theoretically possible development that has not been explored by now, at least by the two superpowers, and scant reason to expect such developments in the future. To be sure, weapons designers can always come up with new concepts to explore; under a CTB, they would have to make do with existing designs. Under the 150 kiloton TTB, in fact, the ERDA report acknowledges that such adaptation would be necessary for any higher yield weapons that might be required.

DOMESTIC PRESSURES FOR TESTING

Large and well established bureaucracies exist in the United States and the Soviet Union which have an unavoidable vested interest in the continuation of nuclear weapons programs, including testing. According to the ERDA report, last year the "weapons complex"—the U.S. weapons laboratories, the Nevada Test Site, and the seven government-owned plants which produce nuclear weapons "employed more than 40,000 people, had an operating budget of more than a billion dollars, and represented an investment of more than $2.6 billion." In the event of a comprehensive nuclear test ban, many of these individuals, a large number of whom may have devoted their entire lives to nuclear weapons, would need to acquire new skills and seek work elsewhere. They and their supporters in the Executive branch and Congress could be expected to strongly oppose a CTB. In a recent speech, Lt. Gen. Edward B. Giller, Director of Weapons Development for ERDA, expressed his concern about this possibility: "Above all we must not allow the nuclear weapons development and production complex to erode. In many respects this complex is unique and some of the assets are unreplaceable. The weapons laboratories represent a combination of trained manpower and physical resources that is available nowhere else in the West."

A narrow view—one that has prevailed until now—suggests that ending nuclear testing, because it means foreclosing options to test in the future, is *ipso facto* a bad thing for the United States. But would CTB really hinder national security? There are scarcely any new developments "interesting" enough to justify further weapons testing; a CTB would inhibit Soviet as much as U.S. developments. The security issue therefore becomes one of whether the U.S. is better off in a situation where neither side is testing than in one where both continue to test.

Since the present trend in U.S. weapons development is toward more accurate delivery systems rather than higher yields, future concerns lie more in missile guidance developments than in nuclear weapon testing. If there are possible "breakthroughs" ahead, a CTB would inhibit their likelihood for both the United States and the U.S.S.R.

DÉTENTE AND THE TEST BAN

Finally, it has been suggested that to reject the TTB and PNE Treaties would be damaging to detente, already battered badly out of shape. But would it? Why would it not be more constructive for the U.S. and U.S.S.R. to agree to work out a test ban treaty with real arms control significance, rather than a transparent phony? Because the TTB and PNE Treaties are so inadequate, they tend to devalue detente rather than enhance it, and serve to further erode public support.

If the two nations, which have been engaged in a devastating nuclear arms race for over thirty years were instead to jointly take the first meaningful step toward ending that race, that would have more meaning for detente, not only for the two adversaries but for the entire world, than any step yet taken.

There is another aspect of the detente/arms control issue to remember: even if there were no detente, and relations between the two countries were far worse than they are today, arms control measures would *still* be in our net interest. We can survive with detente in a weakened condition, as long as we are honestly pursuing means of ending the arms race. The reverse is simply not the case.

The Threshold Test Ban and Peaceful Nuclear Explosion Treaties are more likely to prove to be stumbling blocks than stepping stones toward a comprehensive test ban. The TTB is an idea whose time is past; linking the PNE Treaty to it has ensured that no CTB will be possible as long as the Soviet Union maintains an interest in peaceful nuclear explosions. It is time to put aside PNEs as a costly and unnecessary obstacle to at last fulfill a thirteen year old commitment, first stated in the preamble to the Limited Test Ban Treaty, "to achieve the discontinuance of all test explosions of all nuclear weapons for all time."

"Mr. Chairman, it is our intention not to allow (the comprehensive test ban) to be buried beneath the threshold of any partial underground test ban treaty, as—contrary to any such ban—the CTB is the single most decisive step towards nuclear disarmament that could be taken, a step to be greeted with joy and relief all over the world, a step in the way of which there are no technical difficulties that could be accepted as an excuse not to take it." Mrs. Inga Thorson, Leader of the Swedish Delegation to the Conference of the Committee on Disarmament, July 17, 1975.

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(NOTE.—The following works examine the implications of the U.S.-U.S.S.R. Threshold Test Ban (TTB and Peaceful Nuclear Explosions (PNE) Treaties.)

Frank Barnaby, "Nuclear Test Ban's Last Chance?" *New Scientist*, April 1, 1976, 11–12.

Luther J. Carter, "Nuclear Testing: U.S.-Soviet Treaties Viewed with Doubts and Misgivings," *Science*, June 18, 1976, 1217–1218.

A. Chayes, F. A. Long, and G. W. Rathjens, "Threshold Treaty: A Step Backwards," *The Bulletin of the Atomic Scientists*, January 1975, 16. (The authors are critical of the TTB for its lack of real restraint upon nuclear weapons development, and the fact that non-nuclear weapon states will view the Treaty as a "sham" which is not consistent with the superpowers' NPT obligations to negotiate effective measures to end the arms race.)

Federation of American Scientists, "Test Ban: Presuppositions of Successful Negotiation," *F.A.S. Public Interest Report* (Wash., D.C.: F.A.S., June 1976), 6 pp.

"Nuclear Explosion Treaties Jeopardized by Loophole" *Aviation Week & Space Technology*, June 8, 1976, 21–22. (According to this article, the PNE Treaty contains a provision which will allow peaceful nuclear testing above the 150 kiloton limit.)

U.S. Arms Control and Disarmament Agency, *Treaties on the Limitation of Underground Nuclear Weapon Tests and on Underground Nuclear Explosions for Peaceful Purposes*, Publication 87 (Wash., D.C.: Arms Control and Disarmament Agency, May 1976, 14 pp. (The official text of the two treaties which includes the lengthy protocol concerning the verification provisions for the PNE Treaty.)

U.S. Congress, Joint Committee on Atomic Energy, Hearing: *Request for Supplemental Fiscal Year 1975 Funds for AEC Nuclear Weapons Testing*, 93rd Cong., 2nd sess. (Wash., D.C.: Govt. Print. Off., 1974), 32 pp. (Testimony by Adrian Fisher and Herbert Scoville, Jr., on behalf of the Task Force for the Nuclear Test Ban criticizing the TTB and opposing funds for accelerated nuclear testing.)

(The following works discuss the desirability of a comprehensive test ban (CTB) and whether such an agreement could be adequately verified. Also see Sen. Edward Kennedy's editorial in the May 1974 issue of ACT.)

Bruce A. Bolt, *Nuclear Explosions and Earthquakes: The Parted Veil* (San Francisco: W. H. Freeman and Co., 1976), 309 pp.

Sen. James Buckley (R-C-N.Y.), "Comprehensive Test Ban on Nuclear Tests," *Congressional Record*, May 16, 1972, page 17528.

Robert Gillette, "Nuclear Testing Violations: Keeping It All in the Family," *Science*, August 9, 1974, 506–510. (A revealing report concerning occasional radioactive "venting" incidents from U.S. and U.S.S.R. nuclear tests which are in violation of the Limited Test Ban Treaty.)

Sen. Edward Kennedy (D-Mass.), "Senate Resolution 163—Submission of a Resolution Calling on the President to Promote Negotiations for a Test Ban Treaty," *Congressional Record*, May 20, 1975, page 15257. (Sen. Kennedy and others in the Senate called upon the Administration to seek a comprehensive test ban treaty and criticized the TTB.)

Betty G. Lall, "A Comprehensive Nuclear Test Ban Treaty," *International Conciliation*, March 1972, 17–38.

Henry R. Myers, "Extending the Nuclear-Test Ban," *Scientific American*, January 1972, 12–23.

———, "Comprehensive Test Ban Treaty: Grounds for Objection Diminish," *Science*, January 21, 1972, 283–286.

Herbert Scoville, Jr., "A New Look at a Comprehensive Nuclear Test Ban," *Stanford Journal of International Studies*, Spring 1972, 45–63.

U.S. Congress, Joint Committee on Atomic Energy, Hearing: *Status of Current Technology to Identify Seismic Events as Natural or Man Made*, 92nd Cong., 1st sess. (Wash., D.C.: Govt. Print. Off., 1971), 393 pp.

U.S. Congress, Senate Foreign Relations Committee, Hearings: *To Promote Negotiations for a Comprehensive Test Ban Treaty*, 93rd Cong., 1st sess. (Wash., D.C.: Govt. Print. Off., 1973), 155 pp. (The most recent of three hearings concerning the CTB held by this committee which culminated with a 14 to 1 vote by the committee in favor of a treaty banning all nuclear tests.)

Herbert F. York, "The Great Test-Ban Debate," *Scientific American*, November 1972, 15–23.

(These works analyze the feasibility of peaceful nuclear explosions and their implications for nuclear arms control. Also see the May 1975 ACT which features an editorial on this subject by F. A. Long and further bibliography.)

Luther Carter, "Peaceful Nuclear Explo-

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*Energy Research and Development Administration, *Funding and Management Alternatives for ERDA Military Applications and Restricted Data Functions* (*Wash., D.C.: ERDA Publication No. 97, 1976*).

sions: Promises, Promises," Science, June 6, 1975, 996. (A concise report concerning a government-contracted study which concluded that PNEs will remain uneconomical or impractical until at least the 1990s.)

Alva Myrdal, "'Peaceful' Nuclear Explosions," The Bulletin of the Atomic Scientists, May 1975, 29–33.

Wolfgang, Panofsky, "Peaceful Uses of Nuclear Explosions," in U.S. Congress, House Interior and Insular Affairs Committee. Hearings: Oversight Hearings on Nuclear Energy—Overview of the Major Issues, Part I, 94th Cong., 1st sess. (Wash., D.C.: Govt. Print. Off., 1975), pp. 727–739. (A detailed statement on PNEs which examines the implications of PNEs for a nuclear test ban.)

Rep. Teno Roncalio (D-Wyo.), "Plowshare—A Technology in Search of a Use," Congressional Record, February 25, 1974, page 3973.

Herbert Scoville, Jr., "Peaceful Nuclear Explosions—An Invitation to Proliferation," in Anne Marks (ed.), NPT: Paradoxes and Problems (Wash., D.C.: Arms Control Association, 1975), 47–54.

ACA Statement on Nuclear Test Treaties: the Threshold Test Ban and "Peaceful" Nuclear Explosions Stepping Back From Responsibility

On May 28, 1976, the Arms Control Association released the following statement:

The Arms Control Association today reaffirmed its opposition to the "threshold" test ban treaty signed in Moscow in July 1974 by former President Nixon and Soviet General Secretary Brezhnev, and to the companion treaty governing the conduct of nuclear explosions for peaceful purposes, which President Ford and Secretary Brezhnev have just signed in separate ceremonies.

The Association believes that the two treaties represent a disheartening step backward from responsible arms control policies. By permitting continued nuclear weapons tests of very sizeable magnitudes and by establishing arrangements for conducting nuclear explosions for peaceful purposes, the agreements are likely to delay indefinitely the achievement of a long-sought treaty banning all nuclear tests, and to provide new respectability for the arguments of states which seek to develop nuclear weapon capabilities by professing an interest in peaceful explosions alone. By so doing, the proposed treaty sets back still further the prospects for preventing the spread of nuclear weapons to other countries, and for countering the grave threat to world peace and security such proliferation poses.

The Association continues to believe, as it did in 1974, that the President should not submit the treaties to the Senate for its consent to ratification. Instead, the Presiden should reopen negotiations with the Soviet Union to obtain a treaty banning all nuclear weapons tests, and should instruct the United States delegation to the Conference of the Committee on Disarmament to undertake serious negotiations in that multilateral forum toward a treaty banning all nuclear weapons tests, in fulfillment of the commitment made by the United States government, along with all other parties, in the 1963 Limited Test Ban Treaty and the 1968 Non-Proliferation Treaty.

Five aspects of the proposed treaties are of particular concern:

(1) The Threshold: A limit of 150 kilotons has no relationship to verification capabilities, which now permit the reliable detection and identification of nuclear explosions underground at much lower yields, in most cases at such low yields that any tests which went undiscovered would be of small military utility. The 150 kiloton limit does, however, permit continued testing of nuclear weapons of considerable magnitude—more than ten times the size of the weapon that devastated Hiroshima.

(2) Peaceful Explosions Given New Respectability: Furthermore, it is clear that peaceful nuclear explosions (PNEs), which are indistinguishable from nuclear weapons tests, can be used by other countries as an excuse to justify nuclear weapons development. There was widespread skepticism when India announced that its May, 1974 nuclear explosion was entirely for peaceful purposes. Brazil, Argentina, and others have all expressed an interest in PNEs. By completing a treaty allowing such explosions, the United States and Soviet Union give new and unwarranted respectability to India and other nations which undoubtedly will use the new treaty to argue that their conduct of PNE programs has been vindicated.

(3) A Freeze On Further Test Limitations: The proposed treaties, if adopted, are likely to freeze the level of permissible nuclear tests at 150 kilotons for years to come. There is no provision for systematically lowering the threshold or number of tests to zero; furthermore, U.S. acquiescence in tieing peaceful explosions to the threshold test ban has made an eventual comprehensive test ban treaty hostage to the continued Soviet interest in PNEs.

The United States has quite properly, but belatedly, all but abandoned efforts to develop nuclear explosives for peaceful purposes. Years of experimentation and millions of dollars in research into ways of using nuclear explosives for excavation, underground engineering, and electric power generation have all led to the conclusion that PNEs cannot compete with conventional means of accomplishing the same objectives, when all economic, environmental, and political considerations are taken into account.

The value of PNEs may be seen in a different light elsewhere, but in no case should the prospect that PNEs might prove useful some day be used today as an excuse for preventing a total ban on all nuclear tests.

(It should be noted that the preamble to the Threshold Treaty at least reaffirms the principles of the 1963 Limited Test Ban Treaty which bars the presence of radioactive material outside the national boundaries of states conducting underground nuclear explosions. This provision almost certainly will prevent the Soviet Union from carrying out announced plans to excavate a large canal using nuclear explosives.)

(4) "On-Site Inspection" Provision Is No Breakthrough: References to the inspection provisions of the PNE treaty as a "breakthrough" are misleading. The complex and highly specialized procedure for inviting designated observers to a predetermined location to witness a preplanned explosion bears little relationship to the on-site inspections sought in the late 1950s and 1960s in connection with test ban negotiations. The principle that U.S. negotiators then sought to establish involved the dispatch of U.S. or Soviet inspection teams, upon acquisition of suspicious information suggestive of nuclear testing, to any location, anywhere in the USSR or United States, at any time. In any event, care should be taken in future arms control negotiations that on-site inspections not be made a condition where they are not necessary.

Furthermore, the science of nuclear test identification has now reached the point where almost all seismic events which can be detected can also be identified, either as earthquakes or explosions, by national technical means, so there would hardly ever be any occasion to call for such an on-site inspection.

Finally, research on on-site inspection technology has shown that such inspections are easily made unreliable by a determined evader. Thus on-site inspection, as it was conceived years ago, would no longer contribute in any way to the verification of a comprehensive test ban. Such specialized verification techniques as have been devised for the PNE agreement might have some relevance to some equally specialized verification problems, but essentially none in the case of a nuclear test ban.

(5) Commitment To The Non-Proliferation Treaty: The United States and Soviet Union have been criticized widely in recent years for the non-implementation of their obligations under the Non-Proliferation Treaty, not only to end all nuclear testing, but also to bring about more rapid and meaningful progress at SALT and provide security assurances to parties to the Treaty which have been asked to forgo nuclear weapons. The two superpowers have responded by saying, in effect, that how they handle their arms race is nobody's business but their own. But that is not true. The ending of all nuclear weapons tests is an essential goal of all nations; any test ban treaty requires the participation of as many nations as possible. Bilateral actions by the two superpowers affect the world's future security and well-being, and cosmetic "arms control" agreements drawn up solely for their mutual convenience, to keep all possible options open, are not good enough.

The Arms Control Association therefore calls on the President to reopen negotiations with the Soviet Union to obtain a treaty banning all nuclear weapons tests, and to instruct the United States delegation in Geneva to negotiate with all parties in the Conference of the Committee on Disarmament a comprehensive ban ending all nuclear weapons tests for all time.

Note.—This statement has been approved by the Board of Directors of the Arms Control Association with the exception of Secretary of Transportation William T. Coleman, Jr. ACA felt it inappropriate to ask him to take a position on this matter.

Verification: Important Question for the Nuclear Test Ban

In the past, the question of adequate verification has been one of the primary obstacles to the negotiation of a comprehensive test ban (CTB) on nuclear weapons testing. Similarly, the issue of verification will be at the heart of any future debate on the Threshold Test (TTB) Treaty and the Peaceful Nuclear Explosion (PNE) Treaty. This is especially true since Administration officials are likely to highlight the precedence of Soviet agreement to a form of on-site inspection in the PNE Treaty rather than the TTB's limited effect on the nuclear arms race. As discussed in the ACA statement (see p. 4) the "prearranged" on-site inspection procedures of the PNE Treaty are much less effective than the on-site inspection concept which once was an essential U.S. requirement for a CTB. Furthermore, in recent years the actual value of on-site inspection for detecting clandestine nuclear tests has been questioned by many experts including Defense Department officials.

One reason why on-site inspection is not as important as it once was is due to the significant advances in national means of verification such as seismic monitoring and surveillance satellites. Seismic detection relies upon very sensitive seismograph systems to detect the long-range vibrations or seismic waves created by nuclear explosions. In recent years great progress has been made towards solving the problem of distinguishing nuclear explosions from natural earthquakes at very low seismic levels.

The lowest yield at which a nuclear test ban can be detected and identified with a high probability is still a matter of debate. Many experts believe that tests of only a few kilotons can be verified while Administration officials tend to place the threshold for detection at a higher level. (For a more detailed discussion of the issues of seismic detection and evasion see the May 1974 *ACT*.) Even including a conservative margin for verifictaion, it is clear that the 150 kilo-

ton ceiling of the TTB has little relationship to current detection capabilities. The high ceiling of the TTB is more likely the result of bureaucratic resistance within each country to greater restrictions upon nuclear weapons development.

The combination of improvements in seimsic detection systems and satellite surveillance capabilities has lead many arms control experts to conclude that a CTB could be adequately verified at the present time by national means. They stress that the verification question is not whether an extremely small nuclear test (a few kilotons) can go undetected, but rather whether the risks of not being able to detect such small tests would be of any military significance. Furthermore, the country contemplating such a violation of a CTB would also need to examine whether a weapons test of such a small yield would produce military benefits worth risking detection and the abrogation of the treaty.

A final concern of verification deals with the PNE Treaty. The U.S. position has been that there is no fundamental distinction between a nuclear test for "peaceful" purposes and one for weapons development. Consequently, the U.S. sought corresponding limits upon military and peaceful nuclear tests. The PNE Treaty is accompanied by a detailed eight-page Protocol dealing with the technical and information requirements which must be met before a peaceful nuclear explosion can be undertaken. The provisions of the Protocol are likely to be carefully examined in Congress since the implications of some are ambiguous such as Article III which suggests that individual PNE tests above the 150 kiloton ceiling might be permitted at a later time.

THE PLIGHT OF THE VINOKUR AND EPSHTEIN FAMILIES

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, all of us must be concerned when human rights are jeopardized. Recently several of my constituents brought to my attention correspondence from a family in Israel regarding the attempt of their relatives to leave the Soviet Union.

The following letter which came to me from Mr. David Hildes eloquently details the current plight of the families Vinokur and Epshtein. I am including the letter in the RECORD in hopes that public concern will encourage the U.S.S.R. to reevaluate their present position:

We entreat you in the name of the humanity principles of the Helsinki Conference Declaration on Human Rights to help us reunite with relatives in the Soviet Union. For almost two years, the Soviet Authorities have refused to allow them to leave Leningrad and reunite with us in Israel.

They are: Our ill sister, Anna Vinokur, 69 years old, widow of a disabled world war II veteran, her daughter, Olga Vinokur Epshtein, 38 years old, her daughter's husband, Yakov Epshtein, 42 years old, their daughter, Marina Epshtein, 19 years old. Their address—Leningrad, Maikov Skogo 10– Flat 10. On April 24, 1974 they filed applications for exit visas to Israel. After 7 months of waiting, they were refused visas. In addition they were told that they would not even be considered for visas before 1979. These decisions had been based on false statements by persons from Yakov Epshtein's former place of work, an office in which he stopped working on September 12, 1973.

This outrageous time span is in direct defiance of both the spirit and the words of the Helsinki agreement. We beg you to appeal to the leaders of the Soviet government, L. I. Breznev, A. N. Kosigin, and N. Y. Podgorni on the occasion of your humane and positive consideration of our requests.

Due to the age and poor health of the people involved, our requests are of an urgent nature and need whatever attention you can give them.

With great respect,

Grateful members of families Vinokur and Epshtein.

THE HIGHLIGHTS OF THE DANIEL SCHORR DRAMA AS SEEN BY THE HONORABLE CHARLES W. WHALEN, JR.

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, we as a Congress face the possibility of a showdown between the public's "right to know" and the Government's "right to classify."

Before that showdown develops, we might well review the thoughts of Mr. WHALEN, our colleague from Ohio who is also the author of "Your Right to Know," regarding the issues. These ideas, published in the New York Times of August 29, are hereby submitted:

THE HIGHLIGHTS OF THE DANIEL SCHORR DRAMA

(By CHARLES W. WHALEN, JR.)

WASHINGTON.—Arthur Miller's talents are not needed to complete "The View from the D.C. Jail." The first two acts of the Daniel Schorr drama already have been produced. The last act could be penned by any sophomore.

Act I occurred on Feb. 19. Finding that the "alleged actions of the said Daniel Schorr may be in contempt of . . . this House," the House of Representatives directed the Committee on Standards of Official Conduct to "inquire into the circumstances surrounding the publication of the text and any part of the report of the Select Committee on Intelligence."

Act II, Scene I, was staged on March 3 when the House authorized Chairman John Flynt's committee to subpoena witnesses to carry out its investigation. In scene 2, presented on March 29, the House granted the committee $150,000 to hire investigative staff.

The script of the last act is predictable. Congressman Flynt announced last Wednesday that C.B.S. reporter Schorr will be subpoenaed to testify before the Flynt committee. Citing the journalists' code of ethics which forbids disclosure of sources, Schorr will refuse to name his informant. The committee's subsequent contempt of Congress citation will be approved by the House. The Supreme Court, reaffirming its 1972 Caldwell decision, will reject Mr. Schorr's claim of First Amendment protection. In the final scene, Mr. Schorr will be escorted to the District of Columbia jail, remaining until Congress adjourns in October.

Is the foregoing scenario likely?

Mr. Schorr's transmittal of the "leaked" report to the Village Voice presents the House with a rare opportunity to wreak vengeance against what many members view as their mortal enemy—the press. Cooler heads, of course, might help avert a confrontation with Mr. Schorr. Yet when Majority Leader Thomas P. O'Neill moved to sidetrack the inquiry resolution to the Rules Committee, he was overruled by a 172–219 margin. Thus, House members also might ignore Minority Leader John Rhodes' suggestion that if Mr. Schorr refuses to disclose his sources, "so be it; that is his prerogative as a newsman."

In deciding whether to make a Schorr-Congressional showdown a reality, the Flynt committee should consider the following facts.

First, in almost every instance, journalists, when subpoenaed, refuse to reveal their sources. One of the earliest press-government conflicts involved James Simonton, a New York Times reporter. More than a century ago, he wrote that several Congressmen were accepting bribes. When asked by a House select committe to name his informants, Simonton responded: "I cannot without a violation of confidence, than which I would rather suffer anything." On Jan. 21, 1857, the House voted Simonton in contempt and placed him in custody. Nineteen days later, however, convinced that Simonton would never divulge his sources, the House approved his discharge.

Second, investigative authorities, notwithstanding journalists' uncommunicativeness, usually have unraveled the mysteries assigned them. For example, without learning James Simonton's source of information, the select committee determined that his charges were true and three Congressmen subsequently resigned.

Third, the Schorr case brings into focus the question of government classification. Representative Otis Pike (New York Democrat), Chairman of the Select Committee on Intelligence, states that the contents of his report, while embarrassing, are not inimical to our nation's security. There are 14,738 individuals empowered to classify material handled by the executive branch. Few papers escape the classifier's stamp.

The Flynt committe's principal function is to identify the person who transmitted Congressionally proscribed material to unauthorized individuals. However, the committee can make a truly significant contribution to the public's "right to know" by analyzing classification procedures and recommending a more realistic system—one designed to protect security, not misdeeds or mistakes.

In pursuing these dual objectives, the committee has two choices. It can follow the "D.C. Jail" script which is sure-fire box office. Or it can adopt a modified third act which extends Mr. Schorr the right to protect his source of information. In either case, the findings ultimately would be the same. However, the latter version would spare the country the spectacle of a public trial and incarceration.

CONFERENCE REPORT ON H.R. 15193

Mr. NATCHER submitted the following conference report and statement (pursuant to the order of the House on September 9, 1976) on the bill (H.R. 15193) "making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes":

CONFERENCE REPORT (H. REPT. No. 94–1500)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15193) "making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 8, 9, 54, 55, 56, 57, 58, 59,

and its unnumbered amendment to amend the title of the Act.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 4, 5, 7, 10, 11, 13, 14, 15, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 35, 37, 39, 40, 42, 44, 46, 47, 50, and 52, and agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$54,182,600"; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,854,600"; and the Senate agree to the same.

Amendment numbered 32: That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows: In lieu of the matter stricken by said amendment insert:

"SEC. 107. Appropriations in this title shall not be available for the payment of rates for electric current for street lighting in excess of 2 cents per kilowatt-hour for current consumed."

And the Senate agree to the same.

Amendment numbered 33: That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "108"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "109"; and the Senate agree to the same.

Amendment numbered 36: That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "110"; and the Senate agree to the same.

Amendment numbered 38: That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "111"; and the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "112"; and the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "113"; and the Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "114"; and the Senate agree to the same.

Amendment numbered 49: That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "115"; and the Senate agree to the same.

Amendment numbered 51: That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "116"; and the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "117"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 3, 6, 16, 18, 19, 48, and 60.

WILLIAM H. NATCHER,
ROBERT N. GIAIMO,
LOUIS STOKES
(except amendment No. 12),
GUNN MCKAY,
BILL BURLISON,
BILL ALEXANDER,
YVONNE BURKE
(except amendment No. 12),
CHARLES WILSON,
GEORGE MAHON,
BILL YOUNG,
JACK KEMP,
CLAIR W. BURGENER,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

LAWTON CHILES,
J. BENNETT JOHNSTON,
WALTER D. HUDDLESTON,
JOHN L. MCCLELLAN,
THOMAS F. EAGLETON,
CHARLES MCC. MATHIAS, Jr.
(except amendment No. 12),
DICK SCHWEIKER,
MILTON R. YOUNG
(except amendment No. 12),
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The manager on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15193) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Amendment No. 1: Deletes language proposed by the Senate to include the Pennsylvania Avenue Development Corporation in the enacting clause.

TITLE I—DISTRICT OF COLUMBIA

Amendment No. 2: Inserts title and heading as proposed by the Senate.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $259,797,400 instead of $270,000,000 as proposed by the House and $259,973,300 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

LOANS TO THE DISTRICT OF COLUMBIA FOR CAPITAL OUTLAY

Amendment No. 4: Appropriates $101,292,000 as proposed by the Senate instead of $100,000,000 as proposed by the House.

Amendment No. 5: Inserts word title as proposed by the Senate instead of Act as proposed by the House.

GENERAL OPERATING EXPENSES

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $84,453,300 instead of $112,870,700 as proposed by the House and $84,550,800 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 7: Provides that $799,300 shall be payable from the revenue sharing trust fund as proposed by the Senate instead of $4,561,600 as proposed by the House.

Office of the Mayor.—The conference action provides $1,195,700 as proposed by the Senate instead of $1,066,000 as proposed by the House and includes the transfer of the legislative function from the Office of the Corporation Counsel to the Office of the Mayor, as well as the transfer of $52,100 from the Department of Human Resources and the establishment of three new positions to provide for a Latino community affairs activity.

Executive Office.—The conference action provides $24,705,900 as proposed by the Senate instead of $23,183,200 as proposed by the House. Included is $7,075,900 for the Office of Budget and Management Systems as proposed by the Senate instead of $5,575,900 as proposed by the House and provides $1,500,000 in District of Columbia funds for financial management programs as proposed by the Senate, which at some future time will be matched with Federal funds as authorized by Public Law 94–399 which provides for an independent audit of the financial condition of the Government of the District of Columbia. The sum of $1,849,100 is provided for the Municipal Planning Office as proposed by the Senate instead of $1,851,800 as proposed by the House. The sum of $129,200 is provided for the Office of Emergency Preparedness as proposed by the Senate instead of $63,200 as proposed by the House. The sum of $770,400 is provided for the Rental Accommodations Office as proposed by the Senate instead of $811,000 as proposed by the House.

Department of Finance and Revenue.—The conference action provides $10,139,600 and 583 positions, including 49 positions in Tax Administration to collect delinquent taxes, as proposed by the Senate instead of $9,460,100 and 542 positions as proposed by the House.

Office of the Corporation Counsel.—The conference action provides $4,103,000 and 171 positions instead of $4,180,600 and 174 positions as proposed by the House and $4,200,500 and 176 positions as proposed by the Senate. The conferees have approved the transfer of the Legislation Office to the Office of the Mayor as proposed by the Senate. The conferees have denied the additional positions proposed by the Senate for prosecuting delinquent tax cases, but direct that the Corporation Counsel assign at least 5 existing positions for the sole purpose of prosecuting delinquent tax cases.

Contributions to metropolitan area agencies.—The conference action provides $212,800 as proposed by the Senate instead of $27,222,200 as proposed by the House and reflects the transfer of the Washington Metropolitan Area Transit Authority Metrobus subsidy program and the Washington Metropolitan Area Transit Commission to the Transportation appropriation as proposed by the Senate.

Miscellaneous contributions.—The conference action provides $252,000 as proposed by the Senate instead of $3,914,300 as proposed by the House and reflects the transfer of the School Transit Subsidy to the Transportation appropriation. The sum of $200,000 is provided for the Washington Convention and Visitors Bureau as proposed by the Senate instead of $100,000 as proposed by the House.

Amendment No. 8: Deletes language inserted by the Senate providing that not to exceed $15,000 of the appropriation for the period July 1, 1976, through September 30, 1976, shall remain available in fiscal year 1977 for expenses of the Advisory Neighborhood Commissions during fiscal year 1976.

PUBLIC SAFETY

Amendment No. 9: Appropriates $247,160,400 as proposed by the House instead of $246,258,800 as proposed by the Senate.

Metropolitan Police Department.—The conference agreement provides the sum of $128,046,100 as proposed by the House instead of $127,144,500 as proposed by the Senate and includes $901,600 for 105 uniform police officers as proposed by the House and deleted by the Senate.

HUMAN RESOURCES

Amendment No. 10: Appropriates $268,475,600 as proposed by the Senate instead of $267,955,800 as proposed by the House.

Executive direction and support.—The conference action approves the transfer of $52,100 to the Office of the Mayor for Latino community affairs activity as proposed by the Senate.

Payments Assistance Administration.—The conference action provides 86 additional positions and an increase of $916,300 for implementation of a billing system for health care institutions as proposed by the Senate. The conference action reduces the base for financial assistance $2,492,300 as a result of reducing the high overpayment and ineligibility rates as proposed by the Senate. The conference action provides $431,100 to fund 50 previously unfunded positions associated with case work efforts of the various welfare programs as proposed by the Senate. The conference action provides a reduction of $1,500,000 in the base for Medical Vendor Services as proposed by the Senate.

Mental Health Administration.—The conference action concurs in the proposal of the Senate which denies the requested redirection of 101 positions and $1,676,500 from the Rehabilitation Center for Alcoholics (RCA) to various other agencies in the Mental Administration. The conference action concurs in the proposal of the Senate to restore $3,600 to the base as a result of the denial of the redirection from the Rehabilitation Center for Alcoholics. The conference action concurs in the proposal of the Senate providing 188 additional positions and $3,213,200 to meet all Federal standards at Forest Haven.

Amendment No. 11: Appropriates $13,733,000 for care and treatment of the mentally retarded at Forest Haven as proposed by the Senate instead of $10,994,400 as proposed by the House.

TRANSPORTATION

Amendments Nos. 12 and 13: Appropriate $54,182,600 instead of $25,810,900 as proposed by the House and $55,162,600 as proposed by the Senate, of which $6,262,300 shall be payable from the revenue sharing trust fund as proposed by the Senate instead of $2,500,000 as proposed by the House. The conference action reflects the transfer of the Washington Metropolitan Area Transit Authority Metrobus subsidy program, the Washington Metropolitan Area Transit Commission and the School Transit Subsidy to the Transportation appropriation as proposed by the Senate.

Department of Transportation.—The conference action provides $25,810,900 as proposed by the House instead of $26,790,900 as proposed by the Senate and deletes the sum of $980,000 proposed by the Senate for street lighting.

Washington Metropolitan Area Transit Authority.—The conference action provides $24,536,000, including $23,403,600 for the Metrobus operating subsidy as proposed by the Senate instead of a total of $26,936,000, including $25,803,600 for Metrobus operating subsidies as proposed by the House, and reflects a reduction of $2,400,000 in the District of Columbia contribution for Metrobus subsidies as proposed by the Senate.

ENVIRONMENTAL SERVICES

Amendment No. 14: Appropriates $69,036,000 as proposed by the Senate instead of $69,078,000 as proposed by the House.

SETTLEMENT OF CLAIMS AND SUITS

Amendment No. 15: Appropriates $166,600 as proposed by the Senate instead of $143,100 as proposed by the House.

CAPITAL OUTLAY

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $36,586,700 instead of $35,794,700 as proposed by the House and $36,286,700 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action provides funding for projects in which there were differences in the amounts proposed by the House and Senate as follows:

[In thousands of dollars]

Project	House allowance	Senate allowance	Conference allowance
Prevocational/Vocational Center for the Handicapped	300	0	300
Permanent improvements, various District buildings	7,800	7,300	7,300
Sursum Corda Neighborhood Development Center	0	1,292	1,292

The conferees are agreed that no expenditure of funds will be approved to construct a new facility for the Prevocational/Vocational Center until the City provides adequate justification that existing space cannot be used or converted for this purpose.

Amendment No. 17: Provides that $1,854,600 shall be available for construction services instead of $1,938,000 as proposed by the House and $1,554,600 as proposed by the Senate.

Amendments Nos. 18 and 19: Reported in technical disagreement. The managers on the part of the House will offer motions to recede and concur in the amendments of the Senate appropriating $1,292,000 for the Sursum Corda Neighborhood Center of which $900,000 shall be for the completion of the Sursum Corda Neighborhood Center to be repaid to the city out of funds raised by Sursum Corda, Inc. through fundraising activities and provides that all sums so collected be applied to the cost of construction with a corresponding reduction in, or refund of, appropriated District of Columbia funds, and $392,000 shall be for equipment for the center.

GENERAL PROVISIONS—DISTRICT OF COLUMBIA

Amendment No. 20: Amends heading to include District of Columbia as proposed by the Senate.

Amendments Nos. 21 through 31: Change section numbers and references as proposed by the Senate.

Amendment No. 32: Restores language proposed by the House and stricken by the Senate and changes section number and title reference as follows:

Sec. 107. Appropriations in this title shall not be available for the payment of rates for electric current for street lighting in excess of 2 cents per kilowatt-hour for current consumed.

Amendments Nos. 33 through 46: Change section numbers and references.

Amendment No. 47: Provides employment ceiling of 35,145 filled positions as proposed by the Senate instead of 35,250 as proposed by the House. The conferees are agreed that the 105 police positions, for which funds are provided under Public Safety, are included within this ceiling.

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: ", exclusive of positions initially authorized or funded by this title; and exclusive of the 20 positions approved in the transition period for Forest Haven, Department of Human Resources; 28 positions approved in fiscal year 1976 for Tax Administration, Department of Finance and Revenue; and 303 positions approved in fiscal year 1976 for the District of Columbia General Hospital, Department of Human Resources".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendments Nos. 49 through 53: Change section numbers and references.

Amendment No. 54: Changes reference to Act as proposed by the House instead of title as proposed by the Senate.

TITLE II—PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Amendments Nos. 55 through 58: Delete title and language proposed by the Senate appropriating $25,000,000 for Land Acquisition and Development and $11,450,000 for Public Development.

Amendment No. 59: Deletes Act citation inserted by the Senate.

TITLE III—DEPARTMENT OF TRANSPORTATION

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, making funds provided for the Coast Guard's Pollution Fund in Public Law 94-387 immediately available upon enactment of the bill, as proposed by the Senate, and changing title number as follows:

TITLE II—DEPARTMENT OF TRANSPORTATION

Funds provided for the Coast Guard's Pollution Fund in Public Law 94-387, shall become available immediately upon enactment of this legislation into law.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

UNNUMBERED SENATE AMENDMENT

The Senate recedes from its amendment to amend the title of the Act.

Conference total—with comparisons

The total new budget (obligational) authority for the fiscal year 1977 recommended by the Committee of Conference, with comparisons to the fiscal year 1976 amount, the 1977 budget estimates, and the House and Senate bills for 1977 follows:

FEDERAL FUNDS

New budget (obligational) authority, fiscal year 1976	$464,636,700
Budget estimates of new (obligational) authority, fiscal year 1977	[1] 396,894,000
House bill, fiscal year 1977	372,707,000
Senate bill, fiscal year 1977	[2] 400,422,300
Conference agreement	363,796,400
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1976	−100,840,300

FEDERAL FUNDS—Continued	
Budget estimates of new (obligational) authority, fiscal year 1977	−33,097,600
House bill, fiscal year 1977	−8,910,600
Senate bill, fiscal year 1977	−36,625,900
DISTRICT OF COLUMBIA FUNDS	
New budget (obligational) authority, fiscal year 1976	1,159,849,200
Budget estimates of new (obligational) authority, fiscal year 1977	1,128,075,600
House bill, fiscal year 1977	1,118,859,800
Senate bill, fiscal year 1977	1,119,983,300
Conference agreement	1,120,107,400
New budget (obligational) authority, fiscal year 1976	−39,741,800
Budget estimates of new (obligational) authority, fiscal year 1977	−7,968,200
House bill, fiscal year 1977	+1,247,600
Senate bill, fiscal year 1977	+124,600

[1] Excludes budget estimate of $36,450,000 for Pennsylvania Avenue Development Corporation as it is already reflected in estimates considered in connection with the Department of the Interior and Related Agencies Appropriation Act, 1977.

[2] Includes $36,450,000 for the Pennsylvania Avenue Development Corporation.

WILLIAM H. NATCHER,
ROBERT N. GIAIMO,
LOUIS STOKES
(except amendment No. 12),
GUNN MCKAY,
BILL BURLISON,
BILL ALEXANDER,
YVONNE BURKE
(except amendment No. 12),
CHARLES WILSON,
GEORGE MAHON,
BILL YOUNG,
JACK KEMP,
CLAIR W. BURGENER,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

LAWTON CHILES,
J. BENNETT JOHNSTON,
WALTER D. HUDDLESTON,
JOHN L. MCCLELLAN,
THOMAS F. EAGLETON,
CHARLES MCC. MATHIAS, JR.
(except amendment No. 12),
DICK SCHWEIKER,
MILTON R. YOUNG
(except amendment No. 12),
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 366

Mr. EILBERG submitted the following conference report and statement (pursuant to the order of the House on September 9, 1976) on the bill (H.R. 366) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to certain public safety officers who die in the performance of duty:

CONFERENCE REPORT (H. REPT. NO. 94–1501)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 366), to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to certain public safety officers who die in the performance of duty, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Public Safety Officers' Benefits Act of 1976".

SEC. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new part:

"PART J.—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

"PAYMENTS

"SEC. 701. (a) In any case in which the Administration determines, under regulations issued pursuant to this part, that a public safety officer has died as the direct and proximate result of a personal injury sustained in the line of duty, the Administration shall pay a benefit of $50,000 as follows:

"(1) if there is no surviving child of such officer, to the surviving spouse of such officer;

"(2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares and one-half to the surviving spouse;

"(3) if there is no surviving spouse, to the child or children of such officer in equal shares; or

"(4) if none of the above, to the dependent parent or parents of such officer in equal shares.

"(b) Whenever the Administration determines, upon a showing of need and prior to taking final action, that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding $3,000 to the person entitled to receive a benefit under subsection (a) of this section.

"(c) The amount of an interim payment under subsection (b) of this section shall be deducted from the amount of any final benefit paid to such person.

"(d) Where there is no final benefit paid, the recipient of any interim payment under subsection (b) of this section shall be liable for repayment of such amount. The Administration may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

"(e) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, but shall be reduced by—

"(1) payments authorized by section 8191 of title 5, United States Code;

"(2) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4–531(1)).

"(f) No benefit paid under this part shall be subject to execution or attachment.

"LIMITATIONS

"SEC. 702. No benefit shall be paid under this part—

"(1) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

"(2) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or

"(3) to any person who would otherwise be entitled to a benefit under this part if such person's actions were a substantial contributing factor to the death of the public safety officer.

"DEFINITIONS

"SEC. 703. As used in this part—

"(1) 'child' means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is—

"(A) eighteen years of age or under;

"(B) over eighteen years of age and a student as defined in section 8101 of title 5, United States Code; or

"(C) over eighteen years of age and incapable of self-support because of physical or mental disability;

"(2) 'dependent' means a person who was substantially reliant for support upon the income of the deceased public safety officer;

"(3) 'fireman' includes a person serving as an officially recognized or designated member of a legally organized volunteer fire department;

"(4) 'intoxication' means a disturbance of mental or physical faculties resulting from the introduction of alcohol, drugs, or other substances into the body;

"(5) 'law enforcement officer' means a person involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and judicial officers;

"(6) 'public agency' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any unit of local government, combination of such States, or units, or any department, agency, or instrumentality of any of the foregoing; and

"(7) 'public safety officer' means a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or as a fireman.

"ADMINISTRATIVE PROVISIONS

"SEC. 704. (a) The Administration is authorized to establish such rules, regulations, and procedures as may be necessary to carry out the purposes of this part. Such rules, regulations, and procedures will be determinative of conflict of laws issues arising under this part. Rules, regulations, and procedures issued under this part may include regulations governing the recognition of agents or other persons representing claimants under this part before the Administration. The Administration may prescribe the maximum fees which may be charged for services performed in connection with any claim under this part before the Administration, and any agreement in violation of such rules and regulations shall be void.

"(b) In making determinations under section 701, the Administration may utilize such administrative and investigative assistance as may be available from State and local agencies. Responsibility for making final determinations shall rest with the Administration.".

MISCELLANEOUS PROVISIONS

SEC. 3. Section 520 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new subsection:

"(c) There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purposes of part J.".

SEC. 4. The authority to make payments under part J of the Omnibus Crime Control and Safe Streets Act of 1968 (as added by section 2 of this Act) shall be effective only to the extent provided for in advance by appropriation Acts.

SEC. 5. If the provisions of any part of this Act are found invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

SEC. 6. The amendments made by this Act shall become effective and apply to deaths occurring from injuries sustained on or after the date of enactment of this Act.

And the Senate agree to the same.

That the Senate recede from its amendment to the title of the bill.

PETER W. RODINO,
JOSHUA EILBERG,
PAUL S. SARBANES,
JOHN F. SEIBERLING,
TOM RAILSBACK,
HAMILTON FISH, JR.,
Managers on the Part of the House.

JOHN L. MCCLELLAN,
PHILIP A. HART,
EDWARD M. KENNEDY,
ROMAN L. HRUSKA,
STROM THURMOND,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 366), to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to certain public safety officers who die in the performance of duty, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for both the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the Conferees, and minor drafting and clarifying changes.

OCCUPATIONAL COVERAGE

The House bill provided a $50,000 death benefit to the survivors of law enforcement officers who die in the performance of duty.

The Senate amendment provided a $50,000 death benefit to the survivors of both law enforcement officers and firemen who die in the line of duty.

The Conference substitute conforms to the Senate amendment.

The Managers believe that coverage should be provided to both categories of public safety officers (law enforcement officers and firemen); and it is noted that the House approved separate legislation (H.R. 365) which would have provided a similar benefit to firemen.

SCOPE OF COVERAGE

The House bill authorized payment if the public safety officer's death was the result of a personal injury sustained in the line of certain hazardous duties which are specified in the bill. Such duties included: apprehending or guarding criminals; preventing crime; and other activities determined by the Law Enforcement Assistance Administration to be potentially dangerous. The parallel House bill for firemen (H.R. 365) authorized payment whenever a fireman sustained fatal injuries while actually and directly engaged in fighting fires or in other activities determined by the Law Enforcement Assistance Administration to be potentially dangerous.

The Senate amendment authorized payment of the death benefit to the survivors of law enforcement officers and firemen for all line of duty deaths.

The Conference substitute conforms to the Senate amendment.

The Managers believe that "line of duty" is a well established concept and that it is appropriate to extend coverage to all acts performed by the public safety officer in the discharge of those duties which are required of him in his capacity as a law enforcement officer or as a fireman.

DEFINITION OF "LAW ENFORCEMENT OFFICER"

The House bill defined "law enforcement officer" to specifically include police, corrections, probation, and parole officers as well as officials engaged in programs relating to the prevention, control, and reduction of juvenile delinquency or narcotics addiction.

The Senate amendment defined "law enforcement officer" to specifically include police, corrections, probation, parole, and judicial officers.

The Conference substitute is a combination of both the House and Senate definitions. It defines "law enforcement officer" to mean "a person involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and judicial officers."

The Managers have not expressly included officials engaged in programs relating to narcotics addiction. It is, however, the intent of the Managers that the definition of "law enforcement officer" be construed to cover such individuals if they are exposed, on a regular basis, to criminal offenders such as those responsible for screening arrestees or prisoners for possible diversion into drug treatment programs.

DEPENDENCY TEST

The House bill required survivors of the public safety officer (other than children who are a defined category) to be dependent for more than one half of their support on the public safety officer in order to be eligible for the death benefit.

The Senate amendment provided that only a parent must be dependent on the public safety officer in order to be eligible for the death benefit, and "dependent" is defined as being "substantially reliant for support upon the income of the deceased public safety officer".

The Conference substitute conforms to the Senate amendment. It was felt that the Senate provision was more flexible than that contained in the House bill, and the Managers agreed that the language contained in the Conference substitute should be liberally interpreted.

EFFECTIVE DATE FOR DEATH BENEFITS

The House bill provided that death benefits shall apply with respect to any eligible public safety officer who dies as the direct and proximate result of a personal injury sustained on or after October 11, 1972.

The Senate amendment provided that the bill would become effective for deaths resulting from injuries sustained on or after the date of enactment of the bill.

The Conference substitute conforms to the Senate amendment.

GROUP LIFE INSURANCE PROGRAM

The Senate amendment contained provisions establishing a Group Life Insurance Program for public safety officers.

The House bill contained no comparable provision.

The Conference substitute does not include the provisions contained in the Senate amendment.

VICTIMS OF CRIME

The Senate amendment contained provisions authorizing Federal funds to compensate the victims of crime.

The House bill contained no comparable provision.

The Conference substitute does not include the provisions contained in the Senate amendment, and the Managers agreed that this subject should be handled through separate legislation.

PETER W. RODINO,
JOSHUA EILBERG,
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JOHN F. SEIBERLING,
TOM RAILSBACK,
HAMILTON FISH, JR.,
Managers on the Part of the House.

JOHN L. MCCLELLAN,
PHILIP A. HART,
EDWARD M. KENNEDY,
ROMAN L. HRUSKA,
STROM THURMOND,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ANDREWS of North Dakota (at the request of Mr. RHODES), for today, on account of official business.

Mr. CORMAN (at the request of Mr. O'NEILL), for today on account of official business.

Mr. HORTON (at the request of Mr. RHODES), for today, on account of official business, committee hearings.

Mr. JONES of North Carolina (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. MANN (at the request of Mr. O'NEILL), for today, on account of official committee business.

Mr. MOSS, for the period beginning close of business on September 24 to October 9, 1976, on account of travel to district for official business.

Mr. RANGEL, for today, Friday, September 10, on account of constituent business outside of Washington.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MOORE), to revise and extend their remarks, and to include extraneous matter:)

Mr. JEFFORDS, for 10 minutes, today.

Mr. KEMP, for 10 minutes, today.

(The following Members (at the request of Mr. HALL of Texas) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. SOLARZ, for 10 minutes, today.

Mr. ROSTENKOWSKI, for 10 minutes, today.

Mr. MCFALL, for 5 minutes, today.

Ms. HOLTZMAN, for 15 minutes, today.

Mr. HAYES of Indiana, for 10 minutes today.

Mr. ADAMS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SEIBERLING, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,501.50.

Mr. BROOMFIELD, to extend his remarks prior to the vote on the Dingell-Broyhill amendment in the Committee of the Whole today.

(The following Members (at the request of Mr. MOORE, and to include extraneous matter:)

Mr. ANDERSON of Illinois.
Mr. PRITCHARD.
Mr. FINDLEY.
Mr. DEVINE.
Mr. SCHNEEBELI.
Mr. BROWN of Ohio.
Mr. KEMP in three instances.
Mr. GILMAN.
Mr. WIGGINS.
Mr. DERWINSKI.
Mr. CRANE.

(The following Members (at the request of Mr. HALL of Texas) and to include extraneous matter:)

Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. JONES of Tennessee.
Mr. OTTINGER.
Mr. RODINO.
Mr. FRASER in two instances.
Mr. PIKE.
Mr. SIMON.
Mr. HAWKINS in two instances.
Mr. FAUNTROY.
Mr. MCDONALD in two instances.
Mr. JOHNSON of California.
Mr. BRECKINRIDGE.
Mr. EVINS of Tennessee.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 201. Concurrent resolution authorizing the printing of the prayers of the Chaplain of the Senate during the 94th Congress as a Senate ducument; to the Committee on House Administration.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 5465. An act to provide additional retirement benefits for certain employees of the Bureau of Indian Affairs and the Indian Health Service who are not entitled to Indian preference, to provide greater opportunity for advancement and employment of Indians, and for other purposes;

H.R. 8603. An act to amend title 39, United States Code, with respect to the organizational and financial matters of the United States Postal Service and the Postal Rate Commission, and for other purposes; and

H.R. 10394. An act to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes.

ADJOURNMENT

Mr. HALL of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 38 minutes p.m.), under its previous order, the House adjourned until Monday, September 13, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4000. A letter from the Assistant Secretary of Commerce for Administration, transmitting notice of a proposed new system of records for the Department of Commerce, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4001. A letter from the Secretary, Federal Trade Commission, transmitting notice of a proposed system of records of the Commission, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4002. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to section 112(b) of Public Law 92–403; to the Committee on International Relations.

4003. A letter from the Adjutant General, United Spanish War Veterans, transmitting the proceedings of the stated convention of the 76th national encampment of the United Spanish War Veterans; to the Committee on Veterans' Affairs and ordered to be printed with illustrations.

RECEIVED FROM THE COMPTROLLER GENERAL

4004. A letter from the Acting Comptroller General of the United States, transmitting a report on deficiencies in State safety and health enforcement activities; jointly, to the Committees on Government Operations, and Education and Labor.

4005. A letter from the Acting Comptroller General of the United States, transmitting the third annual report of the General Accounting Office on its program to improve the usefulness of fiscal, budgetary, and program-related information to congressional users, pursuant to section 202(e) of the Legislative Reorganization Act of 1970, as amended; jointly, to the Committees on Government Operations, and House Administration.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FLOWERS: Committee on the Judiciary. H.R. 6816. A bill for the relief of Dr. Daryl C. Johnson; with an amendment (Rept. No. 94–1492). Referred to the Committee of the Whole House.

Mr. MAZZOLI: Committee on the Judiciary. H.R. 11859. A bill for the relief of William H. Klusmeier, publisher of the Austin Citizen of Austin, Tex. (Rept. No. 94–1493). Referred to the Committee of the Whole House.

Mr. KINDNESS: Committee on the Judiciary. S. 3035. An act for the relief of Alice W. Olson, Lisa Olson Hayward, Eric Olson, and Nils Olson (Rept. No. 94–1494). Referred to the Committee of the Whole House.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 1531. A resolution providing for the consideration of H.R. 12808. A bill to amend sections 358, 358a, 359, and 373 of the Agricultural Adjustment Act of 1938 and title I of the Agricultural Act of 1949 for the purpose of improving peanut programs, and for other purposes (Rept. No. 94–1495). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 1532. A resolution providing for the consideration of H.R. 14319. A bill to amend the Public Health Service Act and the Social Security Act to revise and improve the authorities under those Acts for the regulation of clinical laboratories (Rept. No. 94–1496). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1533. A resolution providing for the consideration of H.R. 14496. A bill to provide technical and financial assistance for the development of management plans and facilities for the recovery of energy and other resources from discarded materials and for the safe disposal of discarded materials, and to regulate the management of hazardous waste (Rept. No. 94–1497). Referred to the House Calendar.

Mr. MADDEN: Committee on Rules, House Resolution 1534. A resolution providing for the consideration of H.R. 15069. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes (Rept. No. 94–1498). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 1535. A resolution providing for the consideration of H.R. 15319. A bill to approve in whole or in part, with amendments, certain rules relating to cases and proceedings under sections 2254 and 2255 of title 28 of the United States Code (Rept. No. 94–1499). Referred to the House Calendar.

Mr. NATCHER: Committee of conference. Conference report on H.R. 15193 (Rept. No. 94–1500). Ordered to be printed.

Mr. EILBERG: Committee of conference. Conference report on H.R. 366 (Rept. No. 94–1501). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BAUCUS (for himself, Mr. AUCOIN, Mr. BLOUIN, Mr. HARKIN, Mr. HARRINGTON, Mr. KREBS, Mr. MANN, Mr. MINETA, Mrs. MINK, Mr. RIEGLE, Mr. ROSE, Mr. SIMON, Mr. STARK, and Mr. UDALL):

H.R. 15512. A bill to authorize Federal assistance under the Consolidated Farm and Rural Development Act with respect to using solar energy in residential structures on family farms; to the Committee on Agriculture.

H.R. 15513. A bill to provide more Federal assistance under certain housing programs for dwelling units which utilize solar energy; to the Committee on Banking, Currency and Housing.

H.R. 15514. A bill to amend title 38, United States Code, to provide Federal loans and loan guarantees to veterans for the purchase and installation of heating and cooling systems which utilize solar energy; to the Committee on Veterans' Affairs.

By Mrs. BURKE of California (for herself, Mr. KOCH, and Mr. STOKES):

H.R. 15515. A bill to establish a national commission on neighborhoods; to the Committee on Banking, Currency and Housing.

By Mr. DE LUGO:

H.R. 15516. A bill to convey mineral rights in certain submerged lands to the governments of Guam, the Virgin Islands, and American Samoa; to the Committee on Interior and Insular Affairs.

By Mr. GILMAN:

H.R. 15517. A bill to amend the Internal Revenue Code of 1954 to extend the duration of certain provisions relating to certain individuals who are prisoners of war, missing in action, or hospitalized as a result of the Vietnam conflict; to the Committee on Ways and Means.

By Mr. HAWKINS (for himself, Mr. ABDNOR, Mr. AUCOIN, Mr. ANDERSON of California, Mr. BAFALIS, Mr. BLOUIN, Mr. BONKER, Mr. BURKE of Massachusetts, Mrs. CHISHOLM, Mr. DRINAN, Mr. FASCELL, Mr. FISHER, and Mr. FITHIAN):

H.R. 15518. A bill to terminate age discrimination in employment; to the Committee on Education and Labor.

By Mr. LENT:

H.R. 15519. A bill to amend title 38 of the United States Code to make certain that

recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced because of increases in monthly social security benefits, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 15520. A bill to direct the Secretary of Health, Education, and Welfare to develop and implement a system for the issuance of social security benefit checks on a staggered or cyclical basis; to the Committee on Ways and Means.

H.R. 15521. A bill to amend title XVIII of the Social Security Act to include the cost of drugs requiring a doctor's prescription among the medical expenses with respect to which payment may be made under the supplementary medical insurance program; to the Committee on Ways and Means.

H.R. 15522. A bill to amend title II of the Social Security Act to reduce from 72 to 70 the age beyond which deductions on account of an individual's outside earnings will no longer be made from such individual's benefits; to the Committee on Ways and Means.

By Mr. LOTT:

H.R. 15523. A bill to amend the Public Health Service Act to provide special allowances to certain physicians employed by the United States in order to enhance the recruitment and retention of such physicians; jointly, to the Committees on Interstate and Foreign Commerce and Post Office and Civil Service.

By Mr. QUILLEN:

H.R. 15524. A bill to amend part B of title XI of the Social Security Act to assure appropriate participation by professional registered nurses in the peer review, and related activities authorized thereunder; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. RINALDO:

H.R. 15525. A bill to reorganize the executive branch of the Government in order to improve the management of the Outer Continental Shelf; to the Committee on Government Operations.

By Mr. ANDERSON of California (for himself and Mr. MOORHEAD of Pennsylvania):

H.J. Res. 1091. A resolution to provide for the designation of a week as "National Lupus Week"; to the Committee on Post Office and Civil Service.

By Mr. GREEN:

H. Con. Res. 746. A resolution relating to the disapproval of the waiver by the Secretary of the Treasury of the imposition of countervailing duties on imports of leather handbags from Brazil; to the Committee on Ways and Means.

By Mr. HARRINGTON:

H. Con. Res. 747. A resolution disapproving certain proposed sales to Iran of defense articles and services; to the Committee on International Relations.

By Mr. LAGOMARSINO:

H. Res. 1529. A resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on International Relations.

By Mr. McFALL (for himself and Mr. JOHNSON of California):

H. Res. 1530. A resolution expressing the sense of the House with respect to the immediate removal of certain regulations unilaterally put in place by the European Economic Community which have the effect of damaging and interfering with historic and acceptable trade patterns in the U.S. exports of dried prunes, and efforts made to restrict exports of walnuts to the EEC, and action taken by the United States if such import regulations are not immediately removed and if additional unilateral regulations are instituted; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII,

457. The SPEAKER presented a memorial of the Senate of the State of Michigan, relative to violence on prime-time television, which was referred to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. BURKE of Massachusetts:

H.R. 15526. A bill for the relief of Zivka Jovanovic; to the Committee on the Judiciary.

By Mr. McDADE:

H.R. 15527. A bill for the relief of Rosalinda Flores Vaow; to the Committee on the Judiciary.

By Mr. ROBINSON (by request):

H.R. 15528. A bill for the relief of Beulah C. Shifflett; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

579. Mr. WYLIE presented a petition of members of credit unions in the 15th Congressional District of Ohio, relative to the proposed "Financial Institutions Act of 1975," which was referred to the Committee on Banking, Currency and Housing.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

S. 2371

By Mr. HECHLER of West Virginia:

On page 9, after line 15, insert the following new section:

"SUNSHINE IN GOVERNMENT

"SEC. 13. (a) Each officer or employee of the Secretary of the Interior who—

"(1) performs any function or duty under this Act, or any Acts amended by this Act concerning the regulation of mining within the National Park System; and

"(2) has any known financial interest (A) in any person subject to such Acts, or (B) in any person who holds a mining claim within the boundaries of units of the National Park System;

"shall, beginning on February 1, 1977, annually file with the Secretary a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(b) the Secretary shall—

"(1) act within ninety days after the date of enactment of this Act—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

"(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within such agency which are of a nonregulatory or nonpolicy-making nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

"(d) Any officer or employee who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

H.R. 12112

By Mr. HAYES of Indiana:

On page 40 (which is part of the Science and Technology Committee amendment), strike the sentence beginning on line 1 and ending on line 5 and insert therein the following: "Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, who obtained such guaranteed obligataion for value, in good faith, and without knowledge of any fraud or material misrepresentation on the part of the borrower, and who himself did not commit any fraud or material misrepresentation."

On page 80 (which is part of the Banking, Currency and Housing Committee amendment), strike the sentence beginning on line 3 and ending on line 7 and insert therein the following: "Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, who obtained such guaranteed obligation for value, in good faith, and without knowledge of any fraud or material misrepresentation on the part of the borrower, and who himself did not commit any fraud or material misrepresentation."

On page 71 (which is part of the Banking, Currency and Housing Committee amendment), after the period on line 13, insert the following: "Prior to making any guarantee or commitment to guarantee under this section, the Administrator shall determine that the underlying agreement on which the guarantee is sought contains all affirmative and negative covenants and other protective provisions which are usual and customary in loan agreements of a similar kind, including previous loan agreements between the lender and the borrower, and that such agreements cannot be amended, or any provisions waived, without the Administrator's prior written consent."

On page 33 (which is part of the Science and Technology Committee amendment), after the period on line 11, insert the following: "Prior to making any guarantee or commitment to guarantee under this section, the Administrator shall determine that the underlying agreement on which the guarantee is sought contains all affirmative and negative covenants and other protective provisions which are usual and customary in loan agreements of a similar kind, including previous loan agreements between the lender and the borrower, and that such agreements cannot be amended, or any provisions waived, without the Administrator's prior written consent."

On page 69 (which is part of the Banking, Currency and Housing Committee amendment), strike the sentence beginning on line 12 and ending on line 15 and insert the following:

"(13) The authority of the Administrator to enter into any guarantee or to make any commitment to guarantee under this section terminates on September 30, 1981. Such termination does not affect the carrying out of any contract, guarantee, commitment, or other obligation entered into pursuant to this section prior to that date, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this section."

On page 31 (which is part of the Science and Technology Committee amendment), strike the sentence beginning on line 11 and ending on line 14 and insert therein the following:

"(13) The authority of the Administrator to enter into any guarantee or to make any commitment to guarantee under this section terminates on September 30, 1981. Such termination does not affect the carrying out of any contract, guarantee, commitment, or other obligation entered into pursuant to this section prior to that date, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts or paid out in carrying on operations under this section."

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of September 9, 1976, page 29579:

HOUSE BILLS

H.R. 15121. August 9, 1976. Ways and Means. Amends the Internal Revenue Code of 1954 and the program of Old-Age, Survivors, and Disability Insurance of the Social Security Act to provide that the payment of social security taxes by a nonprofit organization on behalf of its employees shall constitute a constructive filing by such organization of the certificate otherwise required to provide social security coverage for such employees if it has not received a refund of such taxes.

H.R. 15122. August 9, 1976. Interior and Insular Affairs. Designates specified trails for study as potential additions to the National Trails System.

H.R. 15123. August 9, 1976. Interior and Insular Affairs. Designates specified trails for study as potential additions to the National Trails System.

H.R. 15124. August 9, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 15125. August 9, 1976. International Relations. Directs the Director of the United States Information Agency to make a master copy of a certain film available to a specified organization.

H.R. 15126. August 9, 1976. Post Office and Civil Service. Directs that the veterans readjustment of the civil service appointment of a certain individual be deemed to have been made within 1 year after such individual's separation from the Air Force

H.R. 15127. August 10, 1976. Merchant Marine and Fisheries; Science and Technology. Establishes a clearinghouse through which all research projects conducted in, or which affect, the Chesapeake Bay area will be reviewed and to identify the needs and priorities for such additional research projects as are required.

H.R. 15128. August 10, 1976. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to provide that any employer who successfully contests a citation or penalty under such Act shall be awarded a reasonable attorney's fee and other reasonable litigation costs.

H.R. 15129. August 10, 1976. Agriculture. Directs the Secretary of Agriculture to formulate five-year goals in specified areas of rural development and to include in an annual report to Congress the progress made or anticipated in meeting such goals.

Requires the appointment of a new Assistant Secretary of Agriculture for Rural Development within 60 days if a vacancy should occur in such position.

H.R. 15130. August 10, 1976. Education and Labor. Amends the program of Aid to Families with Dependent Children of the Social Security Act to: (1) increase the incentive of a recipient to work by increasing the amount of earnings which an individual may retain without losing eligibility for such aid; (2) direct a study of the requirements for participation by recipients in work incentive programs; and (3) establish two supplementary work programs for individuals who do not participate in work incentive programs and who are not exempted from such programs under existing regulations.

H.R. 15131. August 10, 1976. Education and Labor. Directs the Secretary of Labor to formulate and administer an employment and training program under which Federal grants will be made available to State agencies upon request for distribution to unemployed individuals within the State through employers.

States that such subsidies shall be made available to employers who provide unemployed individuals with employment and training opportunities.

H.R. 15132. August 10, 1976. Ways and Means. Amends the Internal Revenue Code to increase the amount of the personal exemption from $750 to $1,000. Provides for automatic annual cost-of-living increases in individual income tax rates. Allows a tax credit for educational expenses paid to an institution of higher education for the taxpayer, his spouse, and any of his dependents.

H.R. 15133. August 10, 1976. Post Office and Civil Service. Permits credit, for civil service retirement purposes, for National Guard technician service before January 1, 1969 where such an individual performs creditable service after such date.

H.R. 15134. August 10, 1976. Public Works and Transportation; Government Operations. Amends the Public Buildings Act of 1959 and the Federal Property and Administrative Services Act of 1949 to require the Administrator of General Services, when acquiring or managing space necessary for Federal agencies, to (1) utilize space in buildings of historic, architectural, or cultural significance where feasible; (2) encourage the location of commercial, cultural, educational, or recreational activities within or near public buildings; and (3) encourage the public use of public buildings outside of regular Federal working hours.

Requires the Administrator to place on the access level of Federal buildings those activities requiring regular public contact.

H.R. 15135. August 10, 1976. Post Office and Civil Service. Repeals the provisions of Public Law 94-82 authorizing increases in the salaries of Members of Congress.

H.R. 15136. August 10, 1976. Armed Services. Authorizes appropriations for the construction of military facilities and housing on Guam.

H.R. 15137. August 10, 1976. Interstate and Foreign Commerce. Establishes a National Voluntary Medical and Hospital Services Insurance Agency charged with the responsibility to make all necessary preparations to offer subscriptions and enrollments, and to commence payment of claims for benefits claimed by enrollees under a National Voluntary Medical and Hospital Services Insurance Plan. Preempts all similar or duplicate hospital and medical service insurance benefits or payments provided by any other agency of the United States.

H.R. 15138. August 10, 1976. Education and Labor. Directs the President, through the Secretary of Labor, to carry out a program of demonstration projects designed to increase economic productivity and expand employment opportunities. Establishes an Advisory Committee on Human Resources and Employment Opportunities to furnish advice and assistance in the administration of the demonstration projects program.

H.R. 15139. August 10, 1976. Interstate and Foreign Commerce. Amends the Federal Power Act to direct the Federal Power Commission to require utilities to file curtailment plans to meet anticipated power shortages.

Requires public hearings on proposals for utility rate increases. Authorizes the Commission to take additional measures to eliminate discriminatory and anticompetitive practices by utilities.

H.R. 15140. August 10, 1976. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to undertake the advanced engineering and design stage of the Sowashee Creek modification project in Mississippi.

H.R. 15141. August 10, 1976. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to authorize the Commissioner of Education to make grants to, and enter into contracts with, schools of medicine, dentistry, and osteopathy for the purpose of offering regional three-year demonstration programs introducing secondary students from disadvantaged backgrounds to the health professions.

H.R. 15142. August 10, 1976. Education and Labor. Amends the Higher Education Act of 1965 to direct the Commissioner of Education to make annual grants to schools of medicine, dentistry, and osteopathy for the purpose of offering regional medical academic summer enrichment programs for undergraduate students from deprived educational or economic backgrounds.

H.R. 15143. August 10, 1976. Education and Labor. Directs the Secretary of Health, Education, and Welfare to make annual grants to schools of medicine, osteopathy, and dentistry for the support of education programs of such schools relating to the special needs of students from disadvantaged backgrounds enrolled in such schools.

H.R. 15144. August 10, 1976. Interior and Insular Affairs. Amends Acts authorizing the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for maintenance and operation on specified Pueblo Indian lands to delete the five-year limitation on authorizations of annual appropriations to pay the costs of such maintenance and operation.

H.R. 15145. August 10, 1976. Agriculture. Directs the Administrator of the Rural Electrification Administration of the Department of Agriculture to conduct a study and institute a pilot project regarding anaerobic digesters and to issue reports relating to such study and project. Defines "anaerobic digester" as any device which converts waste materials into usable gas or fertilizer. Authorizes the Administrator to make grants to specified small farmers for the construction of digesters which have been proven to be safe and efficient.

H.R. 15146. August 10, 1976. Ways and Means. Amends the Internal Revenue Code to specify that the only records which an employer shall be required to keep in connection with charged tips shall be charge receipts and copies of statements furnished by employees.

H.R. 15147. August 10, 1976. Ways and Means. Amends the program of Old-Age, Survivors, and Disability Insurance of the Social Security Act to provide that service performed by members of the Armed Forces in combat zones shall be counted twice in determining the number of quarters of Social Security coverage of such service personnel.

H.R. 15148. August 10, 1976. Post Office and Civil Service. Directs the Secretary of Commerce, upon the request of a municipality or a subdivision of a municipality, to provide without charge to such entity census statistics which relate to the population of such municipality or subdivision. States that census statistics more than 22 years old shall not be provided pursuant to such a request.

H.R. 15149. August 10, 1976. Interstate and Foreign Commerce. Requires any person who makes payments to any individual or entity in connection with an official action, sale, or contract with a foreign government for the commercial benefit of the person or foreign affiliate to report such payments to the Sec-

retary of Commerce under such regulations as the Secretary may issue.

Imposes civil and criminal penalties for the violation of this Act.

Directs the Secretary to disseminate copies of reports filed under this Act to the Department of Justice, the Department of State, the Internal Revenue Service, and where appropriate the Securities Exchange Commission.

H.R. 15150. August 10, 1976. Banking, Currency and Housing. Amends the Consumer Credit Protection Act to prohibit specified practices in the case of second mortgages which secure residential property including: prepayment penalty, foreclosure without opportunity for judicial hearing, and harassment through collection practices.

Prescribes remedies with respect to any violation.

H.R. 15151. August 10, 1976. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to make such Act inapplicable to the importation, transportation, exportation, or sale of any endangered species born in captivity if such transaction occurs between approved dealers or exhibitors.

Directs the Secretary of the Interior, Commerce or Agriculture, as responsibilities are vested by Reorganization Plan Numbered 4 of 1970, to promulgate regulations for enforcement of this Act, including registration of approved dealers or exhibitors and an inventory system for endangered species.

Imposes fines for violation of such regulations.

H.R. 15152. August 10, 1976. Ways and Means. Amends the Medicare program of the Social Security Act to authorize payment under the supplementary medical insurance program for services furnished by physician extenders.

H.R. 15153. August 10, 1976. Government Operations. Requires any Federal agency proposing a new rule or any committee of Congress reporting legislation which may have a significant impact on costs to the public to prepare a Regulatory Cost/Benefit Assessment.

Sets forth procedures for preparing such Assessment.

H.R. 15154. August 10, 1976. Government Operations. Requires any Federal agency proposing a new rule or any committee of Congress reporting legislation which may have a significant impact on costs to the public to prepare a Regulatory Cost/Benefit Assessment.

Sets forth procedures for preparing such Assessment.

H.R. 15155. August 10, 1976. Merchant Marine and Fisheries; Interior and Insular Affairs. Repeals the prohibition against the sale of remains of free-roaming wild horses and burros destroyed to control their population.

Authorizes the Secretary of the Interior through the Bureau of Land Management or the Secretary of Agriculture through the Forest Service to enter into contracts for the sale of free-roaming wild horses and burros under population control programs.

Authorizes the appropriate Secretary to utilize aircraft or motor vehicles in administration of the population control program.

H.R. 15156. August 10, 1976. Ways and Means. Authorizes semiannual computation of cost-of-living increases in Old Age, Survivors and Disability Insurance benefits under the Social Security Act.

H.R. 15157. August 10, 1976. Ways and Means. Authorizes and directs the Secretary of Labor, through the Bureau of Labor Statistics, to prepare, as part of the Consumer Price Index, the Consumer Price Index for the Aged and Other Social Security Beneficiaries designed to reflect the relevant price information for individuals, as a group, who are 65 years of age or older or are otherwise entitled to monthly benefits under the program of Old-Age, Survivors, and Disability Insurance of the Social Security Act.

H.R. 15158. August 10, 1976. Public Works and Transportation. Authorizes the Administrator of the Environmental Protection Agency to make grants and provide technical assistance to eligible States, municipalities, or municipal or interstate agencies for the construction or acquisition of facilities for the use of land disposal of sewage sludge.

H.R. 15159. August 10, 1976. Ways and Means. Amends the medicare program of the Social Security Act to authorize payment under such title for services furnished by physician extenders, as defined in this Act, and clinical staff of community mental health centers.

H.R. 15160. August 10, 1976. Merchant Marine and Fisheries. Amends the Ports and Waterways Safety Act of 1972 to provide for the award of grants to port authorities in the United States to enable such authorities to protect public ports and land areas adjacent to such ports from fires and other accidents or casualties occuring in such ports.

H.R. 15161. August 10, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 15162. August 10, 1976. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to establish within the National Cemetery System a national cemetery in the east or central part of the State of Florida at such location as he determines most appropriate.

H.R. 15163. August 10, 1976. Public Works and Transportation. Amends the Federal Water Pollution Control Act to direct the Administrator of the Environmental Protection Agency to study the effects of sewage sludge disposal in the territorial seas, the contiguous zone, and the oceans.

Requires modification of permits for disposal sites, following completion of the study.

H.R. 15164. August 10, 1976. Education and Labor. Amends the Education Amendments of 1972 to exempt from the sex discrimination prohibition provision of such Act athletic programs or activities.

H.R. 15165. August 10, 1976. Education and Labor. Amends the Education Amendments of 1972 to exempt from the sex discrimination prohibition provision of such Act, musical or social programs or activities.

H.R. 15166. August 10, 1976. Public Works and Transportation. Amends the Appalachian Regional Development Act of 1965 to increase the amount of available Federal assistance as a percentage of the total costs of Appalachian development highway projects.

H.R. 15167. August 10, 1976. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to recognize representatives of the Italian American War Veterans of the United States in the preparation, presentation, and prosecution of claims under laws administered by the Veterans' Administration.

H.R. 15168. August 10, 1976. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to establish criteria for granting and renewing broadcast licenses. Provides for the payment of reasonable expenses, including attorney's fees, of participating in any rulemaking proceedings of the Federal Communications Commission.

H.R. 15169. August 10, 1976. Judiciary. Eliminates the appellate jurisdiction of the United States Supreme Court over any claim that a Federal or State law which prohibits an abortion is invalid under the Constitution.

H.R. 15170. August 10, 1976. Ways and Means; Interstate and Foreign Commerce. Amends the Medicare and Medicaid programs of the Social Security Act to require automatic sprinkler systems in all skilled nursing facilities and intermediate care facilities certified for participation in such programs unless a waiver of such requirement is granted in accordance with conditions set forth in this Act.

Establishes a program of low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems.

H.R. 15171. August 10, 1976. Ways and Means; Interstate and Foreign Commerce. Amends the Medicare and Medicaid programs of the Social Security Act to require automatic sprinkler systems in all skilled nursing facilities and intermediate care facilities certified for participation in such programs unless a waiver of such requirement is granted in accordance with conditions set forth in this Act.

Establishes a program of low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems.

H.R. 15172. August 10, 1976. Ways and Means; Interstate and Foreign Commerce. Amends the Medicare and Medicaid programs of the Social Security Act to require automatic sprinkler systems in all skilled nursing facilities and intermediate care facilities certified for participation in such programs unless a waiver of such requirement is granted in accordance with conditions set forth in this Act.

Establishes a program of low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems.

H.R. 15173. August 10, 1976. Judiciary. Entitles any person to receive reasonable legal fees associated with such person's participation in a proceeding before a Federal agency or before a court while challenging any action of such agency if such participation could not be undertaken without such reimbursement, is helpful, and is not entered into for the purpose of promoting unreasonable gain to such person.

H.R. 15174. August 10, 1976. Judiciary. Entitles any person to receive reasonable legal fees associated with such person's participation in a proceeding before a Federal agency or before a court while challenging any action of such agency if such participation could not be undertaken without such reimbursement, is helpful, and is not entered into for the purpose of promoting unreasonable gain to such person.

H.R. 15175. August 10, 1976. Interior and Insular Affairs. Amends the Mineral Lands Leasing Act of 1920 to require inclusion of certain lands to be leased in a comprehensive land use plan. Requires compliance with Federal environmental laws as a condition of each lease.

Authorizes the Secretary of the Interior to conduct a comprehensive exploratory program to determine the extent of available coal resources. Establishes additional requirements for exploratory drilling activities.

Authorizes disposition of royalties to States for additional public purposes.

H.R. 15176. August 10, 1976. Interior and Insular Affairs. Modifies the authorization for the construction of the San Luis unit of the Central Valley Project in California to authorize the Secretary of the Interior to construct wells for the integration of ground water.

H.R. 15177. August 10, 1976. Banking, Currency and Housing. Prescribes standards and procedures for disclosure of financial records of any customer by a financial institu-

tion to Federal agencies. Provides criminal and civil penalties for violations of this Act.

H.R. 15178. August 10, 1976. Merchant Marine and Fisheries. Authorizes the Secretary of the Army to oversee the work necessary to increase the capacity and improve the operations of the Panama Canal through the adaptation of the Third Locks project. Establishes the Panama Canal Advisory and Inspection Board to study and review all plans and designs for the Third Locks project. Requires the Board to report to the Governor of the Canal Zone, the President, and the Congress.

H.R. 15179. August 10, 1976. Interstate and Foreign Commerce. Eliminates the requirement, under the Federal Food, Drug, and Cosmetic Act, that new drugs will be regulated according to their effectiveness. States that such drugs will be regulated solely to assure their safety.

H.R. 15180. August 10, 1976. Interstate and Foreign Commerce. Eliminates the requirement, under the Federal Food, Drug, and Cosmetics Act, that new drugs will be regulated according to their effectiveness. States that such drugs will be regulated solely to assure their safety.

H.R. 15181. August 10, 1976. Ways and Means. Authorizes semiannual computation of cost-of-living increases in Old Age, Survivors and Disability Insurance benefits under the Social Security Act.

H.R. 15182. August 10, 1976. Ways and Means. Authorizes and directs the Secretary of Labor, through the Bureau of Labor Statistics, to prepare, as part of the Consumer Price Index, the Consumer Price Index for the Aged and Other Social Security Beneficiaries designed to reflect the relevant price information for individuals, as a group, who are 65 years of age or older or are otherwise entitled to monthly benefits under the program of Old-Age, Survivors, and Disability Insurance of the Social Security Act.

H.R. 15183. August 10, 1976. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to allow air carriers to offer reduced-rate transportation on a space-available basis to persons who are 65 years of age or older or 21 years of age or younger, to handicapped persons, and to an attendant of such a handicapped person.

H.R. 15184. August 10, 1976. Interstate and Foreign Commerce. Amends the Public Health Service Act to make the United States liable for claims for personal injury or death resulting from the administration of vaccine under the national swine flu innoculation program where such claims are based upon the act or omission of a program participant (except in cases of negligence).

Establishes procedures for bringing such actions. Makes the remedy accorded by this Act the exclusive legal remedy.

H.R. 15185. August 10, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specific findings in connection with Commission actions authorizing specialized carriers.

H.R. 15186. August 10, 1976. Ways and Means. Amends the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving Old-Age, Survivors, and Disability Insurance benefits.

H.R. 15187. August 10, 1976. Interstate and Foreign Commerce. Specifies the minimum annual rate of basic pay for the Assistant Secretary for Health of the Department of Health, Education, and Welfare, the Director of the National Institutes of Health, and the Director of each institute within the National Institutes of Health.

H.R. 15188. August 10, 1976. Post Office and Civil Service. Provides, under the Legislative Reorganization Act, that pay adjustments for Members of Congress may take effect no earlier than the beginning of the Congress next following the Congress in which they are approved.

H.R. 15189. August 10, 1979. Post Office and Civil Service. Provides, under the Legislative Reorganization Act, that pay adjustments for Members of Congress may take effect no earlier than the beginning of the Congress next following the Congress in which they are approved.

H.R. 15190. August 10, 1979. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States arising from his evacuation from Saigon, Vietnam, in April, 1975.

EXTENSIONS OF REMARKS

JASON JAY MEADOWS CALLED FOR A DECLARATION OF SELF-DEPENDENCE IN AN UNDELIVERED SPEECH

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, September 10, 1976

Mr. RANDOLPH. Mr. President, last April a cherished friend, Jason Jay Meadows, from my hometown of Elkins, had prepared a speech for Loyalty Day ceremonies at the Tygart Valley Post 3647 of the Veterans of Foreign Wars.

Jason was a former Randolph County Superintendent of Schools. The speech he was to have delivered contained an excellent assessment of moral and human qualities. He had given more than 42 years of service to public education, starting as a teacher in a one-room schoolhouse. He became Superintendent of Schools for Randolph County, of which Elkins is the county seat, in 1971. Under his leadership the county realized real progress in replacing outmoded facilities with new buildings, including a much needed vocational center. The address Jay Meadows was to have given stressed the character traits of our Founding Fathers, and called for a declaration of self-dependence for Americans.

According to his wife, Margaret, he gave of himself in the preparation of his address. In the early morning of May 1, of the day he was to speak, our friend was stricken with a heart attack which resulted in his death 13 days later.

Mr. President, there is wisdom in Jay's thoughts. I ask unanimous consent that excerpts from his prepared remarks be printed in the RECORD.

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

Mr. Commander, Guests, Members:

You all know that I hold your invitation to be here as a distinct honor and privilege as you bring to a conclusion the week's observation that included the worthy and significant objectives: Religious Freedom, Honor America, Community Services Day, Education Day, Help the Needy Day, Uniformed Services Day, and Loyalty Day. My invitation was to attend to Loyalty, defined by the dictionary as:

"Faithful to love, promise, or duty, as a faithful husband; Faithful to one's country or government, as a loyal citizen; Characterized by showing faithfulness to obligations, duties, contracts; One who is true, devoted, constant."

Now, to men who have demonstrated loyalty beyond that of other veterans, the Veterans of Foreign Wars, attention to this quality, this trait of genuine character, may come belatedly, many, many years belatedly. This may be exemplified by asking you to recall, in the early 1940's, your first Sunday aboard ship on the way to wherever you were destined. Remember? A fellow viewed things quite differently, I daresay. I surely did!

Recently at a Davis and Elkins College gathering for foreign students (D. & E. has now enrolled some 84 students from twenty-four foreign nations), a fellow at our table told us of a device he had: throwing out a challenge topic to get the conversation going when there were people present who had never met before. His device was very clever, yet very simple. It was to throw out a topic, social, political, or philosophical, and invite each guest to air his opinion. The topic he demonstrated to us was this: "What quality in human character do you consider the most admirable of all?" Well, one reply was: "Tolerance toward another's viewpoint without any smugness about your own view." Another reply was: "Giving of one's self or means without any thought of reward or of recognition." A third was "Refusal to judge another's actions or motives without first knowing what lies behind them." The fourth person said: "Forgiving wrongs done us with no thought of recrimination or retaliation."

As the talk went round the table, it came to me that most of the people were naming some aspect of the noblest and rarest of all human graces: forgiving loyalty; magnanimity; rising above pettiness or meanness; generosity, a major virtue which at any level sweetens life, and at the highest level, glorifies it.

Now that we agree what we are talking about, let me invite you to consider how our nation came to be, back there in the early 1770's. Bear in mind that the colonists at first did not intend to revolt; there was no planned revolution. All those good men wanted to do was to get their mother country to treat them fairly, justly, honestly. King George's stupid stubbornness, his uninformed advisors, their harsh and tyrannical replies to the entreaties of the colonists—all this encouraged, indeed, formed the idea of separating from England. This resulted in the formation of the Continental Congress to consider what should be done. These men decided after long and thorough debate to separate from England, their country.

Each time we review history we are more and more impressed with the amazing brilliance of the minds of these men, the clarity of their perception, and the thoroughness of their understanding. During the long, hot summer, every aspect of the action was analyzed with the risks involved. The risks were enormous. These men were risking everything, as they said when they signed the Declaration of Independence, and "to this we pledge our lives, our fortunes, and our sacred honor." All to signify loyalty, faithfulness, duty, and honor! . . .

What is our declaration of independence

in 1976? What should be our declaration of self-dependence in 1976?

Are we courageous enough to say that we believe the principles which rule the conscience of the individual should also rule the conscience of the government? Do we hold that government waste in any form is intolerable and that just as a family cannot for long spend more than it earns, neither can a government? Do you hold that respect is the root of morality, and that disrespect for oneself, for others, or for the nation or its flag is contrary to the American spirit? Do you believe that self-dependence produces self-respect; therefore, to help a man to be self-dependent is admirable, while to do permanently for a man what he can do and should do for himself is contrary to and destructive of the American tradition? Is there still a belief in our beloved nation in the dignity of labor and the pursuit of excellence? Do we feel that striving for the most pay for the least amount of work is immoral? Do we think we can strengthen the weak by weakening the strong?

If we agree on these things, we are saying that the moral strength of the nation is just as strong as the moral strength of its individuals. We then as loyal Americans commit ourselves to the pursuit of labor, excellence, respect, thrift, independence, and peace. I consider "In God We Trust" a profound statement of our national commitment and I believe that a democracy without a commitment to God is a departure from the original ideas of our forefathers.

Why is America on its 200th birthday still the most admired, most sought after, most desired land on earth, to which countless millions of people would run, walk, crawl, or creep to enter? Why is this most favored nation the envy of the world? There are countless reasons, as countless as the people wanting to come here, but probably the most compelling of all the reasons is that our land has a way for what the sociologists call 'upward mobility.' This is a most precious attribute. It prevents disadvantaged people from feeling locked into ugly situations from which no escape is possible. It prevents people from feeling that a revolution is the only way out. Our country has an orderly procedure whereby everybody has a fighting chance to win an education, land a good job, and make a contribution to a better way of life for all.

My hope for America is sustained mostly on this one reason, because I was born like many others into extremely poor circumstances through no fault of my parents. I am convinced that in any other country than ours I could never have escaped the poverty we knew as children. In no other country would I have received an education nor would I have ever had any chance to better myself in every detail. Never would I have been permitted to become a learned man or to work in difficult fields of endeavor or hold high offices.

In any other country I would have been limited to the most menial jobs, never being allowed to learn much, but just doing the hardest type of labor for the lowest wage. America provided me an escape, not easy, not free, but it was there for my salvation. I am forever grateful.

U.S. CANAL ZONE SOVEREIGN CONTROL: AMERICAN LEGION AND VFW OPPOSE

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. MURPHY of New York. Mr. Speaker, the question of the future sovereign control over the U.S. Canal Zone and the Panama Canal has become a major national issue. Extensive indications are that the sovereign people of the United States, in spite of a major propaganda campaign waged under the guidance of the Department of State, strongly oppose the projected surrender that is being so strenuously supported by elements in the Department of State.

Among these opponents are various veteran organizations the membership of which includes many who have served in the Armed Forces in the Canal Zone and know the Isthmian situation from firsthand observation. Also included among those opponents are eminent students of global strategy and the current geopolitical struggle for world domination.

In this conflict, the canal is a focal issue because it is a vital element of American sea power and a crucial point for the defense of the Caribbean-Gulf of Mexico danger zone. It is not a "mere shopping center" for placing on an auction block, but a world canal built by the United States and paid for by its taxpayers in compliance with treaty commitments for its construction and perpetual operation.

In connection with the current clamor for its giveaway to Panama, it must be realized that this small country is only the tip of the iceberg." Allied with the Havana-Moscow axis, it is only a puppet supporting Soviet designs for securing control over strategic waterways. Thus, as has been stated many times in the Congress, the real issue involved in the Canal Zone sovereignty question is not between the United States and Panama but between the United States and the U.S.S.R., which makes it a matter of global significance that cannot be ignored, except at our peril.

The resolution adopted at the 1976 annual conventions on the Panama Canal by both the American Legion and the Veterans of Foreign Wars of the United States are notable in several respects.

The sovereign control by the United States over the Canal Zone is not negotiable. Differences between canal authorities and the Republic of Panama should be resolved on the spot without disturbing present treaty arrangements, and the election of a nonvoting delegate in the Congress by U.S. citizens residing in the zone should be promptly authorized as was done for Guam, the Virgin Islands, and the District of Columbia.

But most important is the major increase of capacity and operational improvement of the existing Panama Canal under existing treaty provision as provided in H.R. 15178, introduced by Representatives M. GENE SNYDER of Kentucky and DANIEL J. FLOOD of Pennsylvania (CONGRESSIONAL RECORD, Aug. 10, 1976, pp. 26851–26853).

In order that the indicated resolutions may be readily available for all Members of the Congress as well as to candidates for public office, I include both as part of my remarks:

RESOLUTION No. 414: U.S. SOVEREIGNTY OVER THE "U.S. CANAL" LOCATED ON THE ISTHMUS OF PANAMA

Whereas, Article II of the 1903 Convention between Panama and the United States, as modified in part by the 1936 Treaty between the two Governments, states:

ARTICLE II

The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land and land under water for construction, maintenance, operation, sanitation, and protection of said canal of the width of ten miles extending to the distance of five miles on each side of center line of the route of the Canal to be constructed; the said zone beginning in the Caribbean Sea three miles from mean low water mark extending to and across the Isthmus of Panama into the Pacific Ocean to a distance of three marine miles from mean low water mark with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described shall not be included within this grant . . .

The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described and in addition thereto the group of small islands in the Bay of Panama, named Perico, Naos, Culebra and Flamence; and

Whereas, the United States of America has fully met its obligations to Panama under existing treaty arrangements and, moreover, has efficiently and responsibly accommodated an ever-increasing number of transits and amount of tonnage through the canal; and

Whereas, the revolutionary government of Panama, a product of coup d'etat, has since June 1971, under the guise of seeking new canal treaty arrangements, undertaken a bitter and sustained campaign of anti-American propaganda fueled in large part by Cuban and Soviet Communists; and

Whereas, given the emotionally irrational situation in Panama, a political/psychological "timebomb" is being consciously fabricated by the revolutionary government of Panama set to explode to the detriment of the United States and the world shipping community, as was the case in the abortive meeting of the UN Security Council in Panama and the subsequent threat to the U.S./UN Ambassador and the Panamanian dictator's "red carpet treatment" in Cuba; and

Whereas, due largely to our unswerving V.F.W. support, more than one-third of the U.S. Senate, led by Senators Thurmond (S.C.) and McClellan (Ark.), has gone on record in opposition to the unprincipled "Statement of Principles" signed by the Administration and the Panamanians, and a parallel effort is being conducted in the House of Representatives led by Congressman Dan Flood (Pa.); now, therefore

Be it resolved, by the 77th National Convention of the Veterans of Foreign Wars of the United States, that:

(a) U.S. operation, control and defense of the Canal are non-negotiable;

(b) tensions relating to the administration of the Canal Zone be resolved on the spot without disturbing present treaty arrangements;

(c) U.S. citizens and employees in the Canal Zone continue to meet their responsibilities under U.S. Sovereignty;

(d) the foregoing position be again communicated to both the President and the Congress; and

(e) the Panama Canal Zone send to the Congress of the United States a delegate such as is done by Puerto Rico, the District of Columbia, and the Virgin Islands.

APPROVED TRANSFERS

Resolution 90 (Kentucky) "The Panama Canal" Consolidated with Res. Nos. 62 (Utah), 67 (Miss.), 121 (Mass.), 210 (Wash.), 222 (Va.), 242 (N.C.), 282 (Minn.), 309 (Calif.), 320 (Md.), 348 (N.Y.), 361 (D.C.), 393 (Nev.), and 422 (Tex.):

Whereas, Under the 1903 Treaty with Panama, the United Statees obtained the grant in perpetuity of the use, occupation and control of the Canal Zone territory with all sovereign rights, power, and authority to the entire exclusion of the exercise by Panama of any such sovereign rights, power, or authority as well as the ownership of all privately held land and property in the Zone by purchase from individual owners; and

Whereas, The United States has an overriding national security interest in maintaining undiluted control over the Canal Zone and in its treaties with Great Britain and Colombia for the efficient operation of the Canal; and

Whereas, the United States Executive branch is currently engaged in negotiations with the Government of Panama without authorization of the Congress, which would diminish, if not absolutely abrogate, the present United States treaty-based sovereignty and ownership of the Zone; and

Whereas, The American people have consistently opposed further concessions to any Panamanian Government that would further weaken United States control over either the Canal Zone or Canal; Now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Seattle, Washington, August 24, 25, 26, 1976, that the United States must be vigilant against all efforts to surrender any of the U.S. sovereignty or jurisdiction in the Panama Canal Zone or over the Panama Canal obtained under the 1903 Treaty with the Republic of Panama, as amended and revised in 1936 and 1955; and should in no way cede, dilute, forfeit, negotiate or transfer any of the U.S. sovereign rights, power, authority, jurisdiction, territory or properties directly or indirectly or by subterfuge all of which are indispensably necessary for the protection of the U.S. and the Western Hemisphere, and, be it further

Resolved, That The American Legion reaffirm its opposition to new treaties or executive agreements with Panama that would in any way reduce our indispensable control over the U.S.-owned Canal or Canal Zone; and, be it further

Resolved, That the American Legion urge the immediate resumption of the modernization of the present Panama Canal as provided under the current legislative measures for the Terminal Lake-Third Lock proposal.

Resolution 470 (Committee) *"The Panama Canal Questions on Communist Influence"*;

Whereas, As a result of recent hearings by the House of Representatives Merchant Marine and Fisheries Committee questions were raised concerning Communist influence in the U.S.-Panamian negotiations, relative to the U.S. Canal Zone and the Canal; and

Whereas, Chairman Leonor K. Sullivan posed Seven Questions of the Committee to the President of the United States concerning the possibility of Communist influence in the Panama negotiations as follows:

1. Does there exist information or reports to indicate that Cuban or other foreign personnel are now in the Republic of Panama teaching military or non-military students guerrilla warfare and terrorist tactics? In the presentation of such tactics, if they are being taught, is reference made directly or indirectly to the Panama Canal and Canal Zone? If personnel foreign to Panama are not teaching such tactics, are there Panamanian officials teaching these tactics with the advice of foreign nationals?

2. Does there exist information or reports to indicate that General Torrijos or members of the cabinet of the Panamanian Government have been saying in formal or informal circumstances that nationalization of the Panama Canal is the ultimate objective of the Panamanian Government after a new treaty is signed?

3. Does there exist information or reports that the Partido del Pueblo, which apparently operates openly in the Republic of Panama is essentially a communist organization, controlled and directed by communist leaders? Does there exist information or reports that General Torrijos and/or members or former members of the Panamanian cabinet have made contributions to the Partido el Pueblo?

4. Does there exist information or reports to indicate that Colonel Noriega, the G-2 in Panama, has travelled to Cuba secretively in order to meet with various Cuban officials? If such trips have taken place, is it known who Colonel Noriega has met with while in Cuba?

5. Does there exist information or reports to indicate that U.S. citizens have been imprisoned on the island of Coiba by the Government of Panama? Is there information to indicate that U.S. citizens have been killed attempting to escape from that island prison?

6. Does there exist information or reports that indicate planning contingencies within the Government of Panama for seizure, violent or non-violent, of all or any parts of the Canal Zone or facilities within the Canal Zone? More specifically, is there any evidence at all to substantiate the rumor recently promulgated to the effect that some attempt at confrontation will be attempted by the Government of Panama in late 1976 in order to bring the Canal issue to the attention of the United Nations?

7. Does there exist information or report to indicate that Cuban military troops have recently come into the Republic of Panama? If such an entry has occurred, what is the purpose of their entry into Panama? Does there exist information or reports to indicate that Angolan troops have recently come into the Republic of Panama?

Whereas, Each of the "Seven Questions" deserves a complete and forthright answer by this Administration which prides itself in candor and openness in such matters of vital security interest; Now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Seattle, Washington, on August 24, 25, 26, 1976, that unless the Seven Questions are immediately answered, before any further treaty or executive agreement negotiations are conducted between the United States and Panama, that the U.S. Congress undertake an investigation of alleged communist influence to force the United States to relinquish its sovereignty and control of the U.S. Canal Zone and Canal which are freely granted in the Treaty of 1903 and subsequently reaffirmed by the Treaties of 1936 and 1955.

KENTUCKIANS SALUTE COLONEL SANDERS ON HIS 86TH BIRTHDAY

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. BRECKINRIDGE. Mr. Speaker, yesterday was the 86th birthday of a prominent Kentuckian, a fine American, and, I am proud to say, one of my most famous constituents—Col. Harland Sanders.

As all of my colleagues are aware, Colonel Sanders is the goodwill ambassador for Kentucky Fried Chicken—a company he formed many years ago through hard work and determination.

The success story of this Kentucky colonel—known around the world—is one worth repeating. At the age of 65, with only a $105 social security check as income, the Colonel began selling his "secret recipe" chicken, using the backseat of his car as an office. Today, the company he originated has grown into the largest retail food service system in the world with more than 5,000 outlets in 44 countries.

Before getting into the restaurant business, Colonel Sanders had a varied and interesting career, including such jobs as farmhand, railroad fireman, and steamboat ferry operator. Today, the Colonel and his chicken recipe have surmounted geographic and language barriers throughout the world.

In addition to being a goodwill ambassador for our country, Colonel Sanders has also been a good citizen. He has contributed not only to our Nation's cuisine, but also to countless charitable foundations in the United States and Canada.

With this in mind, it is with great pride that his fellow Kentuckians salute him on this very special day.

DEATH OF MAO TSE-TUNG

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. CRANE. Mr. Speaker, the death of Mao Tse-tung, at the age of 82, marks the passing of a major figure from the world scene. As Chairman of the Chinese Communist Party and the revolutionary leader of the People's Republic of China, Mao long held the preeminent position in mainland China's Communist society, and served as an inspiration to radical revolutionaries, the world over.

Mao Tse-tung's accomplishments have been frequently noted in the past, and are now being trumpeted loudly on the occasion of his passing. A certain amount of recognition may be due in some areas—however, the less attractive aspects of Mao's regime should not be overlooked. Tens of millions of Chinese have been killed or disappeared in the PRC's frequent and periodic purges. At any given time as many as 20 million people are incarcerated. Real power remains an elite phenomenon—despite all the talk of rule by workers and peasants—with masses of Chinese being repeatedly and cynically manipulated in "mass movements" which, beyond their ideological overtones, are weapons in the personal power struggles within the top party leadership. All aspects of life are dominated by the Chinese Communist Party, which maintains a control apparatus parallel to the state structure at all levels. Central control reaches down as far as the street level, where "street committees' overlook all aspects of an individual's life. "Thought reform" or "reform through labor" await those suspected of deviant tendencies.

As we review the situation in China it remains important to bear in mind the tremendous costs which have been inflicted by this totalitarian dictator. Po-

litical and personal liberty do not exist; any self-expression is the object of immediate repression. With one brief exception—the Hundred Flowers movement, which was quickly suppressed—Mao's China has never known personal or political liberty, nor is there any indication that this legacy promises better for the future.

We must, then, note the passing of Mao Tse-tung as a significant and historic occasion. To put it in proper perspective however, the immense human cost of Mao's regime must be emphasized. The enormity of that burden is the stark but real side of Mao Tse-tung's China, and must be considered when evaluating Mao's place in Chinese history and the applicability of his thought elsewhere in the world.

HIGH RATES OF TAXATION IN UNITED STATES CAUSES PROBLEMS: WHY WE MUST CUT THE TAX RATES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. KEMP. Mr. Speaker, the high rates of taxation in the United States hold down productive effort, investment, and the economic growth of our economy. They reduce jobs and the incentive to work, and make people dependent on welfare by denying them work.

The adverse effects of high tax rates on employment are made worse by the fact that our progressive income tax system is not neutral with regard to inflation. It forces people to pay not just more in taxes when there is inflation, but to pay at higher rates of taxation on a money income that is shrinking in purchasing power. Thus, at the same time people's purchasing power shrinks as a result of higher prices, they are forced to pay a larger proportion of their income in taxes. Not only does this reduce job opportunities and the incentive to work, it is inequitable.

The greater the rate of inflation, the more serious is the economic squeeze put on the people by this inequity. For the past several years this inequity has forced the American people to pay billions of dollars in higher taxes even though the real buying power of their income was falling. Furthermore, it is a tax increase that is not legislated and is, thereby, "taxation without representation."

This inequity should be corrected by raising the thresholds on the personal income tax by the amount of inflation since January 1, 1973. This will lower tax brackets across the board without altering the progressivity of the tax rates. It treats everybody equally and brings the tax brackets in line with the shrunken buying power of everyone's income. It compensates for the tax increase of the last several years that was not legislated.

When taxation is not fairly linked to real purchasing power, people lose respect for their Government. This adjustment in the personal income tax is necessary to restore the relationship between taxation and purchasing power that existed prior to the inflation of the past several years.

Not only must taxes be reduced to restore equity, they must also be reduced to restore full employment. It is impossible to get more employment by taxing it higher. The tax barrier against full employment must be removed.

The barrier against full employment should be eliminated by eliminating the double-taxation of dividends. Taxing the earnings of jobs-creating investments twice makes many investments unprofitable which would otherwise be undertaken and provide new jobs.

The double-taxation of dividends also holds wages lower than they would otherwise be. Holding down investment holds down capital formation and the productivity of labor. It means people produce less in the same amount of working time and, thus, earn less. Eliminating the double-taxation of dividends is necessary to increase employment and the real wage.

The double-taxation of dividends also holds down the pensions of the retired working men and women, making it especially difficult for them to cope with the high cost of living during times of inflation. Since the pension funds of the workingman are major shareholders of American corporations, the retired workingman would be a major beneficiary of eliminating the double-taxation of dividends.

Eliminating the double-taxation of dividends would also restore economic efficiency and sound accounting practices to our economic system. When dividends are taxed twice, corporations are not allowed to treat the cost of capital raised in the stock market as a cost of production. Treating something as a profit which in fact is a cost both causes higher prices and forces firms to rely more on debt to finance their expansions and less on venture capital.

Allowing firms to treat the cost of venture capital as a cost of production would mean lower prices and greater output. It is an economic policy that is simultaneously anti-inflationary and proemployment.

Removing the double-taxation of dividends removes a tax barrier to full employment, to lower prices, to higher wages, to larger pensions, and to a more efficient economic system.

The tax barrier against small business has also been made greater by the inflation. With the buying power of any given amount of money so shrunken by inflation, many small businessmen have nothing left to reinvest in their businesses after providing for their families. As a result of the inflation small amounts of purchasing power are taxed at high rates. To overcome this inequity and lessen the tax barrier against small business, whose costs have also been raised in recent years by regulation and Government paperwork, the corporate surtax exemption should be increased to $100,000.

The United States has fallen short of its employment and output potentials, because it heavily taxes work and subsidizes nonwork. The tax barrier to productive work is a primary cause of growing government spending programs and growing deficits.

Lower tax rates will expand the private sector of our economy and increase employment opportunities. The result will be to reduce the number of people dependent upon Government spending programs and to increase the tax revenues of the Government. Lower tax rates mean a greater tax base and larger tax revenues for the Government. Tax cuts eliminate deficits by enlarging the amount of economic activity that is subject to taxation.

The New York Times once understood this fact of life. In the 1920's the newspaper editorialized in favor of cutting taxes in order to encourage industry and provide funds for capital investment. The Times said that a tax cut "would lighten the demands upon millions of purses hard to fill. It would not only do away with oppressive taxes. It would lower the cost of living. It would release capital for productive industry and enterprise of all kinds. This would result in fuller employment of labor, multiplication of goods in common consumption, and probably bring about a period of great and legitimate expansion of industry and commerce never surpassed in the United States.

The Times was exactly right. Within 4 years of the tax cuts, the enormous expansion of the economy produced enough revenue gains to pay off a third of the national debt.

Today the Congress could restore the productivity of the American economy and eliminate Federal budget deficits by increasing the reward to work. This is the alternative which people desire to bigger Government spending programs.

COMMUNIST CHINA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. DERWINSKI. Mr. Speaker, the glowing reports from some political commentators concerning life in the People's Republic of China have dominated the news for a number of years. We have been told chapter and verse about how Chairman Mao led the peasants in the long march. We are told of his great organizational and leadership abilities.

Ignored in these testimonials is the brutal history which accompanied the victory over the Chinese Government founded by Sun Yat-sen.

From the first civil war, 1927–36, until today, Prof. Richard Walker of the University of South Carolina estimates that 64 million lives may have been sacrificed.

As Professor Walker so aptly sums up the matter:

> The Communist movement in China, despite its proclaimed high ideals, must be judged on performance, and, as regards the human equation, there is little to commend it. Those who wish to rationalize public assassinations, purges of classes and groups or

slave labor as a necessary expedient for China's progress are resorting to the same logic which justified a Hitler and his methods for dealing with economic depression in the Third Reich.

It is important that we in America remember some of the basic facts of human values lest we be beguiled into forgetting that those who succeeded in inducing an artificial American euphoria in the wake of ping-pong diplomacy from Peking in the spring of 1971, are the same leaders who have extracted such a great human cost from their own people, in the name of a doctrine long since discredited in the world, both in terms of performance and intellectual respectability.

In the eulogies for Chairman Mao, we must not forget how and at what cost the "peasant" leader came to dominate the people of Communist China.

The instability of the ruling clique which became clear after the death of Chou En-lai, and now becomes even more important, reemphasizes the need for caution on the part of the United States.

We should not rush to formalize relations, as some have suggested, and we must remain strong in our commitment to the people of Free China on Taiwan who remain a beacon of hope to their countrymen on the mainland. We cannot predict nor should we interfere in the turmoil of Chinese succession.

DISTINGUISHED MINISTER STEPS DOWN FROM CAPITAL PULPIT

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. FAUNTROY. Mr. Speaker, on Tuesday, August 31, Dr. George M. Docherty retired after 26 years as pastor of one of the Nation's major churches—the New York Avenue Presbyterian Church in Washington.

During his quarter-century ministry, Docherty's has been one of the stirring voices of the Protestant faith in the United States. A Scot by birth and a naturalized U.S. citizen by choice, he has been called Washington's best known preacher and Scotsman.

His Lincoln Day sermon on February 7, 1954 on "One Nation Under God" sparked the final, successful move to add the words "Under God" in the Pledge of Allegiance to the U.S. flag. This was done by Joint Resolution presented to Congress by the Senator, Homer Ferguson, of Michigan on March 19, 1954.

Dr. Docherty was born in Glasgow, Scotland and educated at Glasgow University. He has received the honorary degrees Doctor of Divinity from Temple University in Philadelphia and Doctor of Letters from Monmouth College in Illinois. In 1958, Harper and Row published his book, "One Way of Living," a collection of observations and experiences setting forth his personal definition of the Christian faith.

The New York Avenue Presbyterian Church was founded in 1803 and is one of the first Protestant churches in the city of Washington, tracing its history back to a group of Scottish stonemasons who worshipped in a carpenter's shop on the grounds of the White House during its construction. No less than 17 Presidents—including most notably, Abraham Lincoln, have worshipped there. The church's downtown location two blocks from the White House and the prominence and convictions of its minister have provided a unique focus for national crises and social concerns of recent years.

Dr. Docherty was deeply involved in civil rights activities and joined the Selma, Ala., march for voter registration with Dr. Martin Luther King in 1965. The church was the "headquarters of Resurrection City for white churches during the 1968 Poor People's campaign." He was among the early critics of the Vietnam War and spoke often of the agony of it at services which were frequently attended by then Secretary of Defense Robert McNamara.

More recently, several hundred attorneys from bar associations of the District, Maryland, and Virginia met at the church "to explore the legal implications of what was for the first time beginning to be called Watergate." On a subsequent Sunday, President Richard M. Nixon and Special Prosecutor Leon Jaworski were both present at the same Lincoln Day worship service, by coincidence.

A widely known evangelistic preacher, he has spoken in at least 6 foreign countries and for the past 22 years has appeared regularly on Washington television under the auspices of the Council of Churches, and for 11 years on radio each Sunday evening.

Following his retirement, Dr. Docherty will divide his time between teaching and writing. For a few months each year he will teach at Episcopal Theological Seminary in Alexandria and occasionally he will return as minister emeritus to his historic pulpit, but the Nation's Capital will surely miss his regular deeply moving and challenging sermons.

HAMILTON SUPPORTS LEGISLATION HELPING OLDER AMERICANS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. HAMILTON. Mr. Speaker, the concerns of older Americans deserve the highest priority and our continuing attention.

More than 20 million elderly citizens form the most rapidly growing minority in the Nation. It is a minority of people with diverse backgrounds, wide-ranging problems, and a common bond of age.

In one key move, the 94th Congress insured that social security beneficiaries received the full 8 percent increase in July, 1975, due them under law by moving to block an effort by President Ford to limit the increase to 5 percent. Under this same law, which provides for periodic and automatic cost-of-living increases in benefit levels, beneficiaries received a 6.4 percent increase in July, 1976.

The 94th Congress has passed several bills with my support to assist older Americans. Chief among them are the following:

First, a law authorizing demonstration grants for home health services, with preference in awarding grants given to communities with high concentrations of elderly and/or medically indigent individuals in need of home health services.

Second, a law was enacted that revises and extends many important programs for older Americans through fiscal year 1978. Included are priority funding for areas like transportation and home repair; community service employment for low-income persons aged 55 and older; and a prohibition on age discrimination in activities receiving Federal financial assistance.

Third, discrimination in the granting of credit on the basis of age was prohibited in a recent law.

Fourth, the elderly at all income levels were allowed to continue to receive services at federally supported senior citizens' centers in a law enacted in early September, 1976.

Fifth, a law increases the funds available for direct loans to nonprofit sponsors who want to develop multifamily housing for persons aged 62 and over.

Other bills of importance to older Americans are still pending final congressional action before adjournment. They include these:

First, a bill to revise the Supplemental Security Income—SSI—program.

Second, a measure to revise the Federal food stamp program and give special consideration to senior citizens in the program's eligibility requirements.

Third, a bill to provide funds to assist States and local public bodies and nonprofit entities in providing mass transit services to elderly and handicapped individuals.

Fourth, legislation to revise and extend the Federal revenue sharing effort with a provision to prohibit discrimination against the elderly in any program of a State or local government which receives revenue sharing funds.

I am hopeful that action can be completed this year on these important pieces of legislation. The Congress should do all that it can to meet the special needs of our senior citizens.

YWCA VIGOROUSLY SUPPORTS FULL EMPLOYMENT

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. HAWKINS. Mr. Speaker, I would like to call the attention of the Members to a resolution passed at the YWCA National Convention in June of 1976. The resolution reaffirms the support of the YWCA to a Federal policy assuring full employment. It is another example of a concerned organization's opinion that this Nation must act to achieve full employment. The resolution follows:

PROPOSED RESOLUTION ON FULL EMPLOYMENT ECONOMIC SECURITY

Whereas, the YWCA has given special importance to measures that advance and safe-

guard an adequate standard of living and economic justice for all citizens without barriers based on race, sex, creed, national origin or geographic location; and

Whereas, the overall unemployment rate remains at an intolerably high level with a disproportionately high burden of unemployment placed upon women, minorities, and youth; and

Whereas, unemployment in the United States continues to be much higher than in many other industrial nations; and

Whereas, the YWCA in reaffirming its commitment to the One Imperative believes that a federal policy assuring full employment is essential to that commitment and is also essential to meeting many other desirable national goals; therefore be it

Resolved that the YWCA will support vigorously strong full employment policies, to be implemented by the federal government, which will assure a job opportunity for every American willing and able to work.

IN RECOGNITION OF DR. CHARLES A. LEALE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. OTTINGER. Mr. Speaker, last year I introduced legislation—recently passed by the Senate—to preserve and restore St. Paul's Church of Mount Vernon, N.Y., a building of national historical significance. St. Paul's, you may recall, was the scene of events leading up to the 1734 trial of John Peter Zenger, whose acquittal laid the foundation for the Bill of Rights principle of "freedom of the press."

One of my constituents, Miss Helen Leale Harper, Jr. of Pelham, N.Y., has worked long and hard on the St. Paul's project. As an active member of the Knapp Chapter of the Daughters of the American Revolution and as national historian of the Dames of the Loyal Legion of the United States, she has consistently demonstrated her concern for our national heritage. Recently, she brought to my attention an interesting account concerning her grandfather, Dr. Charles A. Leale, whose significant place in American history I would like to recognize today.

Dr. Leale was the surgeon who first assisted President Lincoln after an assassin's bullet struck him down in Ford's Theater on April 14, 1865. The following description by Miss Harper recounts the heroic effort her grandfather displayed as he attempted to revive the President. In this Bicentennial Year of historical self-consciousness, it is fitting that we recognize the spirit of this young doctor who struggled valiantly to save a great man's life. It is perhaps this same spirit which motivates his granddaughter to work so diligently to preserve the treasures of our Nation's history:

[Reprint From the National DAR Magazine, February 1953]

LINCOLN'S LAST NIGHT

(By Helen Leale Harper, Jr.)

A 23-year-old Army doctor, Charles A. Leale, who was the surgeon in charge of the Wounded Commissioned Officers Ward at the United States General Hospital, Armory Square, Washington, D.C., had been greatly impressed with President Lincoln's appearance when the Chief Executive delivered his last public speech. This experience left Dr. Leale with the great desire once again to behold the President's inspiring face.

Having been told that President Lincoln would be present at Ford's Theater to see the play, *Our American Cousin*, Dr. Leale, after completing his hospital duties for the day, changed to civilian dress and went to the theater. As Ford's Theater was crowded, Dr. Leale obtained the last seat which was in the Dress Circle about forty feet from the Presidential box.

When the President's party arrived at the theater, the play was in progress. The President's entrance caused a cheering ovation. Out of respect to President Lincoln, the acting ceased. After the Chief Executive was seated in his box, the play was resumed.

Suddenly, a shot was heard. The assassin leaped from the Presidential box, caught his spur, and fell to the stage. Quickly he hopped off the stage and disappeared into the night.

In response to shouts for a doctor, Assistant Surgeon Leale vaulted over the seats to the Presidential box. Being an Army surgeon, he was the first person permitted to enter the box, where he found Mrs. Lincoln holding the President upright in his chair. When Dr. Leale identified himself as an Army surgeon, Mrs. Lincoln beseeched the young doctor to take charge of the case and to do everything possible for the President.

The President's pulse was imperceptible. In an effort to revive the Chief Executive, his body was moved to the floor where Dr. Leale examined the dying President. Raising the eyelids, Dr. Leale saw signs of a brain injury. Quickly the young surgeon ran his fingers through the President's hair, discovering the mortal wound behind the left ear. From time to time, he removed the blood clot from the wound, thus relieving the pressure on the brain. Dr. Leale administered artificial respiration until the President was able to breathe independently, so preventing the President's immediate death.

This diagnosis of Dr. Leale was telegraphed throughout the country: "His wound is mortal; it is impossible for him to recover."

When Dr. Charles S. Taft and Dr. Albert F. A. King arrived, they gave their assistance. The surgeons decided that the President would be unable to survive the long journey over the rough cobblestones to the White House, but, instead, he should be carried to the nearest house.

The guards cleared the passage through the crowds as the President was carried by Dr. Leale, Dr. Taft, Dr. King, and a number of other persons into Mr. Petersen's house, which was across the street from Ford's Theater. As the bed was much too short for the tall President of six feet four inches, his body was stretched diagonally across it. After the Chief Executive had been placed in the most comfortable position, the surgeons examined him for additional wounds, but no more were found. Then Dr. Leale dispatched messengers to call Captain Robert T. Lincoln, Surgeon General Joseph K. Barnes, Surgeon D. Willard Bliss, Dr. Robert K. Stone, the Rev. Dr. Gurley, and every member of President Lincoln's Cabinet.

When Secretary of War Edwin M. Stanton arrived, he transformed an adjoining room into an office. During the night he met with his counsellors and dispatched messages to various Army and government officials. In those important hours, Secretary Stanton was of great service to his country.

Dr. Leale remained by President Lincoln, holding his right hand, until the end came at 7:20 A.M. on April 15, 1865. Those who remained in the room knelt around the bed as the Rev. Dr. Gurley prayed.

NOTES.—NSDAR has granted permission for this reprint.

(This article is based upon *Lincoln's Last Hours* by Charles A. Leale, M.D., who was the first surgeon to reach the assassinated President Lincoln, April 14, 1865. On the 100th anniversary of the birth of President Abraham Lincoln, Dr. Leale's friends in the Commandery of the State of New York of the Military Order of the Loyal Legion of the United States persuaded him to deliver this address which was printed in "Harper's Weekly", February 13th, 1909 and later reprinted as a booklet. Lincoln historians often refer to *Lincoln's Last Hours* by Charles A. Leale, M.D. This was the only time that Dr. Leale spoke on the subject as he preferred to care for his patients.)

(Miss Harper is a granddaughter of the late Dr. Leale. She is National Historian of the Dames of the Loyal Legion of the U.S.A.; Historian, N.Y. State Society, DLL; author of *Ford's Theatre Revisited*, printed in "The Westchester Historian", Spring 1968; member of The Lincoln Group of the District of Columbia; Knapp Chapter, NSDAR; Westch. Co. Hist. Soc.)

FLOOR PRIVILEGE VIOLATION INQUIRY

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. ANDERSON of Illinois. Mr. Speaker, yesterday the House voted 371 to 1 for my question of privilege resolution (H. Res. 1526) which instructed the Rules Committee to inquire into the facts of an alleged violation of the floor privilege rule by a former Member, and report back its findings along with any recommendations for securing strict enforcement of that rule.

I want to thank my colleagues for their support of my question of privilege and their obvious concern that not even the appearance be given of lobbying taking place on the House floor. I do want to underscore the fact that my action was not motivated by any desire to embarrass or attack the former Member involved in the alleged violation, or any other former Member for that matter. It was necessary to present a specific allegation in order to raise a legitimate question of privilege. This is but one example. Other abuses of the floor privilege have occurred. However, I do think that most former Members now engaged in lobbying have been scrupulous in abiding by the present rule as it has been interpreted. That interpretation is that they shall not be present on the floor or in the adjourning rooms when bills in which they have a direct interest are actually under consideration. My own preliminary research into the history of this rule leads me to believe that this might be a mistaken interpretation and that the original intention was to bar such persons from the floor at all times. The main reason I raised this matter is because our attempts to secure a hearing in the Rules Committee on a revision of the rule have been in vain, despite the cosponsorship of 106 Members. The second part of the resolution adopted yesterday requires the Rules Committee to consider this question and report on what remedy is needed, if any, to secure strict enforcement of the rule. It is, therefore, my intention to lay out our proposal before the Rules Committee when this matter is considered. That proposal, con-

tained in House Resolution 1364, would restore the old requirement that former Members and former elected majority and minority officers register for floor access and make a declaration, on honor, that they are not engaged for the purpose of influencing, directly or indirectly, any legislation pending before the House or any of its committees. In short, it would effectively bar ex-Member lobbyists from the House floor at all times. I would hope the Rules Committee would give this proposal favorable consideration and report it to the floor as part of its recommendation on strict enforcement.

Mr. Speaker, yesterday I wrote to the chairman of the Rules Committee to further explain my own intentions and suggest how our committee might proceed with this inquiry and report. For the benefit of the Members of this body I include the text of that letter at this point in the RECORD:

WASHINGTON, D.C.,
September 9, 1976.

Hon. RAY J. MADDEN,
Chairman, House Committee on Rules, Washington, D.C.

DEAR RAY: As you know, the House today voted 371–1 in favor of my resolution (H. Res. 1526) which instructs the Rules Committee to inquire into an alleged violation of the House floor privilege rule (Rule XXXII) and to report on the facts of that incident and what remedy, if any, is necessary to secure a strict enforcement of the rule. I have already forwarded to your chief counsel, at his request, a complete file on this matter, including the article containing the allegation, my prepared floor remarks today on the question of privilege, and background information on the existing floor privilege rule and the proposal which Representative John Burton and I, along with 104 cosponsors, have introduced to clarify and strengthen that rule (see H. Res. 1364).

I appreciate the fact that the remaining days in this session are numbered and that the Rules Committee is in the midst of clearing a heavy backlog of bills. I do not anticipate, though, that the requirements of my resolution will entail either a lengthy investigation or hearings. It seems to me that the facts of the allegation should be fairly easy to ascertain prior to our meeting on this by inquiring of the Speaker and the Member mentioned in the news article. I don't think it will be necessary to call any witnesses to testify on the allegation unless, of course, the Member named wishes to appear on his behalf. It is not my purpose to focus primary attention on the allegation and former Member involved, nor is it within the scope of my resolution to recommend any punishment. This is but one example of abuse of the floor privilege rule. My principal reason for raising this matter is to focus the attention of our committee on the general problem of floor access for former Members now engaged in lobbying and how this rule might be clarified and better enforced. This is the second part of the "resolved" clause of my resolution and what I hope the Rules Committee will devote its most careful consideration to.

I would therefore respectfully propose that you set aside a morning or afternoon session sometime during the week of September 20th on this matter. In the meantime the staff could collect the necessary information on the alleged violation for presentation to the committee at that session. If the former Member involved wishes to testify at that time, such an opportunity should be afforded him. I would then ask that I be given an opportunity to testify on what remedy I think is necessary to secure strict enforcement of the floor privilege rule, specifically on the need for a clarification of the rule and the restoration of a registration requirement for floor access as proposed in H. Res. 1364. I do not think it would be necessary to open the session to all interested Members who may wish to appear as witnesses since technically, no legislative measure would be pending before the committee. Obviously, it would be for you as Chairman, and the committee to decide to what extent the session should be opened to witnesses. I would only ask that you also consider permitting Representative John Burton to testify if he wishes since he is the principal author, with me, of the proposed reform of the floor privilege rule.

If you wish any further information or have any further questions on either the question of privilege or our proposed reform, I will be happy to discuss the matter with you at your convenience. I again emphasize that it is not my intention, nor do I think it will be necessary, to take much of the committee's time in complying with the instructions of H. Res. 1526. But the fact that this resolution did pass by an overwhelming vote in the House, coupled with the large bipartisan list of cosponsors of our floor privilege reform rule (71 Democrats and 35 Republicans) clearly demonstrates that the problem of ex-Member lobbyists on the House floor is deserving of our serious consideration and affirmative action. I look forward to hearing from you on this in the near future.

With warm personal regards, I am,
Very truly yours,
JOHN B. ANDERSON,
Member of Congress.

CANAL ZONE SURRENDER DEMANDS: "THE TIP OF THE ICEBERG"

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. MURPHY of New York. Mr. Speaker, some of our country's leading historians and strategists long ago recognized the basins of the Caribbean Sea and the Gulf of Mexico as the danger zone in hemispheric defense. The main points for its defense are Puerto Rico, the Guantanamo Naval Base in Cuba, and the U.S. Canal Zone—Panama Canal.

Though much has been published on these subjects during the last year, few of our citizens know that wresting control of the Panama Canal from the United States has been a Soviet objective since 1917. The real issue concerning the Isthmus today is not between the United States and Panama as so many have been led to believe but between the United States and the U.S.S.R. The choice is retention of our unimpaired sovereign control over the Canal Zone or permitting a threatening takeover by Soviet imperialists of the entire Caribbean-Gulf area.

As to the argument of those favoring surrender of the Canal Zone to Panama, because of the threat of guerrilla warfare and sabotage of the canal if we do not cede it, the answer is to compare those risks with what we would inevitably face were the isthmus to be occupied by forces of the U.S.S.R. or its satellites.

The United States has defended the Canal Zone and canal during several crucial periods in our history and it can do so again. The first step for its future protection might be the prompt reestablishment of the U.S. Navy's special service squadron with the Canal Zone as its home base.

A perceptive editorial in a recent issue of the Officer Review, the monthly publication of the Military Order of the World Wars, by Vice Adm. T. G. W. Settle, an able and experienced naval officer, stresses the essential points in the situation.

Mr. Speaker, because the indicated editorial should be read by all concerned with the canal issue, especially Members of the Congress, and the Joint Chiefs of Staff, I quote it as part of my remarks:

[From the Officer Review, September 1976]

THE TIP OF THE ICEBURG

(By Vice Adm. T. G. W. Settle, USN, retired)

Sovereign control of the Panama Canal and Zone is vital to the interests and security of our Nation. But our current confrontation with the Republic of Panama on this issue is only the "Tip of the Iceburg." Our basic confrontation is with the Soviet Union, with her Cuban and Panamanian satellites.

The Russians obviously seek to build a Zone of Preponderant Influence in Latin America. They have effective beachheads in Cuba and Panama. To gain control of the Panama Canal, through their puppets, would be a major step towards making the Caribbean a Red Lake, and spreading their Zone of Influence into other Latin American nations.

The people of the U.S.A. formerly rejected any kind of surrender. Have they now changed so radically as to "knuckle under" to the puny threats of Cubans and Panamanians?

If we surrender our sovereign control over the Panama Canal and Zone, Eisenhower's Domino Doctrine will become operative. U.S. bases and interests in the Caribbean basin will be early "dominoes."

Will our Nation's people supinely accept such expulsion by the Moscow-Havana-Panama Axis from that vital region on our doorstep? It is to be hoped, and expected, that they will answer emphatically *NO* to these questions.

THE IMPORTANCE OF VOTING

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. CONYERS. Mr. Speaker, in an effort to increase citizen participation in the political process. I am communicating with all the citizens of the First District of Michigan on the importance of voting, by means of the following statement:

STATEMENT ON VOTING

I am writing to urge you to register to vote by October 4th, if you are not already registered, and to vote in the general election on Tuesday, November 2nd. Nothing is more important this year than to have each and every citizen participate in the decision on who will be our elected officials and what policies they will follow in the coming years.

The sad fact is that millions of Americans whose lives are most affected by what the government does or fails to do are some of the citizens who in the past have been least involved in the political process. Decisions that affect our daily lives—how many Americans will be able to work; how much food will be on the table; how our city is managed; whether civil rights laws are enforced

or not—depend on how many people vote, who the voters are, and as a consequence to whom government will be responsive in its actions.

Use your full vote power: Register to vote by Monday, October 4, and vote on Tuesday, November 7! Urge every eligible member of your family and friends to register and vote—the entire ballot!

CLEAN AIR

HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. DEVINE. Mr. Speaker, all of the talk about significant deterioration and general decline in environment is disputed somewhat by one Dr. Rene Jules Dubos, professor emeritus, as reported in an article by Jolyon Wilde as follows:

MAN IS NOT DESTROYING THE EARTH, HE'S STEADILY IMPROVING IT, SAYS SCIENTIST

(By Jolyon Wilde)

Far from destroying his planet, man is actually steadily improving it, according to a world-famous scientist who says he's sick and tired of doomsday prophets.

"If it weren't for the influence of man's civilization, the Earth wouldn't look much different than the moon," said Dr. Rene Jules Dubos, professor emeritus at New York City's Rockefeller University.

Dr. Dubos, a pioneer in the use of microbes to fight disease, including the practical use of penicillin and streptomycin, and a Pulitzer Prize winner for his book, "So Human an Animal," told The ENQUIRER:

"If man were to pack up and leave this world right now, it would be a lot better place than it was when he found it.

"Most of the beautiful landscapes, parks, and man-made forests we have all over the world would be just barren, ugly expanses, instead of what they are, if it had not been for man," he explained.

"I'm one of those who is immensely bored with doomsday talk of escalating pollution and ultimate disaster—mostly because it just isn't true.

"In five to 10 years, I'll bet you this doomsday theory will be forgotten," he said at his office in New York.

"The most dangerous disease to the well-being of the world is boredom and apathy caused by these gloomy warnings of impending disaster. As a result, people may become disinterested and pessimistic about doing anything to improve the earth's environment," he explained.

He said that people are growing tired of stories by scientists of gloom and doom in the air and the plant world.

Most of the world's major cities are now much freer of pollution than they were five or 10 years ago, said the 73-year-old French-born scientist. The same applies to many of the world's great water and land expanses, particularly those in America.

He pointed to the example of Lake Washington, outside the city of Seattle, Wash.

"Just a few years ago, the cynics said the lake was dead—that it would never support life again. They said it would never recover from the garbage and chemicals that had been dumped into it.

"But the community decided to do something about it. They stopped all the garbage and industrial waste being thrown into it, put in proper drainage, and now it's as good, if not better, than it ever was.

"This and other examples just go to prove that if people decide to do something about pollution it's never too late.

"Nature can always recover."

The battle against pollution is by no means won, Dr. Dubos conceded, but conditions have improved immensely in recent years. "The important thing is that things are getting better, not worse," he said.

POSTMASTER RETIRES

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. JONES of Tennessee. Mr. Speaker, on September 30, Mrs. LaVerne Gearhiser will retire from her position as postmaster of the Big Sandy, Tenn., Post Office, after 42 years with the Postal Service.

Mrs. Gearhiser's service has been outstanding, and her dedicated presence in the post office will be missed by the citizens of Big Sandy and of the entire area.

The Camden, Tenn., Chronicle announced her retirement in its issue of September 2, 1976:

BIG SANDY POSTMASTER RETIRES AFTER 30 YEARS

After serving under seven presidents, Mrs. LaVerne Watson Gearhiser will retire Sept. 30 as postmaster at Big Sandy.

First appointed by President Franklin D. Roosevelt, Mrs. Gearhiser has also served under the administrations of Harry Truman, Dwight Eisenhower, John Kennedy, Lyndon Johnson, Richard Nixon and Gerald Ford.

She was first recommended for the position by then-Congressman Gordon Browning. Successive recommendations came from Congressman Herron Pearson and Tom Murray.

"When I first came to work, the mail was delivered in a horse and buggy," Mrs. Gearhiser remembered. "Some people would have to walk a mile for their mail." All that has changed with progress. "We have a good postal service today. I've tried to give good service throughout the years," she said.

At 70 years of age, Mrs. Gearhiser has reached mandatory retirement from the Postal Service, but admits, "I don't want to leave. I've enjoyed my work; it's been my life."

One of the changes in the Postal Service during the 42 years Mrs. Gearhiser has worked has been the increase in the postal stamp price. "The first stamp I remember cost 6 cents. It is hard to remember, maybe it cost a nickel."

The daughter of the late George and Annie Rushing Watson, Mrs. Gearhiser is of English and Scotch-Irish descent. She married the late Walter J. Gearhiser of Faxon, Tenn., and has three daughters, Mrs. Anitta Baker of Big Sandy, Mrs. Carol Mahony of Avon, Conn., and Mrs. Jeanette Campbell of Decatur, Ala.

A graduate of Big Sandy High School, Mrs. Gearhiser attended Union University and received her accounting degree from LaSalle University. She also studied writing under George Kelton of Malibu, Calif., and became a member of Songwriters Association, ASCAP. Mrs. Gearhiser was named to "Who's Who in Tennessee" in 1961. She is also a certified Baptist minister.

Some of Mrs. Gearhiser's songs have been published by Vanity Publishing Co. of Paterson, New Jersey. Some of her songs were recorded by Anita Kerr and Tony Martin.

Mrs. Gearhiser has been active in several areas, including church, Eastern Star, National Association of Postmasters and several charities, including polio, muscular dystrophy and cancer.

GOVERNOR CARTER'S IMPRESSIVE OPENING SPEECH INVOKED MEMORIES AND PHILOSOPHY OF F.D.R., H.S.T., AND J.F.K.

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr EVINS of Tennessee. Mr. Speaker, the opening speech of Governor Carter, in his campaign for the Presidency, delivered at Warm Springs, Ga., on Labor Day is most impressive.

The speech invoked memories and philosophy of Franklin D. Roosevelt, Harry S Truman, and John F. Kennedy.

The address summed up the difference between the political parties in the words of Harry S Truman:

The Republicans believe that the powers of government should be used, first of all, to help the rich and privileged people in this country. With them, property comes first.

The Democrats believe that the powers of government should be used to give the common man more protection and a chance to make a decent living. With us, people come first.

In this connection, and in the interest of this speech being preserved, I include this address in the RECORD.

The address follows:

REMARKS BY JIMMY CARTER AT WARM SPRINGS, GA. SEPTEMBER 6, 1976

Warm Springs is a place of history, of healing and of leadership. With me today are many friends like David Webb, Eunice Fiorito and Jim Gashel who are physically handicapped but who have still been able to forge enjoyable and full lives of public service. Other patients here are now preparing themselves for similar courageous achievements.

Today I would like for us to remember the most famous of all patients who came here looking for a new life.

Fifty years ago in 1926, Franklin Roosevelt purchased Warm Springs, including the historic ground on which we stand. He lived here, worked here, and here he spent his final days. Roosevelt first came to Warm Springs because he was physically handicapped, and the warm waters gave him strength and hope, just as later he gave strength and hope to an afflicted nation when he was president.

Although born into a family of wealth and prominence, Franklin Roosevelt yet understood and served well those millions of American families who were left jobless, hungry and filled with hopelessness and despair by the Great Depression.

His opponent in 1932 was an incumbent president, a decent and well-intentioned man who sincerely believed that there was nothing our government could or should do to attack the terrible economic and social ills of our nation; he was leading a Republican party which lacked the strength and vision to bring us out of those dark days.

But Roosevelt knew our country could be better, and with bold and forceful action he restored confidence in our economic system, he put our nation back to work, and he unified our people.

On Labor Day it is also important to remember that this strong leader in the White House restored the quiet dignity and self-respect of the working men and women of America. With such programs as rural electrification, minimum wage laws, Social Security and the Civilian Conservation Corps our wounded national spirit was healed.

In 1960 another Democratic leader came to Warm Springs. As a candidate, John Kennedy was considered an outsider because of his

youth and relative inexperience and because of his religious beliefs. No Catholic had ever been elected president. But Kennedy came here to ask us Georgians for support, and we gave him more than 62% of our vote, an even greater victory than he received in his home state of Massachusetts.

This year, as in 1932, our country is divided, our people are out of work, and our national leaders do not lead. This year, as in 1960, our nation is drifting, without inspiration and purpose.

As in those critical years, it is time to restore the faith of American people in our own government, and to get our country moving again! This is a year for new ideas, and a new generation of leadership.

How can we restore confidence in our government?

We must carefully decide what government can and cannot do.

People should control government, and not the other way around.

We need a minimum of government secrecy and a maximum of personal privacy.

We should decentralize power, eliminate the trappings of authority, and remember that public officials are not bosses, but the servants of those who put them in office.

When there is a choice between government and private responsibility, the private role should have priority.

When there is a choice, among governments, the responsibility should be assigned as near as possible to the individual citizen.

When there is a choice between welfare and work, let's go to work!

We must always be careful not to overpromise, but we also should never underestimate our potential in our nation to correct our mistakes, to root out hatred and discrimination, to enhance equality of opportunity, to insure personal freedom and to carve out for ourselves and our children a better life.

We can and must provide a nationwide comprehensive system of health care, a completely reformed welfare system and educational opportunities for our people. The weak, the elderly and the disabled must have special care.

Families and neighborhoods must be strengthened and protected.

But all of this requires strong leadership. Political leaders must be willing to tackle economic problems head on, without timidity or fear. We must not lower our standards to accept high inflation, high unemployment, and huge deficits as a normal circumstance.

Under Johnson and Kennedy, the inflation rate was 2%—and when Truman went out of office the inflation rate was only 1%. Unfortunately, under this Republican administration the inflation rate has averaged more than 6%.

When President Johnson went out of office unemployment was less than 4%, and at the end of Truman's term less than 3% of our people were out of work. But the unemployment rate today is 7.9%. Under this Republican administration the unemployment rate has been the highest since the Hoover depression.

Under this Republican administration annual deficits have averaged more than $24 billion, 600% more than under Kennedy and Johnson. The present White House incumbent has recommended annual budget deficits averaging more than $50 billion. Under Harry Truman, by the way, there was not a deficit but an average surplus of more than $2 billion a year!

It is obvious that good leadership makes a difference and it is also obvious that if our government is concerned about all our people instead of selfish special interests, then the whole nation prospers. The Democratic party has traditionally given that kind of leadership.

Harry Truman summed up the difference between our two political parties with these words:

"The Republicans believe that the power of government should be used, first of all, to help the rich and privileged people in this country. With them, property comes first.

"The Democrats believe that the powers of government should be used to give the common man more protection and a chance to make a decent living. With us, people come first."

Mr. Truman's words are still true today.

We must also eliminate waste in government. Scandals and mismanagement have hit us like hammer blows. The latest one is in the Medicaid program. Designed to give our people better health care, 25% to 50% of the billions of hard-earned tax dollars are being stolen or wasted. Who is responsible? No one knows!

When Harry Truman was in the White House a sign on his desk said, "The buck stops here." There was never any doubt about who was captain of the ship.

Now no one seems to be in charge. No one is responsible.

Every time another ship runs around—CIA, FBI, Panama, unemployment, deficits, welfare, inflation, Medicaid—the captain hides in his stateroom while the crew argues about who is to blame.

We must have an effective and efficient government—with tough management and careful planning leading to a balanced budget. Each year the confusion has been getting worse.

We must have fair taxes for a change, and shift the excessive burdens off the shouders of our working families. Each year the tax system has been getting worse.

Crime must be controlled. There is a constant threat to our property and our lives. Each year the crime rate has been getting worse.

We are a powerful nation, but we can be more powerful. We must have a strong defense—tough, muscular, simple, well-organized, supported and appreciated by all Americans—with waste and confusion eliminated, and with a sharply focused purpose—the ability to fight. With this ability will come the best guarantee of peace.

We have learned some hard lessons in international affairs because of mistakes made by powerful officials acting in secret.

We have also learned: that we must coordinate domestic and foreign policy; that we cannot control the internal affairs of a foreign nation; that we cannot buy the good will of other countries; and that quiet strength is the best avenue to lasting peace.

We must face the Soviet Union with the hope and expectation of a struggle without the use of arms—of continuing peaceful competition. The best way to meet this inevitable competition is to make our system work at home!

We need not be afraid. Our economic strength, our system of government, and the freedom and character of our people are all tremendous resources waiting to be tapped.

But now our country is stagnant, divided, and drifting.

It is time for a change. It is time for leadership. We must be united and strong, and we must get our nation moving again.

I will try to be a good candidate and if elected a worthy leader of our great country. During my lifetime, from farm boy to nominee for president, I have always been close to the working families of this nation.

As a political candidate, I owe special interests nothing. I owe the people everything.

We are beginning our campaign here not many miles from my own home. My family and friends and I have have already covered much of the nation during the spring primary elections. We listened and we learned. Our political success has come directly from the voters. We have not depended on powerful intermediaries for victory.

To whatever degree I can stay close to you, and learn from you, and derive my opinions, advice and criticism from you and millions of other Americans like you—to that degree my campaign for president of the United States will be successful.

We have come a long way and we have a long way to go. I thank you for your past support. I will need your continued help and advice and tough criticism throughout the campaign and, if I am successful, as president. I will always try to be worthy of you.

As in 1932 and 1960, the choice before our people is clear. Are we Americans satisfied with a divided nation—one of timidity, confusion and mediocrity?

Most of us believe we can do better.

We will be proud to work hard—together—and to sacrifice if necessary—to achieve once again a united nation—a nation of faith and vision, of courage and greatness.

Thank you.

A 2-YEAR EXTENSION OF THE INTERNAL REVENUE CODE TO MIAS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. GILMAN. Mr. Speaker, today I am introducing legislation extending for 2 years certain provisions of the Internal Revenue Code of 1954 relating to individuals who are prisoners of war, missing in action, or hospitalized as a result of the Vietnam conflict.

This measure would extend the January 2, 1977, deadline until January 2d, 1979, for the purpose of first extending the date a surviving spouse may take advantage of the special rule pertaining to joint income tax returns for surviving spouses; second, excluding from gross income the military compensation of members of the Armed Forces serving in Vietnam or hospitalized as a result of the Vietnam conflict; third, extending for 2 years the period during which the death of a missing serviceman results in the forgiveness of income taxes for the years after the individual first served in Vietnam; fourth, extending the time period that the spouse of a missing serviceman may elect to file a joint return; and fifth, providing the spouse of an MIA an extension of time to perform certain acts, such as the filing of tax returns and the paying of taxes, that are postponed by reason of the Vietnam conflict.

The Internal Revenue Service publication 816, revised June 1975, entitled "Tax Information for Families and Executors of Missing Servicemen," clearly states:

> Military compensation during the period a serviceman is carried as missing is exempt from income tax. All other tax matters are postponed until a stated period after his status as "missing" is terminated. For the serviceman who has been determined killed in action, income tax is forgiven, and any estate tax liability is almost totally eliminated. The wife of a missing serviceman who subsequently is determined killed in action may file joint income tax returns for the years during which the serviceman was carried as missing and, in many cases, she may file as a "surviving spouse," using joint return rates, for 2 years thereafter.

Mr. Speaker, Vietnam's announcement on September 6 that 12 American airman listed as missing in action were killed during the Vietnam conflict underscores the need to obtain a full accounting of our missing servicemen and to continue for at least 2 years those provisions of the Internal Revenue Code pertaining to servicemen whose status has not been terminated and to servicemen who have been hospitalized as a result of the conflict. Since the 94th Congress is rapidly drawing to a close and the January 2, 1977, deadline is quickly approaching, I urge the support of my colleague of this measure and I insert a copy of this legislation in full at this point in the RECORD.

H.R. 15517

A bill to amend the Internal Revenue Code of 1954 to extend the duration of certain provisions relating to certain individuals who are prisoners of war, missing in action, or hospitalized as a result of the Vietnam conflict

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Definition of Surviving Spouse.—Subparagraph (B) of section 2(a)(3) of the Internal Revenue Code of 1954 (relating to special rule where deceased spouse was in missing status) is amended to read as follows:

"(B)(i) January 2, 1979, in the case of service in the combat zone designated for purposes of the Vietnam conflict, or

"(ii) the date which is 2 years after the date designated under section 112 as the date of termination of combatant activities in that zone, in the case of any combat zone other than that referred to in clause (i)."

(b) CERTAIN COMBAT PAY OF MEMBERS OF THE ARMED FORCES.—The last sentence of section 112(a) of such Code (relating to certain combat pay of enlisted members of the Armed Forces) and the last sentence of section 112(b) of such Code (relating to certain combat pay of commissioned officers of the Armed Forces) are each amended by striking out "more than 2 years after the date of the enactment of this sentence" and inserting in lieu thereof "after January 31, 1979".

(c) INCOME TAXES ON MEMBERS OF ARMED FORCES ON DEATH.—The second sentence of section 692(b) of such Code (relating to individuals in missing status) is amended to read as follows:

"The preceding sentence shall not cause subsection (a)(1) to apply for any taxable year beginning—

"(1) after January 2, 1979, in the case of service in the combat zone designated for purposes of the Vietnam conflict, or

"(2) more than 2 years after the date designated under section 112 as the date of termination of combatant activities in that zone, in the case of any combat zone other than that referred to in paragraph (1)."

(d) JOINT RETURN WHERE INDIVIDUAL IS IN MISSING STATUS AS A RESULT OF VIETNAM CONFLICT.—The last sentence of section 6013(f)(1) of such Code (relating to joint return where individual is in missing status) is amended by striking out "more than 2 years after the date of the enactment of this sentence" and inserting in lieu thereof "after January 2, 1979".

(e) TIME FOR PERFORMING CERTAIN ACTS POSTPONED BY REASON OF VIETNAM CONFLICT.—The second sentence of section 7508(b) of such Code (relating to time for performing certain acts postponed by reason of war) is amended to read as follows: "The preceding sentence shall not cause this section to apply to any spouse for any taxable year beginning—

"(1) after January 2, 1979, in the case of service in the combat zone designated for purposes of the Vietnam conflict, or

"(2) more than 2 years after the date designated under section 112 as the date of termination of combatant activities in that zone, in the case of any combat zone other than that referred to in paragraph (1)."

DOME FOR NATION'S CAPITOL MADE IN BRONX FACTORY

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. BINGHAM. Mr. Speaker, as a delightful article in the September 9 issue of City News, the newspaper of Co-Op City, notes, the dome of the U.S. Capitol, which has been called one of the most difficult pieces of architectural ironworks ever conceived and which has stood for over 100 years as a symbol of American determination and ingenuity, was made in Bronx County, N.Y. The Janes and Kirkland Foundry of the Bronx completed the casting and the dome was set in place even as Civil War divided the Nation. President Lincoln pushed ahead with the dome's construction, exclaiming:

If the world sees this Capitol going on, it will know that we intend the Union shall go on.

I submit the text of the City News piece, which was based on information supplied by the Bronx County Historical Society, for my colleagues' perusal:

DOME FOR NATION'S CAPITOL MADE IN BRONX FACTORY

(EDITOR'S NOTE: The information for this article was supplied courtesy of the Bronx County Historical Society library.)

The dome of the U.S. Capitol, with its elegant columns and balustrades, has been called one of the most difficult pieces of architectural ironworks ever conceived, and most people are surprised to learn that it was made in the Bronx.

In the 19th century, however, the world of commerce and industry in the Bronx was dominated by the smoke stacks of iron foundries, and the Janes and Kirkland Foundry, which produced the Capitol dome, was one of the nation's largest.

The Bronx was also the home of the Isaac Johnson Foundry, which developed one of the earliest armor-piercing projectiles, and the Jordan Mott Iron Works, whose founder invented the coal-burning stove.

Jordan Mott's stove won him acclaim as one of the major inventors of the century, and he was included in a group portrait of inventors which now hangs in the White House.

Mott also gained a certain local infamy when he purchased 200 acres of Morrisania for his foundry and renamed the property Mott Haven. The former owner, Gouvernuer Morris II, reportedly remarked that he supposed Mott would soon rename the nearby Harlem River the Jordan River.

Mott Iron Works, built in 1828, was the first to come to the Bronx, and the Johnson Foundry arrived here in 1853. Janes and Kirkland was a relative latecomer, settling on the south side of Westchester Avenue between Brook and St. Ann's Avenues in 1857.

Since the firm had received the dome commission while still at its lower Manhattan location work on the mammoth project began almost immediately in the new foundry.

The dome's 36 giant ribs, hundreds upon hundreds of panels and innumerable screws and clamps had to be cast in the Bronx and then assembled over the Capitol more than 100 feet above the ground. The ingenious derricks and scaffolding required to lift 8,909,200 pounds of iron by horsepower were just as unprecedented as the dome itself.

Work on the dome dragged into the Civil War, which drained attention from the construction, but beleaguered President Lincoln doggedly continued because he needed a symbol. Lincoln said, "If the world sees this Capitol going on, it will know that we intend the Union shall go on."

The dome was completed as 1864 approached. It towers 287 feet above the ground, has a diameter of 135 feet and cost the government $1,074,291.

Other government commissions received by Janes and Kirkland in the 1860's included the ironwork for the Patent Office, the General Post Office and the Treasury office, all in Washington, and for the U.S. Post Office and Courthouse in Portland, Ma.

Janes and Kirkland was also a pioneer in ornamental, as well as architectural, ironwork, and its statues and ornate fountains were shipped throughout the country and the world. One of the Janes and Kirkland fountains stands in Cuzco, Peru.

The huge Bronx foundry also made the Bow Bridge over Central Park Lake and the railings on approaches of the Brooklyn Bridge.

By the 1890's, however, the public was losing its fascination for elegant iron work, and popular taste turned to more functional designs. Early in the decade, Janes and Kirkland had to discontinue its ornate work and then manufactured only stoves and furnaces.

The annexation of the Bronx by New York City in 1898 touched off a real estate boom, so the descendants of the company's founders tore down most of the faltering foundry to build apartments.

The remaining part of the iron works was rented out, but the property continued to lose money. The rest of the once proud foundry was finally razed around 1910 to make way for a refrigerated warehouse.

The other Bronx foundries followed a similar pattern of decline, so that there are no iron works in the Bronx today.

Nothing remains of the Janes and Kirkland Company in the Bronx, except the name of Jane's Hill in St. Mary's Park, the site of co-founder Adrian Jane's mansion.

The buildings of the Mott Iron Works, however, still survive in the South Bronx, as does the name of Mott Haven. A junior high school at 147th Street and College Avenue is also named after Jordan Mott.

Johnson Avenue in Spuyten Duyvil, near the site of the Johnson Iron Works, is a reminder of the street where the workers of that foundry lived.

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago today, on September 10, 1776, the Continental Congress directed its President to inform Washington that he had complete authority over American forces should they be evacuated from New York City. Apparently, a question had arisen among some officers on Washington's

staff over Congress September 3 instructions regarding the abandonment of the city. Those officers believed that Congress did not want all troops withdrawn from New York City. In response to a letter from Washington describing the misunderstanding, Congress decided to clarify its earlier instructions and leave no doubt about his complete control over the use of his forces.

ELIOT JANEWAY POINTS TO POSTAL DEFICIENCIES

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. SIMON. Mr. Speaker, Eliot Janeway recently wrote a column for the Chicago Tribune syndicate about the Postal Service, which I think has real significance.

What he is suggesting is first, that the Postal Service has to be integrated into the total economic picture of the United States. If we have 8 million people unemployed, that somehow has to relate to what we are doing in the Postal Service and today the unemployment problem could just as well be on the Moon for all the attention the Postal Service pays to it.

The second point he makes, which I have never read anywhere else—except in letters I receive from postal employees—is that the Postal Service is "hopelessly overautomated." People sit at desks here in Washington and come to fancy conclusions about how to improve service and cut down costs and the net result has been worse service and higher costs.

I hope my colleagues will read this column by Eliot Janeway.

JANEWAY FINANCIAL SERVICE

(By Eliot Janeway)

Postal service ranks ahead of crime as America's No. 1 noncontroversial issue. Americans disagree about the causes of crime and the culprits; but everyone agrees that postal rates are an abomination, and that postal service is a scandal beyond the reach of a cover-up. Moreover, the backlash from the bankruptcy of the present postal system is hurting the economy—and it's in an obstacle race anyway.

The postal crisis has become so severe that amendments to the Postal Reorganization Act of 1975 dominated the debate on the Sentae floor early last week. The act provides for the federal government to pour another billion dollars into the bottomless pit that is the cumulative postal deficit. In return, the public is to be guaranteed a ceiling against further rate boosts and a floor against further service cuts. The familiar institution of a blue-ribbon commission would be set up to report on the shortcomings of the present system and make recommendations by February 1977.

This debate—as well as the problem behind it—is more than a mere nuisance. The founding fathers recognized an unconditional Constitutional obligation to provide postal service. The brashness of the present generation in blithely disregarding their judgment is now haunting us; so is our increasingly casual breach of Constitutional precepts. The federal government has washed its hands of the Postal Service except for the responsibility to put up the money for its deficits, and the right to pry into the mail. It is important to remember that when this country first became a going concern, the functions of the Post Office were deemed so important that Benjamin Franklin himself became the first postmaster general of the United States.

The post office today is a major business enterprise in the United States. It has 700,000 employees; AT&T itself has only 950,000 on the payroll. Its high-cost malfunctioning is now visiting hardship on the rich and the poor alike. The banks are complaining about their collections, and so are the folks on social security.

Inflation will not go away while a single first-class stamp costs more than a local telephone call. Nor will recovery stabilize if the thousands of small businesses which depend on the Postal Service for their selling and collecting continue to be squeezed at the mailbox.

Typically, the position of the Postal Service in the political and economic scheme of things is squarely in the middle of no-man's land. The victims blame the mess on the government, but the government has washed its hands of the problem. The Postal Service, as it is now called, is no longer the post office department; consequently, the postal unions claim the right to strike against it. Yet the post office still reserves the right to bring the full weight of government prosecution down upon private entrepreneurs presuming to compete with it.

Two senators have advanced constructive proposals in the debate. Sen. Jennings Randolph (D–W.V.) is insisting that the post office be restored to its Constitutional status with a postmaster general who enjoys Cabinet status and direct access to the President. The present head of the Postal Service has testified that he has had no such access. As Sen. Randolph points out, if the President and the attorney general were aware that the Postal Service is systematically breaking the law by depriving rural America of postal service, they would not tolerate it.

Sen. Ernest F. Hollings (D–S.C.) estimates the cost of the six-year postal disaster at $8 billion. He cites abuses that would be funny if they were not so annoying; such as mail's being shipped all around the country at extortionate costs to be delivered down the street from its mailing point. He recommends the cancellation of wasteful truck-buying.

But the truck industry is not exactly at the top of the list of trouble spots in the American economy this year. The employment of human resources—especially of those persons who have lost jobs and any hope of finding them—is. But the postal service is hopelessly overautomated. The computer industry does not need government spending subsidies; but the fringes of the work force do need paychecks. Sorting out and delivering the mail is for hand labor; those not being paid to do this are wards of the Treasury anyway. Paying people to work at regular wage rates would give the country value received for the money it must spend anyway, and would move the mails.

PROUD TO HAVE KINGSVILLE NAVAL AIR STATION

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. DE LA GARZA. Mr. Speaker, the city of Kingsville, Tex., and its county—Kleberg—in my congressional district, are proud to have the Kingsville Naval Air Station as their neighbor and friend.

The relations between all the three entities have been on the highest level of respect and cooperation, as has been also between the personnel stationed there and the people of the community.

A fine example of this respect and cooperation is the fact that National Hispanic Heritage Week will be celebrated at Kingsville NAS to honor not only those members of the Navy and Marine Forces stationed there, but also to honor the community at large. This I applaud.

There are compliments to be paid on the splendid cooperation of the base's commanding officer, B. E. Eakle, and the base commander, Capt. J. J. Shanaghan.

Heading the committee in charge of ceremonies is my good friend, Hon. Mike Ybarra.

I extend my congratulations and best wishes to all concerned and ask my colleagues to join me in extending our tribute to all of Hispanic heritage and to our friends at Kingsville Naval Air Station.

GEORGE B. SURBER BIDS FAREWELL TO TORRANCE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. ANDERSON of California. Mr. Speaker, on Sunday, September 19, the city and people of Torrance will pay tribute to a man whose leadership and wisdom as a member of the city council has been an asset to the community. On that day George B. Surber, who first won election as a city official in 1968, will say farewell to the city where he has lived for the past 25 years.

George will be missed in Torrance. He has stepped down from the city council because of his new residence, which is well outside the Torrance city limits. However, Councilman Surber will long be remembered for the leadership he brought to a growing, vital city—and for his many activities as an involved member of the community.

A longtime resident of the South Bay area, George graduated from Redondo Union High School in 1939. He joined the U.S. Marine Corps in 1941, and served for the duration of World War II. He participated in the first landing on Guadalcanal as a radio operator in the First Amphibious Tractor Battalion, from August 7 to December in 1942. Following his experiences in the South Pacific, George was an instructor of shore communications and amphibious landings for 2 years until he was honorably discharged from military service in November 1945, as a staff sergeant.

On November 24, 1947, George Surber received his appointment to the Los Angeles Police Department after graduating from the Los Angeles Police Academy. Since that time, he has served as a field officer, currently as an accident investigator for a hit and run unit.

In September of 1968, George received

the Los Angeles Police Department's Medal of Valor—a highly regarded decoration reserved only for those men and women who perform outstandingly in the line of duty. Officer Surber pulled a woman and three small children from the burning wreckage of an automobile to earn the commendation.

The father of three children—Ron, David, and Sandi—George has been active in many youth-oriented projects in Torrance. He served in many capacities for the Torrance Youth Baseball Leagues for 13 years, many of them on executive boards as president, vice president, equipment manager, and team manager. In addition, Councilman Surber was an adult leader and youth counselor for the Torrance family YMCA, and a member of the YMCA's Men's Club for 5 years. He was also active with a Torrance Club Scout Pack, serving as treasurer for 2 years.

Mr. Speaker, throughout his career George Surber has demonstrated a deep concern and involvement with his community. This has been amply demonstrated by his choice of career as a police officer, his outstanding service on the Torrance City Council, and by his many community activities.

Men like George Surber are hard to find. The respect and affection he has earned in the Torrance area will be remembered for a long time to come, and he will undoubtedly miss his many friends in the South Bay area.

My wife, Lee, joins me in thanking George Surber for his many contributions to our area, and in wishing him the best of luck in the years to come. His children, and his wife, Peggy, must be justly proud of his many accomplishments.

NATIONAL SCENIC TRAILS

HON. JOEL PRITCHARD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. PRITCHARD. Mr. Speaker, outdoorsmen all across the Pacific Northwest have shown tremendous interest in and support for our Pacific Northwest National Scenic Trail legislation, contained in the omnibus trail proposal bill, H.R. 15122.

Recently, over a thousand people expressed an enthusiasm for participating in the Pacific Northwest Trail Association's August 28–29 series of backpacking trips. Groups of 10 to 12 hikers walked existing Northwest trails representative of the proposed Pacific Northwest National Scenic Trail route.

Thousands of hikers use the Appalachian Trail in the East and the Pacific Crest Trail in the West and are clearly crying out for more trails and consequent less pressure on already existing ones. We feel that if there are additional national scenic trails established, the impact on any one trail will be reduced.

The omnibus trail bill has been favorably reported out of the House Interior Committee. We encourage support for this important legislative package, creating a backpacking trail not only in the Pacific Northwest, but also in several other parts of the country as well. Hikers from all over are waiting, backpacks packed, and hiking boots ready.

RESOLUTION OF DISAPPROVAL OF $4.5 BILLION IN ARMS TO IRAN

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. HARRINGTON. Mr. Speaker, I am today introducing a resolution of disapproval of the proposed $4.5 billion arms sales to the Government of Iran.

Between 1972 and 1975 the United States sold over $10 billion in arms to Iran. We are now on the verge of selling the Shah $4.5 billion more in sophisticated weaponry. Surely a sale of this magnitude deserves careful scrutiny by the Congress, especially in light of the commitments we may already have with that country. On March 5, 1959, for example, the United States signed the "Agreement of Cooperation Between the Government of the United States and the Imperial Government of Iran." Article I of this treaty specified that "in the case of aggression against Iran, the United States will take such appropriate action, including the use of armed force, as may be mutually agreed upon." It seems clear that to allow this sale to go through without any congressional debate as to the nature of our commitment to Iran and the state of the regional arms race in the Persian Gulf would make a complete charade of the procedures worked out earlier this year for congressional oversight of U.S. arms sales.

For the benefit of my colleagues I am inserting in the RECORD two articles on the Iranian arms sales:

[From the Washington Post]

ARMS SALES TO IRAN: AN ANALYSIS

(The Senate Foreign Assistance Subcommittee's staff report on U.S. military sales to Iran appeared on Aug. 2, just before Secretary of State Kissinger arrived in Teheran for talks with the Shah. It set off renewed controversy over American arms shipments to the Middle East. These excerpts are taken from the report's findings:)

Iran has purchased large quantities of some of the most sophisticated equipment in the U.S. inventory including the F–14 Tom Cat Fighter and the DD993 modified Spruance Class destroyer. The F–14 system is so complicated that the United States Navy is having major difficulty keeping it operational; Iran's Spruance Class destroyer will be even more sophisticated than those being procured by the U.S. Navy. Iran is already the dominant military power in the Persian Gulf area. Upon delivery between now and 1981 of equipment ordered to date, Iran, on paper, can be regarded as a regional superpower. Although future purchases of new U.S. equipment and related services are likely to decline in absolute terms from the fiscal year 1974 and 1975 levels, any additional sales will add to an already sizable inventory.

Iran is considering the purchase of additional sophisticated equipment such as the F–16 or F–18 and AWACS aircraft;

To pay for new systems and complete its planned purchases of such systems as the Spruance Class destroyer, Iran has proposed barter arrangements (weapons for oil) to compensate for a reduction in normal oil revenues;

The government of Iran is attempting to create an extremely modern military establishment in a country that lacks the technical, educational and industrial base to provide the necessary trained personnel and management capabilities to operate such an establishment effectively. Iran also lacks experience in logistics and support operations and does not have the maintenance capabilities, the infrastructure (port facilities, roads, rail nets, etc.), and the construction capacity to implement its new programs independent of outside support.

Most informed observers feel that Iran will not be able to absorb and operate within the next five to ten yaers a large proportion of the sophisticated military systems purchased from the U.S. unless increasing numbers of American personnel go to Iran in a support capacity. This support alone may not be sufficient to guarantee success for the Iranian program;

The schedule for virtually every major program except equipment deliveries to the point of entry into Iran has slipped considerably due to the limitations noted above;

In the face of immense obstacles, our investigation indicated that the Iranian armed forces are making a maximum effort to ensure the success of the modernization program; their efforts, however, are hampered because of rapid expansion in the civilian sector as well. The military, for example, has difficulty in matching civilian salary offers to the growing, but still insufficient numbers of trained personnel.

The 1972 decision by President Nixon to sell Iran the F–14 and/or the F–15 aircraft and, in general, to let Iran buy anything it wanted effectively exempted Iran from arms sales review processes in the State and Defense Departments. This lack of policy review on individual sales requested inhibited any inclinations in the embassy, the U.S. military mission in Iran (ARMISHMAAG), or desk officers in State and DOD to assert control over day-to-day events; it created a bonanza for U.S. weapons manufacturers, the procurement branches of the three U.S. services and the Defense Security Assistance Agency.

Between 1973–75, the activities of U.S. arms salesmen, official and private, were not closely supervised by executive branch officials charged with doing so, or by the Congress;

Each of the U.S. services, particularly the Air Force and Navy, was trying to sell equipment for its own reasons, usually to lower per-unit costs of its own procurements or to recoup part of its prior research and development investment. On occassion, the services fiercely competed with each other for sales to Iran, e.g. the Air Force and Navy to sell the F–15 and F–14 respectively;

The services often did not inform the Iranians of the full extent of the training, logistics, and maintenance implications of the systems they were trying to sell. Thus, Iran may have been unaware of the complexities involved in translating its purchases into an effective fighting force. Problems in all of these areas are very serious;

Discussions both in Washington and Iran have confirmed that until recently U.S. appreciation of the management problems of the arms programs in Iran was extremely limited;

Secretary Schlesinger's decision to appoint a senior civilian Defense Representative in Iran in September, 1975, to oversee and coordinate U.S. military programs in Iran is considered by virtually everyone to be a positive and necessary development, given the chaos and problems that had emerged in program management and implementation. Nevertheless, until there is clear policy direction and effective program management in Washington, the problems in the field (Iran)

will continue. Deputy Secretary Ellsworth issued a directive in February, 1976, that he hopes will ensure coordination and policy direction within the DOD:

Evidence gathered indicates that the Iranian arms sales program is not yet fully under control. Only with more effective control from Washington can the inherent propensity of civilian contractors and U.S. armed services to sell in an unrestrained manner be curbed.

The presence of large and growing numbers of Americans in Iran has already given rise to socio-economic problems. Although many of these have proven to be manageable, they could become worse should there be a major change in U.S.-Iranian relations.

On the whole, U.S.-Iranian personal relationships are excellent, if somewhat formal;

We were told that some of the early problems were due to the presence of large numbers of young single American male civilians without adequate recreational outlets. Decisions by some of the private companies to limit the number of unattached male employees have improved social relations, especially in more traditional cities such as Isfahan;

There are many other foreigners in Iran as well as Americans, including British, German, South Korean, French, Filipino, Indian and Pakistani;

Anti-Americanism could become a serious problem in Iran, as it has elsewhere, if there were to be a change in government in Iran. The possibility of a future crisis situation cannot be totally ignored and for this reason contingency plans to deal with such an emergency are necessary.

The U.S. having sold sophisticated arms in large quanities to Iran, has assumed a growing and significant "commitment" in terms of supporting that equipment—an unstated but nevertheless obligation to train Iranians and to provide logistical support for the lifetime of the equipment. To the extent that the decisions to sell the arms were politically motivated, a failure to provide follow-on support to the satisfaction of Iran would violate the political benefit of having made the sales. The deep involvement of U.S. personnel assisting Iran in program implementation has significant foreign policy implications for the United States in the Persian Gulf.

The U.S. cannot abandon, substantially diminish, or even redirect its arms programs without precipitating a major crisis in U.S.-Iranian relations;

If Iran is not able effectively to use the equipment it has purchased, it may blame the U.S. for the failures;

There is general agreement among U.S. personnel involved with the Iranian programs that it is unlikely that Iran could go to war in the next five to ten years with its current and prospective inventory, i.e. purchases to date of sophisticated weapons (as distinct from some of the less sophisticated ground equipment) without U.S. support on a day-to-day basis.

[From the New York Times, Aug. 28, 1976]

UNITED STATES TO SELL IRAN 160 NEW FIGHTERS—KISSINGER INFORMS SENATE PANEL WHOSE STAFF STUDY OPPOSED FURTHER SALES

(By Bernard Gwertzman)

WASHINGTON, Aug. 27.—Secretary of State Henry A. Kissinger told a Senate Foreign Relations subcommittee today that the United States had agreed to sell Iran 160 F-16 fighter planes at a cost of about $3.4 billion.

Despite a staff study by the Foreign Relations Committee earlier this month that said Iran was unable to absorb the sophisticated equipment it already had bought in recent years. Mr. Kissinger told the closed-door meeting that the Ford Administration had decided to go ahead with the sale.

But he stressed that delivery of the new General Dynamics fighters would not begin until 1979, when 10 trainers would be shipped to Iran, with the remaining 150 planes due to be sent over the following four years.

According to participants in the two-hour session, Mr. Kissinger said that a formal notification would be sent to Congress Monday on the pending F-16 deal as well as an addition $600 million in Iranian orders for Sidewinder, Phoenix and Sparrow missiles, making a total of $4 billion.

The staff report, whose conclusions were rejected by Shah Mohammed Riza Pahlevi when Mr. Kissinger visited him in Iran earlier this month, said that "self-sufficiency is not attainable" for the Iranian Air Force in the foreseeable future, even if it makes no additional major purchases.

At the time the report was written, Iran's most modern plane was the F-14, a larger and more complex aircraft than the F-16. The F-16 is the plane of the future as far as most of America's European allies are concerned, since they have also ordered it in quantity.

SIDEWINDERS TO SAUDIS

Most of the discussion with Mr. Kissinger was on contemplated sales to Saudi Arabia, participants said, with Senators only raising a few questions about sales to Iran.

Mr. Kissinger told the Senators that the Administration planned to sell $573 million in equipment to Saudi Arabia, including some 1,000 Sidewinder air-to-air missiles, Maverick TV-guided bombs and construction equipment.

When the matter was discussed yesterday and several Senators raised questions about the size of the Saudi order, Mr. Kissinger agreed to seek a compromise today.

But in the discussion, according to participants, Mr. Kissinger only agreed to discuss with President Ford over the weekend the objections of the Senators and to see if the size of the order could be reduced.

The Administration plans to sell 1,500 Mavericks, and Senators argued that this should be reduced as well as the Sidewinder order.

CONGRESSIONAL VETO

By law Congress has 30 days, once it is formally notified by the Administration, to veto by a majority vote in both houses any military sale over $25 million.

The Administration, faced with Congress' plans to adjourn on Oct. 2, must notify both houses by Thursday or else put off completing the sales until next year.

In this last-minute rush, the Administration plans to propose to Congress next week nearly $5 billion in new sales, the State Department said.

Besides the $4 billion to Iran and $573 million to Saudi Arabia, it intends to inform Congress of $90 million in orders for Israel, mostly for helicopters, and $84 million for Pakistan, including Sidewinders for its aircraft.

THREAT BY ROSENTHAL

Several supporters of Israel, including Representative Benjamin S. Rosenthal, Democrat of Queens, have threatened to introduce a resolution to block the sale of Sidewinder missiles to Saudi Arabia if the number is not reduced from 1,000 to 500.

Congress has not vetoed any projected sale since the law became effective last year. But by raising questions Congress has forced the Administration to alter some plans, such as the sale of antiaircraft missiles to Jordan, whose characteristics were changed.

Mr. Kissinger, according to a participant in the session, agreed to submit a study to the panel—the subcommittee of foreign assistance—justifying large-scale sales of military equipment. Such sales have amounted to more than $6 billion in the last two years.

The Secretary has consistently defended sales to Iran and Saudi Arabia as vital to insure that moderate regimes friendly to the United States are strengthened in the crucial Persian Gulf area.

Iran's purchases of about $10 billion in the last few years and another $10 billion estimated for the second half of this decade are said to reflect Iran's concern about having to defend borders with the Soviet Union and Iraq.

TROTSKYISM AND TERRORISM: PART X—SOCIALIST WORKERS PARTY STRUCTURE AND IDEOLOGY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. McDONALD. Mr. Speaker, the Socialist Workers Party is a revolutionary Communist Party working for the imposition of a worldwide Communist system.

At its founding conference held December 31, 1937 to January 3, 1938, it passed a declaration of principles of the Socialist Workers Party. This said that the role of the Socialist Workers Party was "the overthrow of the capitalist state and the transfer of sovereignty from it to their own workers' state—the dictatorship of the proletariat."[1]

It said:

The main specific task of the S.W.P. is the mobilization of the American masses for struggle against American capitalism and for its overthrow.[2]

In the imperialist United States, the S.W.P. fights against war preparations and militarization; but at the same time always makes clear that war cannot be permanently prevented unless the imperialist government of the United States is overthrown and its place taken by a Workers' State, that lasting peace as possible only under socialism.[3]

It is, consequently, the elementary and imperative duty of all workers, and especially of the revolutionary party, to defend the Soviet Union unconditionally against any and every imperialist nation.[4]

The April 1940 SWP National Convention reaffirmed the resolution, "on the internal situation and the character of the party," drafted by Cannon and Max Shachtman and originally adopted at the founding convention:

The Socialist Workers Party is a revolutionary Marxian party, based on a definite program, whose aim is the organization of the working class in the struggle for power and the transformation of the existing social order. All of its activities, its methods and its internal regime are subordinated to this aim and are designed to serve it.

* * * * *

The struggle for power organized and led by the revolutionary party is the most ruthless and irreconcilable struggle in all history. A loosely-knit, heterogeneous, undisciplined, untrained organization is utterly incapable of accomplishing such world-historical tasks as the proletariat and the revolutionary party are confronted with in the present area. * * * From this follows the party's unconditional demand upon all its members for complete discipline in all the public activities and actions of the organization.

Leadership and centralized direction are

Footnotes at end of article.

indispensable prerequisites for any sustained and disciplined action, * * *.

It is from these considerations * * * that we derive the Leninist principle of organization, namely democratic centralism.

* * * * *

* * * It is an important sign of a serious and firmly constituted party * * * that it throws up out of its ranks cadres of more or less able leading comrades, * * * and that it thus insures a certain stability and continuity of leadership by such a cadre.[5]

The same resolution specifies that "discussion, debate, and criticism" are restricted "by such decisions and provisions as are made by the party itself or by bodies to which it assigns this function" and that all criticism and discussion of party programs and leadership must take place "inside the ranks of the party."[6]

The resolution further states that "The first obligation of party membership is loyal acceptance of the program of the party * * *. Party membership implies the obligation of 100 percent loyalty to the organization, * * *."[7]

A second resolution adopted at the 1940 SWP National Convention stated:

The Bolshevik party of Lenin is the only party in history which successfully conquered and held state power. The S.W.P., as a combat organization, which aims at achieving power in this country, models its organization forms and methods after those of the Russian Bolshevik party, adapting them, naturally, to the experience of recent years and to concrete American conditions.

The S.W.P. as a revolutionary workers' party is based on the doctrines of scientific socialism as embodied in the principal works of Marx, Engels, Lenin and Trotsky and incorporated in the basic documents and resolution of the first four Congresses of the Communist (3rd) International and of the conferences and congresses of the Fourth International.[8]

SWP founder James Cannon wrote in thesis 15 of his "Theses on the American Revolution":

The hopeless contradictions of American capitalism inextricably tied up with the death agony of world capitalism, are bound to lead to a social crisis of such catastrophic proportions as will place the proletarian revolution on the order of the day.

* * * * *

The revolutionary vanguard party destined to lead this tumultuous revolutionary movement in the U.S. does not have to be created. It already exists, and its name is the Socialist Workers Party.

It is the sole legitimate heir and continuator of pioneer American Communism and the revolutionary movements of the American workers from which it sprang.[9]

In his speech to the Socialist Workers Party 1973 convention, SWP National Secretary Jack Barnes admitted:

You know, our ideas aren't originally American ideas. Our ideas are basically Russian. That's what Comrade Cannon always emphasized. And if you look up at the banners of Lenin and Trotsky there, you will see the two main Russians whose ideas they are.[10]

SWP National Chairman Jack Barnes gave a "state of the party" report to the national committee on May 2, 1975, in which he said:

Maybe we can say there are three basic stages in the development of a revolutionary party. One is a propaganda nucleus. Second is a cadre group capable of initiating propaganda actions. And third is a party of mass action. * * *

We can say we are crossing the bridge from the first to the second stage, to a cadre nucleus capable of initiating propaganda actions. * * *[11]

The Socialist Workers Party leadership is self-perpetuating. As John Studer noted in his nominating commission report to the 1975 SWP National Convention, "The regular members of the national committee represent the rounded team of the tested leaders of the party. * * * The alternate list we viewed as serving two purposes. It includes those who are next in line to be brought on to the full list. * * * and it is a testing ground for developing party leaders."[12]

The process of leadership selection was demonstrated in 1971 when a minority grouping called the Proletarian Orientation Tendency—POT—recommended two of their members for the national committee. These were "Lewis" who was actually Ralph Levitt and "Gregorich" who is Barbara Gregorich. Their nominations were rejected because they did not have enough "individual stature" in the party, this despite the fact that they represented almost 10 percent of the SWP membership.[13]

In rejecting the POT nominations, Peter Seidman, selected in 1973 and 1975 as an alternate national committee member himself, noted, "There has never been an automatic right of any grouping within the party to have its views represented on the national committee."[14]

The national committee selections at the 1971, 1973, and 1975 conventions as well as the members of the political committee may be found in the appendix. The political committee runs the SWP between conventions. Its composition has been basically the same for a number of years.

The SWP is divided into branches, usually one to a city except in a few cases such as New York City where they have sufficient members for more than one branch.

In 1971, the Socialist Workers Party made an extensive survey of its membership. They determined that 60 percent of the membership had joined in the previous 2 years. Over 50 percent of the membership held dual membership in the Young Socialist Alliance, the SWP youth group. Of the members who joined during or since 1960, 91.8 percent had come through the YSA.[15]

The SWP reported that 21.4 percent of all members had full-time jobs with the Socialist Workers Party or its fronts. In a membership of less than 1,000, this is at least 200 people—a tremendous financial burden on the others.[16]

FOOTNOTES

[1] "Declaration of Principles and Constitution of the Socialist Workers Party," 1938, p. 9.

[2] *Ibid.*, p. 19.

[3] *Ibid.*, p. 23.

[4] *Ibid.*, p. 25.

[5] "The Organization Principles Upon Which the Party Was Founded," *The Struggle for a Proletarian Party*, James P. Cannon, 1943, pp. 227–229.

[6] *Ibid.*, p. 229.

[7] *Ibid.*, pp. 229–230.

[8] "The Organizational Conclusions of the Present Discussion," *The Struggle for a Proletarian Party*, James P. Cannon, 1943, p. 232.

[9] "Theses on the American Revolution," James P. Cannon, 1946.

[10] *Internal Information Bulletin*, No. 7 in 1974, August 1974, p. 15.

[11] *SWP Discussion Bulletin*, Vol. 33, No. 4, June 1975, p. 9.

[12] *Internal Information Bulletin*, No. 2 in 1975, October 1975, p. 21.

[13] *Internal Information Bulletin*, No. 6 in 1971, November 1971, p. 19.

[14] *Ibid.*, p. 20.

[15] *Internal Information Bulletin*, No. 7 in 1971, November 1971, pp. 7–8.

[16] *Idem.*

APPENDIX I

(Compiled from Internal Information Bulletin, No. 2 in 1975, p. 10–11.)

Regular members of the SWP National Committee selected at the 27th National Convention of the Socialist Workers Party, August 17–21, 1975:

Jack Barnes, Nelson Blackstock, George Breitman, Joel Britton, Peter Camejo, Pearl Chertov, Clifton DeBerry, Maceo Dixon.

Dick (Richard Catarino) Garza, Fred Halstead, Al Hansen, Gus Horowitz, Doug Jenness, Linda Jenness, Lew Jones, Carol Lipman.

Frank Lovell, Caroline Lund, Wendy Lyons, Malik Miah, Derrick Morrison, Andrew Pulley, Harry Ring, Bev Scott.

Larry Seigle, Ed Shaw, Barry Sheppard, Syd Stapleton, Betsey Stone, Tony Thomas, Jean Tussey, Mary-Alice Waters, Nat Weinstein.

Alternate members of the SWP National Committee selected at the 1975 national convention are:

John Benson, Frank Boehm, Steve Chainey, Steve Chase, Les Evans, Rich Finkel, Gerry Foley, John Hawkins.

Ed Heisler, Lynn Henderson, Susan LaMont, Dick McBride, Jeff Mackler, Sam Manuel, Ray Markey.

Barbara Matson, Andrea Morell, Omari Musa, Willie Mae Reid, Dick Roberts, Olga Rodriguez, Peter Seidman.

Katherine Sojourner, Baxter Smith, Dan Styron, Pedro Vasquez, Judy White.

The members of the national control commission, the group responsible for security and party discipline, are:

Peggy Brundy, Anna Chester, Wayne Clover, Helen Scheer.

APPENDIX II

(Compiled from SWP Discussion Bulletin, Vol. 33, No. 4, June 1975, p. 51.)

Regular members of the SWP National Committee selected at the August 1973 SWP National Convention.

Jack Barnes, Charles Bolduc, George Breitman, Joel Britton, Peter Camejo, Pearl Chertov, Clifton DeBerry, Dick Garza.

Fred Halstead, Al Hansen, Joe Hansen, Gus Horowitz, Doug Jenness, Linda Jenness, Joe Johnson, Lew Jones.

Carol Lipman, Frank Lovell, Derrick Morrison, Harry Ring, Larry Seigle, Art Sharon, Ed Shaw, Barry Sheppard, Betsey Stone, Tony Thomas, Jean Tussey, Mary-Alice Waters, Nat Weinstein.

Alternate members of the SWP National Committee selected at the 1973 national convention:

John Benson, Nelson Blackstock, Frank Boehm, Maceo Dixon, Les Evans, John Hawkins, Lynn Henderson, Linda Jenness.

Susan LaMont, Caroline Lund, Wendy

Lyons, Dick McBride, Jeff Mackler, Andrea Morell, Andrew Pulley, Dick Roberts.

Bev Scott, Peter Seidman, Syd Stapleton, Dan Styron, Judy White, David Wulp.

Advisory members of the SWP National Committee (this position for elderly leaders abolished in 1975) selected at 1973 convention:

Milton Alvin, James Cannon, B. Chester, Farrell Dobbs, Asher Harer.

Tom Kerry, J. Liang, George Novack, Evelyn Reed.

The 1973 national control commission members were:

Anna Chester, D. Ferguson, B. Matson, Helen Scheer.

APPENDIX III

(Compiled from SWP Discussion Bulletin, Vol. 13, No. 4, May 1973, p. 5.)

Regular members of the SWP National Committee selected at the 1971 SWP National Convention were:

Jack Barnes, George Breitman, Joel Britton, Peter Camejo, Pearl Chertov, Oscar Coover, Clifton DeBerry, Farrell Dobbs.

Dick Garza, Fred Halstead, Al Hansen, Joe Hansen, Robert Himmel, Gus Horowitz, Doug Jenness, Joe Johnson.

Lew Jones, Frank Lovell, George Novack, Harry Ring, Art Sharon, Edward Shaw, Barry Sheppard, Betsey Stone, Jean Tussey, Mary-Alice Waters, Nat Weinstein.

Alternate SWP National Committee members in 1971 were:

John Benson, Charles Bolduc, Tony Camejo, Edwards, Les Evans, Lynn Henderson, Herman Kirsh.

Tom Leonard, Carol Lipman, Sarah Lovell, Mary Lou Montauk, Derrick Morrison, Andrew Pulley, Dick Roberts.

Charles Scheer, Bev Scott, Larry Seigle, Evelyn Sell, Dan Styron, Tony Thomas, Judy White, David Wulp.

Advisory SWP National Committee members in 1971 were:

Milton Alvin, James Cannon, B. Chester, Asher Harer.

Tom Kerry, J. Liang, Evelyn Reed, Larry Trainor.

APPENDIX IV

SOCIALIST WORKERS PARTY POLITICAL COMMITTEE 1966–75

On May 4, 1975, the SWP National Committee approved a motion that the political committee consist of 12 persons:

Jack Barnes, SWP National Secretary; George Breitman, Peter Camejo, Al Hansen, Doug Jenness, Frank Lovell.

Ed Shaw, Larry Seigle, Barry Sheppard, SWP Organization Secretary; Tony Thomas, Mary-Alice Waters, YSA National Executive Committee member.

The 1973–74 political committee included:

Jack Barnes, George Breitman, Joel Britton (transferred to Illinois), Peter Camejo, Farrell Dobbs (retired), Al Hansen, Joe Hansen (retired), Gus Horowitz (transferred to Paris), Doug Jenness.

Lew Jones (transferred to California), Tom Kerry (retired), Frank Lovell, Derrick Morrison (transferred to Pennsylvania), George Novack (retired), Ed Shaw, Barry Sheppard, Betsey Stone (transferred to Chicago as field organizer), Mary-Alice Waters.

The 1971 political committee members were:

Jack Barnes, George Breitman, Joel Britton, Peter Camejo, Farrell Dobbs, Clifton DeBerry, Fred Halstead, Al Hansen, Joe Hansen, Gus Horowitz.

Doug Jenness, Lew Jones, Frank Lovell, George Novack, Harry Ring, Ed Shaw, Barry Sheppard, Betsey Stone, Mary-Alice Waters.

In 1969, Political Committee members were:

Jack Barnes, George Breitman, Clifton DeBerry, Farrell Dobbs, Fred Halstead, Joe Hansen.

Tom Kerry, George Novack, Harry Ring, Ed Shaw, Barry Sheppard.

In 1966 and 1968 the Political Committee members were:

Jack Barnes, Clifton DeBerry, Farrell Dobbs, Fred Halstead, Joe Hansen.

Tom Kerry, George Novack, Ed Shaw, Barry Sheppard, YSA representative.

NEWARK'S KENNETH GIBSON: A MAYOR'S MAYOR

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. RODINO. Mr. Speaker, it is my pleasure to call my colleagues' attention to an article on the distinguished mayor of Newark, Mr. Kenneth Gibson, which appears in the September issue of Ebony Magazine.

As a resident of the city of Newark, I am pleased to bring to the attention of my colleagues the election of Mayor Gibson to the presidency of the U.S. Conference of Mayors and the many accomplishments achieved during his tenure as mayor.

HE BECOMES THE FIRST BLACK PRESIDENT OF U.S. CONFERENCE OF MAYORS

(By Alex Poinsett)

The funky jazz band, the table laden with hors d'oeuvres, the happy crowd milling about a Milwaukee hotel ballroom—all signal party time. Bubbling despite his tee-totaling, generally subdued demeanor, Newark's Mayor Kenneth A. Gibson is graciously receiving congratulations from an ever-tightening circle of well-wishers. Then, amidst the friendly pushing and shoving, New Orleans Mayor Moon Landrieu squeezes through to ask laughingly: "May I approach the throne?"

The exaggerated request is a good-humored salute from the outgoing president of the United States Conference of Mayors (USCM) to his successor—the first black president in the group's 43-year history, a "mayor's mayor" who was clearly elected more because of performance than popularity. Already, his success in rebuilding the tarnished image of a city whose previous mayor was jailed for taking kickbacks, and his success in restoring public confidence in the basic integrity and sincerity of the city's government, have brought him national attention, the prestigious Fiorello H. LaGuardia Award, selection by Time Magazine as one of America's 200 outstanding young men, and a citation by the Times of London newspaper as an example of the type of international political leadership which will be developed in the near future.

And so this busy week of USCM festivities in Milwaukee have culminated in Gibson becoming the official spokesman for a major forum through which mayors of 750 cities (each with more than 30,000 population) can articulate their concerns and devise strategies addressed to urban America's urgent need for general revenue sharing, flexible transportation systems, law enforcement assistance and in general, the expanding range of subjects about which a mayor must be knowledgeable if he is to be effective. As USCM vice-president during the past year, Gibson served a sort of apprenticeship for his new post, testifying on behalf of urban America before several congressional committees and numerous national and state forums.

The central thrust of his continuing crusade echoed in his presidential acceptance speech: "The cities are the heart of our nation, pumping blood of survival into the towns, townships, hamlets and rural areas of our nation, and they return the flow back to the heart. Collectively, we are the circle of life in this nation. We, the U.S. Conference of Mayors, must work to enlighten those who have been misled into thinking in isolationist terms of urban, suburban or rural interests."

From coast to coast, Newark's mayor has been airing his contention that most large American cities are in serious trouble, a trouble reflected in their fiscal condition but also caused by fundamental changes in the nation's social and economic fabric. Part of his proof is a recent USCM report that nearly 85 percent of American cities are not only bogged down in fiscal chaos but are burdened by problems of inflation, unemployment and an inadequate economic growth rate, problems which are largely outside their control.

Indeed, Gibson's own Newark was the nation's Exhibit A of urban decay when he first took office. Despite his six years of struggle, the city's nearly 400,000 residents are still squeezed into 17 square miles while the remainder of the area's 24 square miles is gobbled up in seaport, airport and marshland. Because of this staggering percentage of nontaxable land, Newark's real estate tax yield is so limited that, for example, the annual tax on a $20,000 house is a whopping $2,000. Worst still, the State of New Jersey has steadily refused to grant the city the right to levy additional taxes despite Gibson's continuing campaign for a statewide graduated income tax.

Meanwhile, about 37,000 of the city's 170,000 employables are out of work and about a third of Newark's residents receive some form of public assistance. "When I walk the streets," Gibson reports, "the people say to me, 'Mayor, can you help me get a job?' This is uppermost in their minds. That means it has to be uppermost in my mind too."

Like many of the USCM colleagues Gibson is confronted with a city saddled with high crime rates, a dwindling reservoir of middle-class black and whites, and new business that plays hard to get. In the past two years, the nation's recession has forced Newark to curtail its services in health clinics, welfare case work, garbage collection, manual street cleaning and recreation. How Gibson has managed to cope with this bewildering array of conditions—despite a white-majority City Council that has blocked many of his proposals and a business community that is committed primarily to downtown Newark—how he has kept the city solvent despite a shrinking tax base, how he has maintained the investor confidence long-since lost by nearby New York City, how he has struck a balance between raising taxes and cutting back services—all this has won him the respect and admiration of his USCM peers. A visiting congressman once observed that Newark had received every federal grant available "except a program or two aimed at fattening cattle." This obvious overstatement underscores the city's receipt of more than $480 million in numerous federal aid programs since 1970, and it is a tribute of sorts to Gibson's lobbying and "grantsmanship."

The mayor's federally-supported, 54 million

manpower programs have created 6,500 new jobs since 1973 and officials estimate that one additional job develops naturally for every six that are created. Federal funds have also helped finance new housing units for more than 2,700 families. Since 1973, Newark has sold $1.1 million of tax delinquent property and demolished about 2,400 condemned buildings, thus eliminating what was once a crisis situation. Gibson's appointment two years ago of Hubert Williams—a black attorney who rose through the police ranks to the grade of lieutenant—as police director, has helped stabilize the crime rate.

Unlike most of his USCM colleagues, the mayor's biggest challenges, perhaps are the Puerto Ricans who are an increasingly vocal 10 percent of Newark's population. Complaining that blacks received more jobs and money from City Hall than they did, the Puerto Ricans staged a two-day riot in September 1974 which resulted in two deaths, 54 injured persons and 77 arrests. Militant Puerto Rican leaders called for the resignation of Police Director Williams who, at the time, had been in office only two months. Williams is still there but so also are a disproportionately high unemployment rate among the Puerto Ricans and limited political clout to help solve these and other problems within the immediate future. "The day I took office in 1970," Gibson recalls, "I appointed a Puerto Rican deputy mayor. He's the first in Newark's history. I've been looking for a Puerto Rican judge, because the people who go through our judicial system have been blacks and Puerto Ricans. We have black judges but Newark has never had a Puerto Rican judge. I've been searching for one for six years. There's not a Puerto Rican lawyer in Newark. Not one. I can't appoint a guy off the street as a judge. Legally, he has to be a lawyer."

While Gibson wants to unify Newark's 60 percent black, 10 percent Puerto Rican and 30 percent "minority" (his term) populations, he is a political moderate who will not be razzle-dazzled by rhetoric or forced to act because others think he should. Quiet, methodical, unobtrusive, he explains: "I don't do anything too rapidly. I don't read fast or walk fast or run fast. My basic metabolism is slow. Even my heart doesn't beat fast."

Such a general posture helps explain Gibson's response last March when 75 persons, led by fiery state senator Anthony Imperiale and city councilman Anthony Carrino, arrived at City Hall in a chartered bus and demanded to see the mayor. They had come to protest the appointment by Police Director Williams of Capt. Edward Cullen as commander of the city's North Ward. Supposedly angered because Cullen did not live in the ward (they wanted to handpick a police officer who did), they had demonstrated in front of Williams' home the previous night. The protestors pushed their way past several secretaries to the mayor's waiting room even though they were told that he was on the phone. Within minutes, Carrino, a policeman on leave from the force since his 1974 election to the City Council, kicked open the locked door of Gibson's private office and the crowd bulled its way in shoving the mayor's bodyguard, Police Detective Will Darden, across the office, breaking a pen-and-pencil set on Gibson's desk, and standing on chairs and a conference table to hurl racial epithets.

Recovering from the surprise onslaught, Darden pulled out his service revolver and aimed it at Carrino. Meanwhile, like the eye in a hurricane, Gibson sat calmly behind his desk, waited a few minutes for the crowd to quiet down, then invited them to participate in a discussion in the larger City Council chambers nearby. Carrino and Imperiale did most of the talking, repeatedly hurling obscenities at Gibson to dramatize their disagreement with him on a variety of issues. Their obscenities were greeted with frequent applause.

"You are ignoring the people," Imperiale bellowed. "You are not going to push all the whites out of the city. If you try, you are going to have a fight on your hands."

"You all pay my salary," Gibson responded, "but you all don't pay me to take abuse. Anyone who breaks into my office will be asked to leave." And then he turned the matter over to legal authorities. Nearly two months later, Carrino received a six-month suspended jail sentence, six months probation and a $850 fine on charges of assaulting Gibson and willfully damaging city property. To the mayor's dismay, Carrino was acquitted on other, more serious charges.

The bizarre series of events hint at the rigors of Gibson's occupation. Some observers feel that his political base in Newark has become so eroded that he is beginning to develop strategy to undermine the stiff mayoral competition City Council President Earl Harris is expected to pose in 1978. Harris, a fellow black, reportedly has charged that "three-quarters of Gibson's appointees are incompetents—they collect top salaries, carry briefcases and spend two to three hours a day in the ginmills." Harris promised the Council would "investigate" Gibson's employes within the next six months and dismiss those "guilty of thinking and acting like their appointments are 52-week vacations." To sustain the physical fitness he needs to survive his trials, the mayor arises at 6 o'clock in the morning, jogs in the city parks from 7 a.m. until 8:30 a.m., then returns to his moderately priced private home in the solidly black Central Ward where, he has said, "We wouldn't mind whites moving in if they kept their property up, refrained from playing loud music and from late-night parties."

A succession of Newark's diverse population troops in and out of Gibson's busy office, airing problems, complaints and hopes for Newark's future that create a daily barometer of much of urban America's problems. Wrestling with those problems will be Gibson's continuing challenge as president of the United States Conference of Mayors. Recently he called for the formation of a "national urban policy" to outline the future of American cities. "No one deals with the question of what do we expect from our cities and how well they find the funds to provide essential services to their residents," he complained to a group of New York investment specialists. One hope for the cities, the mayor continued, was to expand the current relationship they have with their business communities. The proposal flows from his understanding that Newark is not really run by its mayor but rather by the big business leaders of the city. Hence, as he later explained in Milwaukee, "political power" is non-existent. What a mayor exerts is "political influence"—that is, he tries to influence the real power brokers of America. That, in any case, is how Kenneth Allen Gibson conceives his role in Newark. Whether he can institutionalize that insight during his one-year term as USCM president remains to be seen.

VOTING RECORD

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. BROWN of Ohio. Mr. Speaker, this will conclude my listing of my voting record for the 1st session of the 94th Congress. I hope it will be valuable in assisting interested persons in evaluating my votes. The material follows:

VOTING RECORD

H.R. 25—SURFACE MINING CONTROL AND RECLAMATION ACT

Amendment requiring Director of Office of Surface Mining Reclamation and Enforcement to report directly to Assistant Secretary of Interior for Land & Water Resources, adopted 145–100, no; Amendment to provide transfer of administering responsibility from Interior to EPA, rejected 67–147, no; Amendment to abolish proposed reclamation fee and to finance the abandoned Mine Reclamation Fund with $200 million per year from outer Continental Shelf leasing revenue, rejected 140–250, aye; Amendment prohibiting issuance of any permits for surface coal mining on slopes of 20 degrees or more, rejected 136–262, no; Amendment to prohibit surface coal mining operations in National grasslands, rejected 168–248, no; Amendment to strike section on Anthracite coal mines, rejected 170–248, aye.

Final passage, a bill providing for cooperation between Interior Secretary and states with respect to regulation of surface mining operations and acquisition and reclamation of abandoned mines, passed 333–86, yea; 3–18–75.

Conference Report, adopted to provide minimum Federal standards for regulation of surface mining and the reclamation of strip-mined lands, adopted 293–115, nay; 5–7–75.

Motion to postpone a House vote to either sustain or override the Presidents veto, agreed to 208–195, nay; passage over the President's veto, rejected 278–143, nay; 6–10–75.

H.R. 5559 TAX REDUCTIONS

Conference report, motion to adopt the conference report on the bill to cut taxes by $8.4 billion by extending 1975 tax reductions through June 30, 1976, rejected 256–160, Nay; 12–16–75.

Attempt to override the President's veto was rejected 265–157, Nay; 12–19–75.

H.R. 9968 TAX, REVENUE ADJUSTMENT ACT

Motion to concur in the Senate amendment with an amendment pledging Congress to attempt to cut fiscal 1977 spending to equal any further extension of 1975 tax cuts beyond the January 1 to June 30 extension provided by H.R. 9968, agreed to 472–10, Yea; 12–19–75.

H. RES. 732 STATE INCOME TAX

Motion to pass the bill to authorize the voluntary withholding of state income taxes for members of Congress and congressional employees, agreed to 394–7, Yea; 11–4–75.

H.R. 2166 TAX REDUCTION ACT

Amendment to retain depletion allowance for natural gas subject to Federal price regulations, rejected 157–254, Aye; Amendment to retain depletion allowance for first 3,000 barrels of oil produced daily by independent firms that owned no gasoline stations, refineries or pipelines, rejected 197–216, Aye; Amendment to allow a 15% depletion allowance until 1985 on oil pumped from Alaska's N. Slope oil fields, rejected 81–239, Aye; Amendment repealing 22% oil depletion allowance available for natural gas sold under Federal price regulations until 7–1–76 or until the price ceiling was increased and for natural gas sold under fixed price contracts until price was increased, adopted 248–163, Nay; Amendment to substitute $12 billion rebate on '74 taxes for Committee bill provisions granting an $8.1 billion rebate for '74 taxes and reducing '75 taxes by $8.1 billion, rejected 160–251, Aye.

Final passage, a bill to cut Federal taxes by $16.2 billion for individuals over two years and $5.1 billion for businesses over three years and repealing percentage depletion allowance for most oil and gas income retroaction to 1–1–75, passed 317–97, Aye; 2–27–75.

Conference report, adopted 287–125, Yea; 3–26–75.

H.R. 10612 TAX REFORM ACT

Motion to order the previous question, thus ending debate and barring the introduction of amendments, agreed to 219–197, Nay; Amendment to delete provisions allowing individual with capital losses in excess of $3,000 in any year starting in 1974 to carry them back against capital gains in three previous years, adopted 379–27, No; Amendment to strike the enacting clause, rejected 60–355, Aye; Amendment to apply a limitation on artificial losses to real estate on a property by property basis, making the provision fully effective on persons with investments in more than one real estate project, rejected 192–226, No; Amendment to tighten provisions to strengthen the minimum tax on preference income by expanding the list of tax preferences subject to the tax and by eliminating completely a deduction for 50% of regular federal income taxes in computing the minimum tax, adopted 315–107, No; Amendment to delete provisions establishing a limitation on artificial losses and tightening the minimum tax and substitute provisions to impose federal income taxes on a minimum taxable income including tax preferences, rejected 85–334, No; Amendment to delete provisions to repeal the existing 30% withholding tax on dividends and interests earned by foreign portfolio investments in the U.S., adopted 301–119, No; Amendment to shorten to three years from five years the grace period provided in provisions limiting the amount of export income by a domestic international sales corporation eligible for deferral of federal taxes, rejected 199–223, No; Motion to recommit the bill to the Ways and Means Committee, rejected 202–220, Yea.

Final passage, A bill to reduce 1976 individual and business taxes by $15.5 billion, passed 257–168, Nay; 12–4–75.

CHINA AFTER MAO

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. WOLFF. Mr. Speaker, the record of more than 9 months of hearings I have been privileged to chair on the tripartite relationship between China, Russia and our own country will soon be published. And last April, I journeyed to China herself in the company of Chairman PRICE of Armed Services and other colleagues to view the Chinese defense systems in Manchuria, and to meet with the Chinese leadership in Peking.

While the death of Chairman Mao has been expected for some time, the passing of a statesman of Mao's stature means that no matter how great the "expert," predictions on what will happen in China remain educated guesswork at best.

Because of my recent visit, and thanks to the wealth of information made available to my future foreign policy subcommittee, a number of news organizations yesterday solicited my views on the meaning of the passing of Mao. I would like to share with my colleagues the gist of my remarks in the hope that they may find useful some of the thoughts gained from my recent experience:

STATEMENT OF HONORABLE LESTER L. WOLFF, CHAIRMAN, SUBCOMMITTEE ON FUTURE FOREIGN POLICY RESEARCH AND DEVELOPMENTS ON DEATH OF MAO TSE-TUNG

September 9, 1976.

The passing of Communist Party Chairman Mao Tse-tung brings sharply into focus the problems that have been emerging since the death of Chou En-lai in January: Who will succeed to Party leadership and will the transition be made calmly or in turmoil?

Since Mao's illness pre-dated Chou's death and his recent frailty had cut his participation in China's political life to ceremonial appearances, it is most likely that the mechanism for ruling post-Mao China has already been put into place.

If Mao's death has already been discounted, as I believe it has, then the future Chinese leadership is most likely to be a consortium of interests. (There is no one on the scene today, apparently, neither a so-called "moderate" nor "radical", of sufficient stature to replace Mao. Of his early colleagues from the Yennan hills that survive in the Party hierarchy, both Yeh Chien-ying, Standing Committee CCP, and Minister of Defense, Liu Po-ch'ang, Standing Committee CCP, are aged and infirm.) Whether this consortium could manage—as had the Mao-Chou leadership—to keep the opposing factions of "moderates" and "radicals" in relatively peaceful tension, is the major problem facing China today.

The spotlight at this moment, however, must be on Moscow as well as Peking. Will Mao's death signal a move for Soviet adventurism along their 4,500 mile common border? Will the Soviet Union make a move to test the strength and cohesiveness of the new Chinese leadership? Or might Moscow make an attempt to heal the deep Sino-Soviet split that in 1960 broke the communist world into two opposing camps?

The major issue in U.S. relations with the PRC is the question of normalization, according Peking the full diplomatic recognition implied in the Shanghai Communique that was jointly issued in 1972. Would our move to normalize relations at this time, a position advocated by many China specialists, pre-empt any Soviet effort to regain a measure of influence in Peking?

I was told in a recent trip to Peking that ideological differences between the Chinese and the Soviet Union would last 10,000 years. I was also told, however, by senior Chinese officials in Peking that the relationship between the United States and the PRC is based on "our common adversary"—the Soviet Union. Should the United States seize this moment for building a deeper and more meaningful relationship with the post-Mao leadership?

We cannot help but speculate at this moment about the emerging personalities of the new hierarchy. When I was in China just a couple of months ago, I had a long talk with Chang Chun-chiao. Since Mao's death, he is the Number 2 man, after Premier Hua Kuo-feng. But he wears the three caps of ultimate power (Standing Committee CCP; Political Commissar of the PLA; Senior Vice President of Government) which makes him a leading candidate for the top position in the consortium. Chang is also a man with a foot in each camp—he was a Radical; he is now considered a bridge to the Moderates. And I suspect that it is the "Radicals" with their emphasis on revolutionary ideology who will emerge with greater strength in the post-Mao leadership.

I would like to comment also briefly on the recent looting and gangsterism that has been taking place in China. While the looting is described as post-earthquake hooliganism, the great earth-movement itself has roots in Chinese folklore. It supposedly has heralded a major dynastic change in Chinese history since the time of the Hans in 200 BC. The fact that a major earthquake took place as Mao lay dying may well be perceived as a popular signal if not of great post-Mao changes, then of present discontent.

TIME FOR ANOTHER CCC

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. FRASER. Mr. Speaker, the recent upward trend in the unemployment rate clearly shows that the recovery from this deep recession is, at best, slow. New entrants into the labor force are having the toughest time finding jobs. In some urban areas almost half of the young men and women are unable to find work. Nationally the teenage unemployment rate has been hovering at about 20 percent.

In the depression of the 1930's the Civilian Conservation Corps provided jobs for 2.5 million young people. Among those young workers was Harold Chucker, now associate editor of the Minneapolis Star. In an article in the Star of August 31, Chucker makes a persuasive case for creation of a similar program, the Young Adult Conservation Corps.

Like the CCC, the corps will provide many benefits: Young people will have jobs to earn both money and self-esteem. They will be learning both skills and good work habits needed for meaningful careers. At the same time society gains needed services in areas where public spending has lagged.

I would like to share with my colleagues this article "Idea Whose Time Has Returned" by Harold Chucker.

[From the Minneapolis Star, Aug. 31, 1976]

IDEA WHOSE TIME HAS RETURNED

(By Harold Chucker)

The spring of 1939 was not the best of times to lose a job, even a part-time, low-paying, muscle-over-brains type of job. Bad as it was, it still had paid my tuition ($26 a quarter at that time) for three years at the University of Minnesota.

There was double-digit unemployment, and no jobs to be had anywhere during that depression year. With my senior year at the university six months away, and with no money put aside for tuition, I turned in desperation to the Civilian Conservation Corps.

The corps, an innovation of Franklin Roosevelt's New Deal, took me in, and for three months I was a conservation worker at a camp near Brimson, Minn., almost directly north of Duluth. The work was hard—we planted trees and built roads—the food was adequate, if plain, and the barracks were primitive. The pay was minuscule by today's standards—$30 a month, with the CCC worker permitted to keep $5 and the rest going to his family. For myself, and the mostly rural youths in the camp, the CCC was a lucky windfall.

The corps was formed in 1933—during Roosevelt's "hundred days"—and lasted until 1942, when World War II and the demand for labor in the war industries created a labor shortage. During the period in which it existed, 2.5 million youths served in the CCC.

They worked in national and state parks, built dams and bridges, planted trees, and worked on restoration projects. During off-duty hours, they attended classes that gave

them basic learning skills as well as the elements of a trade.

The pay was important in helping many families bridge the gap between hunger and having food on the table. But in retrospect, what was even more important was providing their first work experience for the several million youths who were not able to find jobs on the farms and in the towns and cities.

The problem is somewhat different today, although there are strong similarities in the plight of millions of youths—mostly minorities—who are chronically unemployed and face becoming adults with no work experience. Unemployment among young blacks range from the official estimate of 40 percent to upward of 70 percent. It is no accident that crime and vandalism have become serious problems in cities where there are large concentrations of unemployed young blacks.

For several years now, there have been calls for creation of another version of the CCC to meet the youth unemployment problem at least part way. Last May, the House of Representatives passed a bill to create a year-round program to put young people to work improving public land.

The Young Adult Jobs Bill was designed to supplement the successful Youth Conservation Corps, which was established in 1970 to provide summer employment for 15- and 19-year-olds. The new measure was aimed at a slightly older group, and would give hiring preference to those living in areas with unemployment rates of 6 percent or more.

There is no lack of work for what would be the Young Adult Conservation Corps. The national parks are overrun by visitors and seriously undermanned because of budget cuts. There is not even enough park personnel to do routine maintenance work. A report of the House Education and Labor Committee also noted there is a reforestation backlog of 3 million acres. The bill originally called for appropriations of $9.1 billion over the next four fiscal years. The House, however, adopted an amendment offered by Rep. Al Quie, R-Minn., to authorize appropriation of "such sums as may be necessary." Quie said his amendment was designed to eliminate "unreasonable goals" for appropriations, and to avoid making "false promises."

The corps, in its first year, would employ up to 100,000 youths; during the fourth year, it would have up to 500,000. Unlike the CCC, youths could serve in the new corps for only a year. Pay would be at least the minimum wage, now $2.30 an hour.

Unfortunately, the Senate is so preoccupied with other measures which its leaders feel have higher priority that the Young Adult Conservation Corps seems dead for this year. When the new Congress takes office in January, backers of the legislation will have to start all over again.

The CCC, born in a period of deep economic depression, was an idea whose time had come. Today, there is no depression; rather, there is a modest recovery from the recent recession. But structural unemployment among young people, especially those with no skills, is an increasingly serious problem. The Young Adult Conservation Corps, modeled after the CCC, is an idea whose time has returned.

DAM SYSTEM SAVED STATE IN DROUGHT

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. JOHNSON of California. Mr. Speaker, as many of my colleagues know, California has experienced one of the most severe droughts in recorded history. It has been serious and the damage has been substantial, but it has not been a catastrophy. The main reason that this is true is because of an outstanding system of reservoirs built and maintained by the Federal and State governments in California.

In recent years, we have heard from some who have objected to reservoir development. I have been a supporter of this water resource program, as you all well know, for I feel that it is essential that man conserve and use wisely the most important of the God-given resources—water. In California today, we have a dramatic example of the importance of this.

Tom Arden, a staff reporter on the Sacramento Bee, has written a concise, knowledgeable article about the importance of the reservoirs in California in this critically dry year. So that my colleagues may benefit from the report prepared by an unbiased, dedicated newsman. I insert the article entitled "Dam System Saved State in Drought" in the CONGRESSIONAL RECORD at this point.

DAM SYSTEM SAVED STATE IN DROUGHT

(By Tom Arden)

The year of the drought—1976—has found some streams have dried up as August begins. Others have slowed to a trickle and the major rivers have a natural runoff reminiscent of the driest years on record—years when water was not in as heavy a demand as 1976.

Salvation has been the water stored behind the dams on the Sacramento, Feather and American Rivers as the result of earlier wet years.

The current objective is to maintain this year a safe water quality in the Sacramento-San Joaquin Delta. Plans for 1977 are indefinite. Federal and state officials are hesitant to even hazard a prediction on whether next year will be another dry year.

About all that can be done, figures David Schuster, chief of water control for the federal Central Valleys Project, is consider the odds that there will not be a repeat of a disastrous drought next year and hope for rain.

"We don't put much faith in long range forecasts, says Schuster. Rather than strict curtailment of water use, water contract commitments are being met. This is being done at heavy cost to the storage in Northern California's CVP and state-operated water project reservoirs.

The six major reservoirs will end the 1976 irrigation season—Oct. 1—with only about 5 million acre feet of storage.

This compares, federal and state officials report, to storage of more than 10.5 million acre feet at the end of last year's irrigation season.

A comparison of last year's carryover to the projected storage this coming Oct. 1, with the 1975 figures listed first, are:

Shasta Lake, 3,569,500, 930,000; Clair Engle Lake behind Trinity Dam, 2,040,700, 1.5 million; Lake Oroville, 2,857,472, 1,726,000; Folsom Lake, 773,000, 320,000; Lake Millerton behind Friant Dam, 160,100, 135,000, and San Luis reservoir, 1,031,600, 387,000.

The total capacity of the major reservoirs is more than 14 million acre feet which means by the fall storage will be down to 30 to 40 percent of capacity, lowest in the history of the system, which initially went into operation in the 1940s with the construction of Shasta Dam on the upper Sacramento River.

The operation of the extensive dam system is a cooperative function of the Bureau of Reclamation and State Department of Water Resources.

The bureau is meeting 75 per cent of all water demands on the Sacramento River from Redding to the Sacramento Delta, including delta outflows for water quality maintenance. The state is required to meet 25 per cent of the needs.

The drawdown at Shasta Lake has been particularly heavy, the storage level dropping to 1,635,000 compared to storage of nearly 4.1 million acre feet at this time last year. The state's Lake Oroville, second to the 4.5 million acre foot capacity Lake Shasta as the largest reservoir, has lowered to 2.1 million acre feet. This is nearly 1.3 million acre feet less storage than last year at this time in the 3.5 million capacity Oroville reservoir on the Feather River.

In the 2.5 million capacity Clair Engle Lake storage at the current time is about 1,820,000 acre feet compared to 2.3 million last year. Folsom Lake on the American River has been depleted to 515,000 acre feet in contrast to 857,000 at this date last year.

Lake Millerton on the San Joaquin River, with a capacity of 520,000 acre feet, has a storage of 240,000 acre feet and storage in San Luis reservoir in Merced County is down to around 759,000 acre feet of its 2.1 million acre foot capacity. Both are considerably below last year's levels at this date also.

Ironically, the Bureau of Reclamation's Lake Berryessa behind Monticello Dam just west of the Sacramento Valley has "water to burn." The 1.6 million acre foot capacity reservoir currently has nearly 1.2 million acre feet of storage and is projected to drop only to about 1 million acre feet at the end of the season.

Billy Martin, regional director of the Bureau of Reclamation, said during July the natural flows in the Sacramento River system, which includes the American and Feather Rivers and several smaller streams, had dipped to about 4,500 cubic feet per second. Martin said by the end of 1976, the CVP is expected to deliver more than 6 million acre feet of water for farming and municipal and industrial use.

In stressing the handicap of water management by not knowing what the future will bring, Ronald B. Robie, state director of water resources, commented, "We may well be storing water this year that should be utilized; on the other hand, we may be using water now which should be kept in storage."

Robie said his agency is actively working to develop technology for long-range weather forecasting. The state is participating in Project Hydrospect II with the Scripps Institution of Oceanography.

"Forecasts for the current season, because of changing and modifying the forecast procedures," Robie stated, "were inconclusive and would have been no great assistance to operations.

"Therefore, much as we would like to be able to predict next year's weather, probably the best forecast we can make at this time is that it will be a surprise.

"It will be surprisingly wet, surprisingly dry or, most improbable of all, surprisingly normal. Until we have greater assurances of our ability to predict the future, we will necessarily be limited in our management capabilities."

In addition to a prayer for rain, Robie emphasized it is essential that water agencies each develop plans to cope with a dry 1977 and extended drought even beyond next year.

"Urban areas must involve people, identify non-essential uses, assess water supply sources and develop strategies. Agricultural area strategies involve reduced water use, selective loss of usual crop production, and increased use of groundwater.

"Regional strategies could include water exchanges, temporary heavy pumping of

groundwater, and local groundwater use in lieu of surface water to extend supplies. Reduction of high water using crops such as rice would require assessment of the impact on the industry as a whole and the world market. Use of evaporation suppressants and anti-transpirants could also be employed."

SELECT COMMITTEE ON NARCOTICS CONTROL AND ABUSE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. WOLFF. Mr. Speaker, periodically I distribute a newsletter to my constituents in a continuing effort to keep them informed of my activities as their representative in Washington.

In the present instance, I felt that the initiative of this Congress, acting with the encouragement of the leadership, in our recent creation of the Select Committee on Narcotics Control and Abuse was a landmark step which would be welcome news to the people of Long Island.

I would like to share with my colleagues my latest newsletter:

DEAR FRIEND AND CONSTITUENT: Drug abuse, the torment that is eroding the potential capabilities of much of America's youth, is not waning, but rather has spread to the point where the number of hard core drug addicts has doubled and the annual toll for drug related crime now costs this nation more than $27 billion. The number of addicts today, according to NIDA figures, totals 800,000, up from the high point of the 60's of 500,000.

We cannot tolerate the deaths of 5,000 young Americans each year from overdoses or as victims of drug related crime. We cannot tolerate the continuing high incidence of crime that is spawned by drug abuse—our nation's economy is suffering enough without this further drain on its resources. Remember, no heroin is grown in this country—all is brought in from abroad to contaminate Americans.

As you know, I have been working for many years to stem the tide of this rising drug scourge by attacking the root causes of the problem, the poppy fields of Turkey, the Golden Triangle of Asia and of Latin America that produce the supplies for the international traffickers.

Back when the Administration took my recommendation and had Turkey cut off its opium production, the addict population in the United States dropped to 250,000. It shows it can be done with cooperation. Up to the present time, I have only had the power of persuasion. Now, I have been named Chairman of the Select House Committee on Narcotics Abuse and Control, armed with subpoena power to drag in those of organized crime who prey on our children, and I can deal not only with the international aspects of the drug problem but with the domestic operations running the gamut from investigation and law enforcement to social implications and drug rehabilitation.

This Select Committee, a full committee of the House, will coordinate the efforts o the seven House committees and subcommittees that heretofore have exercised jurisdiction over the various facets of the overall drug problem—from the poppy fields to the veins of America's youth. For far too long, jurisdiction over this complex issue of drug abuse and control has been fragmented among legislative committees with the result that little in the way of a concerted effort to actually reverse the scourge has been realized.

An "umbrella" was needed to unite these forces of the House in the war against drugs. My Committee on Narcotics Abuse and Control is that vehicle.

In brief, the House on July 29 voted overwhelmingly (361–10) to establish the Select Committee and I was appointed Chairman by the Speaker. Seventeen of my colleagues on a bipartisan basis, Democrats and Republicans, were named to serve with me on this new committee including Chairman Peter Rodino of the House Judiciary Committee, Chairman Rogers of the Subcommittee on Health and Environment and New York Congressmen Rangel, Scheuer, Badillo and Gilman. Together, we will examine the total problem, both here and abroad, and effect meaningful measures to eliminate this problem which tears at the heart of our Nation. As an aside, I am the only member of the New York Congressional Delegation who heads a full Committee of the House.

We will not close our eyes to any segment of the drug scourge nor will we place political considerations or motivatings above the most treacherous enemy our Nation has ever faced—debilitating drug addiction.

During my past investigations of the opium producing countries, as Chairman of the Special House Subcommittee on International Narcotics, I have been criticized for demanding that farmers abroad stop growing opium in quantities beyond that required for legitimate medical purposes, for their excess only feeds the illegal markets. I have been told by those in foreign countries that, as long as America remains lax in cracking down on its flourishing drug markets, the poppies will continue to bloom and be harvested—a poignant example of the age old axiom of supply and demand.

My Select Committee intends to take a hard line. We will exert every effort to plug both ends of this deadly pipeline, at the sources and in the markets where the greedy fingers of organized crime ply their ugly trade.

Only when we have curbed both the production of the poppy and have broken up the major syndicates that import and distribute the heroin, will we have lived up to our obligation and responsibility to protect those who are being plagued more and more by abuses and crimes directly attributable to illegal drug use. Street crime is still on the rise. Walking the streets in safety, keeping a secure house is a problem for every American family today. Drug abuse is at the heart of this problem.

We do not intend, however, to limit our scope to illegal trafficking and law enforcement. More jails and more criminals imprisoned are not the long term solutions to the control of drug abuse.

We have set up as one of our prime goals, the entire syndrome of the drug user: "Why really is American youth into the drug scene?"

Enforcement programs must be balanced with a penetrating study of the contributing social factors if we are to successfully come to grips with all aspects of the drug problem and achieve our objectives.

My colleagues and I will thoroughly investigate the reasons responsible for the rampant increase in drug abuse—international trafficking, organized crime, law enforcement, narcotics in the military, as well as existing education prevention, treatment and rehabilitation programs and the criminal justice system that deals with narcotics laws and drug related crimes. Under our mandate from the Congress, we will review and recommend changes, where needed, to narcotics abuse and control policies made by the President and any federal department or agency and examine the judicial response, or lack of it, to the drug problem.

We cannot permit the aspirations and goals of our society and of future generations of Americans to become further corroded by a lethal drug culture that already has gained too deep a foothold. I intend to pursue a vigorous course, for we can no longer afford to pay the awesome price of allowing our citizens and institutions to be destroyed by drugs.

Sincerely,

LESTER WOLFF.

FULL EMPLOYMENT IS NECESSARY FOR EQUALITY OF SEXES

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. HAWKINS. Mr. Speaker, Audrey C. Cohen, the president of the College for Human Services, delivered a very enlightening speech on the topic "Women and a Full Employment Policy." Her primary theme states that a Federal policy of full employment is a basic prerequisite if equality for women is to be achieved. She discusses the role women could play in a full employment economy, placing great stress on the development of a service society, one which places equal importance on service and production. Her speech is an instructive insight into the future of our society, if we are to continue to better the quality of life. Ms. Cohen's speech, given before the Full Employment Action Council on May 7, 1976, follows:

WOMEN AND A FULL EMPLOYMENT POLICY

(Speech by Audrey C. Cohen)

I am committed to a policy of full employment. Only under such a policy can we initiate a total program of job development to meet human needs . . . can we create new employment opportunities that will give women real equality of opportunity. Only in this way can our economic structure be made compatible with the fundamental changes taking place in our society today. Let me elaborate.

One of the major changes we are seeing is, of course, in the role and position of women. The Women's Movement has brought to the forefront the discontent that many women—and many men—feel with traditional roles and behaviors. Under the pressure generated by Women's Movement, we have begun to realize that women, as well as men, must be allowed to fulfill their own potential, to make choices about the courses of their lives.

Virtually everyone acknowledges the endless discrimination to which women have been subjected. Reforms have begun—new legislation, significant court decisions, affirmative action policies, for example. But this is not enough. Without a fundamental rethinking of our domestic economic policies, women, along with minorities, will continue to be "last hired, first fired." New directions can change this, and, at the same time, give us unparalleled opportnuities to improve the quality of life for all Americans.

In the last 20 years female participation in the work force has doubled. Women are working because they have to work. Forty percent of our work force is female. Thirty-seven percent of those women work to support themselves. Thirty-nine percent work to supplement another family income—where that supplement is essential to a

decent standard of living. Women predominate in community services such as health, education, and social welfare. Women also predominate in clerical and sales work. According to economist Victor Fuchs, by 1980 the dominant tone of our society will be set by this service component. Clearly then, women can be in the vanguard of a new society. Not only can women be expected to fill prominent roles in the industrial sector—and I support any mechanisms that make this possible—but they can be at the forefront in the broadening—and in many ways, new—service sector. It is on the latter—the service sector—that I wish to focus this testimony.

With service becoming more and more important, with employment opportunities concentrated in the service sector, service positions will gain new status. At the same time, wages must be made commensurate with those in the production sector. Full employment is the mechanism and the impetus we need to effect both these developments. It is time for us to change gears, to put human beings—men and women—into jobs where service to people is paramount.

Let me sketch briefly for you some of the other changes in our society that support the need for a new economic policy. They are basic. They involve changes in our values, our view of ourselves and others, the systems that affect our lives, the skills that are necessary for the work that must be done, and to achieve our goals.

The very values which women cite as important to them in a work situation—an opportunity to put ideas in practice, the need for self-expression, and the chance to make a significant contribution—are in total harmony with the ethos of a service society. Women entering or re-entering the work force wish to combine their very real economic motivation with their desire to make a positive contribution. The greatest opportunity to achieve these goals lies in people work. Here is the place where human needs and an ethos which responds to those needs meet.

In a service society a strong relationship exists between the humanizing of women and the kinds of jobs we should be opening in the human services. But the conclusion is inescapable that today the service worker does not receive the prestige and is not valued as he or she should be. We cannot arbitrarily elevate the importance of the worker in either service or industry. But it is essential that through our educational system we begin to reorder our values and attitudes so that work of all kinds is given the respect it deserves. This means that work done by women must be given the respect it deserves, and there must be an end now and for all time to unequal pay for equal work. A virtue of the service society is that it will help all of us to see each other as human beings and to break down the divisions of race and sex.

Women have an impressive history of activism. Women fought for child labor laws, pure food and drugs, for factory safety legislation, for conservation and health reform. Women were early activists in the labor movement and continue to fight for social and political issues that affect their lives.

Mothers in Manhattan lead the struggle to keep schools open. Young women in The Bronx spearhead a program of community health education.

The unifying theme of all these actions by women is a demand for more humane values. Working women no longer view themselves in a single context. Ninety percent of American women will be working at least part of their lives. Having made gains in entering the labor force in recent years, women are not about to return exclusively to the home. When nearly one-half of all women say that they want to participate in a rewarding activity outside the home, this reflects a radical change in social attitudes that will have a long-range effect on the labor market, on social customs, and on family life. The costs of an ungratified existence can be gauged by the high percentage of alcoholics, the amount of pills and drugs consumed, the number of abused children, and the soaring crime rate.

The systems that affect all our lives affect women in unique ways. At the whim of economic policy we are Rosie the Riveter during World War II, and Betty Crocker when the economy buckles and men need jobs. The texture of family life is changing. Declining fertility rates and the closer spacing of births have freed up a woman's time for paid work outside her home. Yet when employment cutbacks strike, the first casualty is those very supportive services that make feasible both jobs and children. New York City government-sponsored day-care has been cut drastically. As a result, some families need welfare to supplement time lost from the job to meet child care demands. This is economics at its most counter-productive. People who are employed pay taxes, buy goods. They contribute to and stimulate the economy, whereas the unemployed drain the economy. Tax dollars that could be used to develop new jobs are, instead, siphoned off to pay unemployment compensation, and family assistance subsidies. Of course we have a moral obligation and responsibility to help each other. But how much better is it to create jobs, rather than to make it difficult and, sometimes, even a disadvantage, to work.

There is another aspect to the employment problems women face. It is cultural rather than economic and begins early in life with educational materials, and follows the girl and then the young women through testing, counseling, right into job availability. The stereotype is bolstered and the potential contribution of women downgraded. Women are not exactly encouraged to seek factory work, although we have been doing so in increasing numbers. Math, science, and management have been areas in which aspiring young women have been discouraged. And there has been nothing subtle about it—it has been overt, resulting in systematic direction of women down a path toward jobs considered suitable for members of the weaker sex.

Three-fourths of all persons receiving welfare supplements or some form of public assistance are women. Fifteen percent of working mothers earn such low pay that they receive welfare supplements just to survive. A controlled recession is presumed to contain inflation. The result? Those most recently hired, women and minority groups, are the victims. Mr. Keyserling tells us this is not sound economics. Whether it is equitable is beyond question. The answer is a thunderous "NO"!

Full employment must mean an end to the divisive competition between women, men, and minorities for existing jobs. Legislation that prohibits job discrimination against women is toothless without job opportunities for all who wish to work—men and women alike. Yet deep in our culture is the feeling, hidden just below the surface today, that in times of high unemployment, equity means one job per family, and that job ought to go to the man. I say to you that justice and economic progress are inseparable. The skills of many talented and competent women will be lost to us unless we recognize the richness inherent in full employment opportunities. Women are a great natural resource. Let us make creative use of this abundant human energy.

For women, full employment means a chance to bring their skills to a job market. We cannot follow the sexist patterns of the past. Developing service occupations means learning new roles. Everyone learning new roles. There is no reason why a woman cannot be president of a corporation that services computers, or manages department stores, or administers a health facility. Some have already achieved such positions and have shown themselves thoroughly competent. More women will follow in their steps. There is no dichotomy between warmth and decisiveness. Leadership devoid of understanding is a disaster. In that service society upon which our country is now entering, where close to 70 percent of our working population will be involved in rendering service, attitudes of interest, concern for one another, and a desire to offer quality are essential. This applies whether the service rendered is maintaining a heating system for a house full of fellow human beings, or helping to decide where a foster child's best interests lie.

Women insist upon recognition of their skills and capabilities. This recognition can be made to mean something only through full employment. We don't want to carry off a trophy engraved with our good works. We want jobs. However, a full employment policy will be meaningless both to women and men without a re-ordering of our priorities; a rethinking of our goals. We must define and meet human needs. The cost of unmet needs is already too high in human anguish, mental illness, crime, destruction of property, poverty and deprivation, welfare. We must translate our needs into jobs.

Now to specifics:

The elderly need a variety of services: nutritional and recreational programs, quality nursing homes, services for the severely ill or disabled. Such services are less expensive than the costs of institutionalization; but more important, they are the very least that we owe to old people.

We need a program of home rehabilitation to maintain our housing stock and to permit people of all ages to live in neighborhoods where a sense of community and self-respect is intact.

There is a shortage of nurses on every level. We need facilities and personnel adequate to the demand to deal with alcohol and drug abuse, mental health problems, and handicapped people.

We need children's and youth services including: day care; programs for pregnant teenagers; for those with home problems; runaways, delinquents, and those who will shortly be delinquents.

In this City our schools are closing down rapidly. Let's bring back the teachers and put them to work educating not only the young, but the middle-aged and elderly. We talk about education as a lifelong ongoing process. Let us make that a reality.

Clearly, there are job shortages in the area of service to people. Human services not only provides jobs themselves, but generate other jobs, too, such as planning, development, and programming. A service society requires clerks, supervisors, trainers. It also creates jobs through a multitude of ancillary activities—for example, the construction of new facilities requiring building-trades workers, the use of materials, and heavy equipment.

Full employment is essential to the preservation of a democratic society, and it need not be inflationary. It can be achieved through programs and proposals that increase or extend the quality of life. Our present system limits access. It maintains the status quo. Our shortage of providers of human services is too often the result of an arbitrary definition of what constitutes professionalism in the delivery of service.

Human services can best be provided by comprehensive training that is germane to jobs. We need education that prepares not only men, but women, too, for rewarding work at decent wages; education that fosters behaviors free of sex stereotypes; education that imbues students with self-confidence. Let's plan a system of learning that makes mutual responsibility to each other more valued than self-interest.

Such education requires a blending of theory plus practice in the field. It also calls for development of well-defined human service skills. As for credentials—I believe that

the capacity to perform will be the new guideline. The service worker and professional of the future will tend to be assessed by the citizen who receives service.

Implicity in all that I have said is a recognition that the effective service worker must have such hard skills as the ability to draw up a sound, sophisticated budget; a working knowledge of math and statistics; capacity to use the computer as a tool; a multitude of necessary management skills. The "working-with-people" abilities that women have learned so well will combine with these solid skills to allow women to take their place as executives and managers, in addition to all the other work roles in a service society.

An approach like this one is more likely to create worker satisfaction than any form of education yet devised. Furthermore, the creation of essential jobs may finally rectify the double inequities of too few jobs and inadequate services.

A plan for full employment can only be implemented with our support. We must each see the benefit, economically and socially, of our fellow citizens joining us on the work force and sharing in the satisfactions of leading productive lives. Most importantly—we must welcome women.

CONGRESSMAN OTIS G. PIKE REPORTS TO HIS CONSTITUENTS ON 2D SESSION, 94TH CONGRESS

HON. OTIS G. PIKE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. PIKE. Mr. Speaker, I take this opportunity, as the 94th Congress, hopefully, approaches adjournment, to report to the people of the First Congressional District of the State of New York on the actions and activities of that Congress and of their Congressman.

Some sessions of Congress are rather easy to characterize—2 years ago, for example, the great issues were energy and Watergate. Last year the two great issues were the collapse of the government of South Vietnam and the sickness of our economy at home. This year has not been marked by any single great issues, but rather by a great host of important, but not overwhelming, issues—frequently in conflict with each other. The economy has been better this year, but is still not good. Our energy problems have moved from shortages at the pump to higher prices and an ever greater dependence on other people, particularly the Middle Eastern countries, for our energy supplies and our lifestyle.

The legislative year just passed has featured an almost evenly balanced conflict between those who would sacrifice the environment for the sake of jobs and those who would sacrifice jobs for the sake of environment. A similar conflict has existed throughout the year, between those who would endure more inflation in order to reduce unemployment and those who would endure greater unemployment in order to reduce inflation.

As we approach the end of our Bicentennial year, it is fitting to remember that these or similar conflicts have always existed within any political or governmental system and it is part of the uniqueness and success of our own system that these conflicts do get resolved by popular will and majority vote—eventually. The year featured some disappointments and some successes, but so do most years.

As this is written we have had since our first vote on January 19, 538 votes on record issues which is not only more votes that can be included in any annual report of reasonable length, it is more votes than Congressmen themselves can handle intelligently. It seems to this Congressman that the institution of Congress itself is being challenged to streamline its own procedures. We have far too many votes on junk. We have votes on wholly noncontroversial issues. We have unnecessary votes on procedural matters. We have useless quorum calls. Any Member with a grudge or a hangover can force a vote in the House on a trivial issue in order to vent his spleen. One of the great problems of the Congress—far more important than the aberrations such as Elizabeth Ray which preempted so much of the media last year, is the eternal conflict between the necessity of protecting the rights of the minority—even a minority of one Member in the House and the necessity of seeing that what the majority wants gets accomplished. In this session of Congress and in the preceding session of Congress, we have done a great deal about ending the abuses of the seniority system, of conflicts of interest, of campaign financing, of government in secret. We have not made Congress an efficient instrument for carrying out national policies and this must be our goal in the years ahead.

Our Bicentennial year started in a rather noncontroversial manner. In January, in the first of many energy bills considered during the year, we amended the law pertaining to the use of coal deposits on Federal lands. At the end of the month we had the first of many confrontations with the President passing, over his veto, appropriations for health and education which were larger than he wanted and cutting off aid to Angola. The House timidly voted to suppress the report of the House Select Committee on Intelligence thereby setting the stage for another investigation as to how Dan Schorr got it. (It turned out he already had it before the House voted to suppress it.) In February, a very controversial and close vote was won by the oil and gas lobby when the price of some natural gas was freed from regulation. Another controversial, but not so close, issue involved continuing the public employment program providing up to 600,000 emergency jobs. Jobs were the issue in another vote to override a Presidential veto in February, when we passed a $6.1 billion job-creating public works bill, including anti-recession aid to State and local governments. By the end of February we had the first, but not the last, vote of the year on a bill to increase the debt limit and, as always, I remain amazed at the number of people who can vote to create new programs for which there is no money and then vote against increasing the debt in the name of fiscal responsibility.

March saw the passage of a bill important to our area authorizing $1.45 billion in Federal financial aid to help coastal areas cope with the problems inevitably associated with the development of offshore oil and gas resources and a bill even more important to our area—the final passage of the bill establishing a 200-mile exclusive U.S. fishing zone in order to protect our fishermen from foreign competition and depletion of our dwindling fisheries resources.

The following month we reestablished the Federal Election Commission which the Supreme Court had ruled in its earlier version to be partly unconstitutional and at the moment it is working again, but not without strain and criticism.

A new scare called swine flu appeared on the horizon and the Congress with rare haste appropriated $135 million in order to produce a vaccine to immunize all Americans against it. We had our annual debate over procurement for defense and eventually passed the largest military procurement bill in my career—$33.3 billion. Before doing so, we had our annual vote on continuing the B–1 bomber and by a narrow margin, the House voted to continue it. The closer it gets to production, apparently, the more people vote against it.

Having voted to spend $33.3 billion for weapons procurement in 1977, we voted to spend $250 million for the arts and humanities. We then voted to provide $3.2 billion to other countries for arms and military assistance.

One of the hopeful developments out of this Congress has been the adoption by the Congress of a congressional budget process which has the aim of making Congress really look at budget priorities and make hard choices instead of simply voting for everything and against raising the national debt. The last votes of April were largely on this issue.

In May, we authorized $10.9 million for programs to protect our waterways and ocean waters from unregulated dumping. While the concept is good, the amount authorized hardly scratches the surface of the problem.

In May, we also handled several bills of interest to environmentalists, including extending the sea-grant college program, tightening safety regulations in the construction of gas pipelines, authorizing $256 million for the Environmental Protection Agency and $450 million for the land and water conservation fund. We authorized $116 million for solar, thermal, and wind energy development programs, and a total of $7.4 billion for both nuclear and nonnuclear programs of the Energy Research and Development Administration. We established a program to employ young adults in conservation projects on public lands.

June marked the end of the old fiscal year and the beginning of a 3-month interim period during which we changed the accounting system of the U.S. Government from the fiscal year running from July 1 through June 30 in each year to a fiscal year running from October 1 through September 30 in each year. This was done in the hope that we might get our appropriation bills voted on so that the people in the Government agencies would know what they were going to have to spend before they had to start

spending it. During June the House voted on many appropriation bills—most of which I voted for, but some of which (foreign aid, agricultural price support) I voted against. Before we got through appropriating $3.4 billion for military construction and $105 billion for Defense Department operations and programs with my support and $7 billion for foreign military assistance (I voted "no" on this one) we had to increase the national debt limit again.

We continued every politician's favorite giveaway program—revenue sharing—and 153 Congressmen who voted to give away money we haven't got, voted against increasing the national debt.

With most of our appropriation bills out of the way, we had time in July to revise our own rules as an offshoot of the Elizabeth Ray case, do something for consumers, extend the unemployment compensation law to almost 9 million additional workers and override another Presidential veto of a bill providing money for public works projects, including sewage treatment facilities.

July and August were interrupted by the two national political conventions. Unfortunately, but perhaps inevitably, more and more of our actions seem to take on a political flavor as the Presidential campaigns heat up. The President's veto of the bill changing the law on coal deposits on Federal lands was overridden and the House passed a bill permitting voters to register by post card for Federal elections. The President promised to veto this one if the Senate passed it.

We amended the brand new swine flu program to make the Federal Government rather than the drug manufacturers the primary target for lawsuits which might be instituted by anyone who believed he had been made ill by the shots.

We got into a lot of parliamentary tangles and political oratory on the subject of the estate and gift tax revision, on salaries for Congressmen, judges, and other Federal officials, on clean air, and the budget for fiscal 1977.

To put the budget in perspective, most of the political oratory involves very tiny differences between the budget as proposed by the President and the budget as enacted by Congress. The largest change in the congressional budget from the President's recommendation amounted to a reduction of 1.6 percent in what we are spending for income security for retired and poor people from 34.8 percent of the bduget recommended by the President to 33.2 percent of the budget recommended by Congress. The largest increase was from 4.2 percent of the budget recommended by the President for education, job training, employment, and social services to 5.4 percent recommended by the Congress. The oratory will continue and the differences will continue to be relatively small.

Before the Congress adjourns, it is my hope that we can complete action on a decent income tax reform bill and a decent revision of the estate and gift tax law—both of which my own Committee on Ways and Means labored hard to achieve and completed action on some time ago. Then it will be time for the 94th Congress in the history of our Nation to pass into history.

It has not been a great Congress and it has not been a miserable Congress. It has been an average Congress—dealing as best it could with the kind of problems which have always been there and which always will.

Your Congressman, once his stint as Chairman of the House Committee on Intelligence was over, returned to his job on the Ways and Means Committee where the work is more demanding, tedious, and meticulous than it was on the Armed Services Committee, but where our actions affect the daily lives of all Americans. The best thing about the Ways and Means Committee is that it is philosophically balanced. We have a great many issues which are hotly and closely contested and every Member's vote means something.

On a personal note, it seems to me that we continue to work harder although we don't necessarily get more done. Since reporting to you last, I have stayed healthy, had some frustrations, continued to think that the privilege of representing the more than half-million people of the First Congressional District of New York was a very high honor and tried to treat the job accordingly.

As of 10:03 p.m. on September 9, 1976, when the House adjourned, we have had 538 record votes this year. Your Congressman was present and voting on 531 of them.

Listed below are most of the major or tough controversial ones. I will be more than happy to have your views on this record:

Date	Issue	Pike vote
1976		
Jan. 19	Bill to make federal grants to states to reimburse local school districts for the actual costs they incurred in providing education services to Indochinese refugee students. (yea 311; nay 75)	Yea
Jan. 21	Bill to amend the Mineral Leasing Act of 1920 to revise procedures governing the leasing and development of coal deposits on federal lands. (yea 344; nay 51)	Yea
Jan. 27	Passage, over the President's veto, of the bill to make fiscal 1976 appropriations of $36,073,748,318 and transition period appropriations of $8,953,070,000 for the Departments of Labor and Health, Education and Welfare and related agencies. (yea 310; nay 113)	Yea
Jan. 27	Bar U.S. aid to the factions fighting in the civil war in Angola except for intelligence gathering. Motion agreed to. (yea 323; nay 99)	Yea
Jan. 29	Rules Committee amendment authorizing the House Select Intelligence Committee to file a report on the CIA and other intelligence agencies by Jan. 30, but barring the release of classified information until the study had been certified by the President as not containing information that would adversely affect the intelligence activities of the CIA or other agencies. (yea 246; nay 124)	Nay
Feb. 5	Bill to deregulate the price of natural gas sold by small producers with sales of less than 100-billion cubic feet a year, but continue regulation of major gas producers by the Federal Power Commission. (yea 205; nay 194)	Yea
Feb. 9	Bill to strengthen the authority of the Secretary of Agriculture to establish and enforce humane standards for the transportation of animals in interstate commerce, to make violators subject to civil and criminal penalties, and to prohibit and make a federal crime transporting animals in interstate commerce for the purpose of holding animal fights involving live birds, dogs or other mammals. (yea 335; nay 34)	Yea
Feb. 10	Bill to authorize the continuation through fiscal 1977 of the public employment program under the Comprehensive Employment and Training Act, providing up to 320,000 emergency jobs, and to establish a new project-oriented public service jobs program to create an additional 280,000 jobs. (yea 239; nay 154)	Yea
Feb. 17	Extend the Library Service and Construction Act for five years, through fiscal 1981. (yea 378; nay 7)	Yea
Feb. 18	Appropriate $2.032-billion to provide for the purchase of Consolidated Rail Corporation (ConRail) securities by the United States Railway Association for fiscal years 1976, 1978, 1979. (yea 298; nay 95)	Yea
Feb. 19	Passage, over the President's veto, of the bill to authorize $6.1 billion for job-creating public works projects and anti-recession aid to state and local governments. (yea 319; nay 98)	Yea
Feb. 19	Resolution to require the House Committee on Standards of Official Conduct to look into the circumstances surrounding publication of portions of the report of the	

Date	Issue	Pike vote
	House Select Intelligence Committee and to make recommendations. (yea 269; nay 115)	Yea
Feb. 25	Bill to raise the temporary debt limit by $32 billion, to $627 billion, through June 30, 1976. (yea 212; nay 189)	Yea
Mar. 4	Appropriate $4,989,013,054 for foreign military and economic assistance and related programs in fiscal 1976. (yea 214; nay 152)	Nay
Mar. 9	Bill to outlaw credit discrimination based on age, race, color, religion or national origin. (yea 384; nay 3)	Yea
Mar. 11	Authorize $1.45 billion in new federal financial aid over five years to help coastal states cope with the development of their offshore oil and gas resources. (yea 370; nay 14)	Yea
Mar. 11	Authorize $445,041,000 in fiscal 1977 for certain maritime programs of the Commerce Department including maritime training and education at the Merchant Marine Academy at Kings Point, N.Y. (yea 315; nay 42)	Yea
Mar. 22	Authorize $81 million in fiscal 1977 for programs and administrative expenses of the Peace Corps. (yea 274; nay 75)	Yea
Mar. 22	Authorize $3.7 billion for the National Aeronautics and Space Administration for fiscal 1977. (yea 330; nay 35)	Yea
Mar. 23	Provide $125 million to help states comply with health, safety, and staffing standards for federally supported day care centers serving low-income families. (yea 316; nay 72)	Yea
Mar. 23	Joint resolution to amend the Constitution to provide for voting representation for the District of Columbia in Congress. (yea 229; nay 181) (failed—requires two-thirds vote)	Nay
Mar. 25	Authorize $801 million in fiscal 1977 for the National Science Foundation. (yea 358; nay 33)	Yea
Mar. 29	Authorizing the House Committee on Standards of Official Conduct to spend up to $150,000 in its investigation of the unauthorized release of the final report of the Select Committee on Intelligence. (yea 278; nay 87)	Nay
Mar. 30	Bill to give federal employees the right to participate in partisan political campaigns and to run for local, state or federal office. (yea 241; nay 164)	Yea
Mar. 30	Adoption of the conference report on the Bill to extend the 12-mile exclusive U.S. fishing zone off U.S. coasts to 200 miles in order to protect American fishermen from foreign competition for scarce fish stocks, and to establish eight regional fish conservation councils. (yea 346; nay 52)	Yea
Mar. 31	Bill to authorize production of oil and gas from U.S. Naval Petroleum Reserves. (yea 390; nay 5)	Nay
Apr. 1	Reconstitute the Federal Election Commission and to make revisions in the 1974 campaign finance law. (yea 241; nay 155)	Yea
Apr. 5	Authorize $304,069,000 in fiscal 1977 for procurement of Coast Guard vessels and aircraft and for the construction of facilities. (yea 358; nay 9)	Yea
Apr. 5	Appropriate $135,064,000 in fiscal 1976 to finance the production of a vaccine to immunize U.S. citizens against swine influenza. (yea 354; nay 12)	Yea
Apr. 8	Defer expenditure of $960 million recommended in the bill for purchase of 3 B-1 bombers until the President certified to Congress, after Feb. 1, 1977, that the purchase was in the national interest and Congress approved the purchase by concurrent resolution. (yea 177; nay 210)	Yea
Apr. 9	Authorize appropriation of $33.3 billion for weapons procurement and military research and development programs of the Defense Department in fiscal 1977. (yea 298; nay 52)	Yea
Apr. 12	Authorize $1.3 billion in fiscal 1976–78 for federal programs to combat heart, lung and blood diseases, to prevent and control genetic diseases and to provide research training support for students in advanced scientific fields. (yea 360; nay 0)	Yea
Apr. 13	Supplemental appropriations of $8.1 billion for fiscal year 1976 and $2.3 billion for the transition period, July-Sept. 1976, including $2.4 billion for public assistance grants to the states, $2.6 billion to pay for a 5% wage increase for federal workers, and $1.6 billion for increased veterans benefits. (yea 352; nay 35)	Yea
Apr. 26	Authorize a total of $250 million for fiscal 1977, $297 million for fiscal 1978 and open-ended funding for fiscal 1979 and 1980 to extend support for the National Foundation on the Arts and Humanities. (yea 279; nay 59)	Yea
Apr. 28	Add $610 million in budget authority and outlays to the veterans' affairs budget category for extension of eligibility for educational benefits. (yea 218; nay 188)	Yea
Apr. 28	Reduce budget authority for national defense to $110 billion, from $112 billion, and reduce outlays to $100.3 billion, from $100.6 billion. (yea 145; nay 255)	Nay
Apr. 29	Passage, over the President's veto, of the bill to give federal employees the right to participate in partisan political campaigns and to run for local, state or federal office. Rejected (thus sustaining the President's veto). (yea 243; nay 160). (Requires two-thirds vote)	Yea
Apr. 29	Adoption of the resolution setting fiscal 1977 budget targets of $454.1 billion in budget authority, $415.4 billion in outlays, revenues of $363 billion and a deficit of $52.4 billion. (yea 221; nay 155)	Yea
Apr. 30	Extend through Sept. 30, 1976, the authorization for appropriations under Title VI of the Comprehensive Employment and Training Act. (yea 287; nay 42)	Yea
Apr. 30	Provide a payment of $50,000 to the family of any law enforcement officer killed in the line of duty. (yea 199; nay 93)	Yea
Apr. 30	Provide a $50,000 payment to the family of any firefighter killed in the line of duty. (yea 178; nay 80)	Yea
May 3	Authorize $10.9 million through fiscal 1977 for programs to protect the nation's waterways and ocean waters from unregulated dumping. (yea 362; nay 0)	Yea
May 4	Passage, over the President's veto, of the bill to provide $125 million through Sept. 30, 1976, to help states comply with health, safety and staffing standards for federally supported day care centers serving low-income families. (yea 301; nay 101)	Yea
May 4	Passage of the bill to authorize $256.6 million for EPA research and development activities in fiscal 1977. (yea 381; nay 16)	Yea
May 5	Increase the annual authorization for the Land and Water Conservation Fund to $450 million in fiscal 1978, $625 million in fiscal 1979 and $800 million in fiscal 1980–89; and to establish a federal grant program for preservation of historic properties. (yea 392; nay 3)	Yea
May 12	Extend for one year the authorization for federal aid to higher education programs. (yea 388; nay 7)	Yea
May 17	Establish a federal Commission on Security and Cooperation in Europe to monitor compliance with and violations of the 1975 Helsinki Agreement, particularly its humanitarian principles. (yea 240; nay 95)	Yea
May 19	Authorize $116 million for solar electric, ocean thermal, wind energy, biomass and related research and development programs by allocating $58 million to solar heating and cooling programs and $58 million to other solar programs and to delete line-item authorizations for specific solar technologies and provisions to increase the ERDA Solar Division staff by 74 positions. (yea 321; nay 68)	Yea

Date	Issue	Pike vote
May 20	Authorize $2.25 billion for the U.S. share of Inter-American Development Bank loan funds through fiscal 1979, and providing for U.S. participation in the African Development Fund. (yea 275; nay 120)	Yea
May 20	Authorize $7.4 billion in fiscal 1977 for Energy Research and Development (ERDA) nuclear and non-nuclear programs. (yea 316; nay 26)	Yea
May 21	Authorize $481.5 million in fiscal 1977–79 for federal programs designed to prevent and treat alcoholism and alcohol abuse. (yea 271; nay 3)	Yea
May 21	Authorize $318.25 million in fiscal 1977–79 for federal health services research, health statistics and medical library programs. (yea 268; nay 8)	Yea
May 24	Authorize an additional assistant secretary in the Department of Commerce for congressional affairs. (yea 143; nay 178)	Nay
May 25	Establish a program to employ young adults in public service conservation projects on public lands. (yea 291; nay 70)	Yea
June 2	Delete language added by the International Relations Committee placing a ceiling on military assistance to South Korea during fiscal 1976–77 of $290 million. (yea 241; nay 159)	Nay
June 2	Authorize $3.2 billion in foreign military assistance, weapons sales credits, security aid and related programs for fiscal 1976 and $3.1 billion for fiscal 1977; the bill also imposed new controls on the sale of military equipment by both the federal government and U.S. private industry to other countries. (yea 255; nay 140)	Nay
June 3	Authorize fiscal 1977–79 funds for the Federal Water Pollution Control Act Amendments of 1972 and to make certain modifications in the 1972 law. (yea 339; nay 5)	Yea
June 9	Authorize grants to the National Railroad Passenger Corporation (Amtrak) of $430 million for fiscal 1977 for operating expenses, $140 million for each of fiscal 1977 and 1978 for capital needs and $68 million for fiscal 1977 and $75 million for fiscal 1978 for passenger service in the Washington-Boston population corridor. (yea 359; nay 21)	Yea
June 10	Resolution to give the chairman and ranking minority member of the House Committee on Standards of Official Conduct temporary authority through the 94th Congress to get funds for committee expenses from the House contingent fund. (yea 400; nay 0)	Yea
June 10	Extend the federal revenue sharing program to Sept. 30, 1980, and to authorize the distribution of $24.95 billion as an entitlement to state and local governments. (yea 361; nay 35)	Nay
June 11	Authorize $49,290,000 for planning, design and construction of winter sports facilities at Lake Placid, N.Y. for the 1980 Olympic Winter Games. (yea 179; nay 147)	Yea
June 14	Provide fiscal 1977 appropriations of $8,267,636,000 for Treasury, postal service and general government operations, including funds for the White House and the Executive Office of the President. (yea 261; nay 99)	Yea
June 14	Raise the temporary debt limit to $700 billion through Sept. 30, 1977. (yea 184; nay 177)	Yea
June 15	Appropriate $9,666,809,000 in fiscal 1977 for public water and power projects and for Energy Research and Development Administration (ERDA) operating expenses and construction projects. The bill also provided $200 million in supplemental fiscal 1976 appropriations to compensate victims of the June 5, 1976, Teton River Dam disaster in Idaho. (yea 378; nay 20)	Yea
June 16	Appropriate $11,703,438,000 for the Department of Agriculture and related agencies for fiscal 1977. (yea 377; nay 26)	Nay
June 17	Appropriate $105,397,343,000 for operations and programs of the Department of Defense for fiscal 1977. (yea 331, nays 53) —	Yea
June 21	Make permanent the 8% increase provided in PL 94–169 for eligible veterans, widows and other dependents and to provide a 7% cost-of-living increase in benefits, effective Jan. 1, 1977, and to raise the limitation on outside income that recipients may earn. (yea 354; nay 0)	Yea
June 22	Resolution expressing the sense of the House that the Postal Service should not close small post offices, except in cases of clear and compelling need, or make any other cuts in service for the period of a year following adoption of the resolution. (yea 399; nay 14)	Yea
June 22	Appropriate $42,982,730,000 in fiscal 1977 for the Department of Housing and Urban Development, Veterans Administration, National Aeronautics and Space Administration, National Science Foundation and other independent agencies. (yea 369; nay 18)	Yea
June 23	Authorize funding through fiscal 1977 of $2 billion for job-creating state and local public works projects, $1.25 billion for countercyclical aid to help state and local governments maintain services and $700 million for waste water treatment programs. (yea 328; nay 83)	Yea
June 24	Exempt farming operations in which 10 or fewer persons were employed from OSHA regulations. (yea 273; nay 124)	Yea
June 24	Prohibit use of funds in the Labor-HEW Appropriations bill to pay for or to promote abortions. (yea 207; nay 167)	Yea
June 25	Appropriations of $5,957,896,000 for the Interior Department and related agencies in fiscal 1977. (yea 295; nay 1)	Yea
June 28	Prohibit use of funds in the Transportation Appropriations bill for commercial flights of supersonic transport (SST) jets to land at U.S. airports until the aircraft could meet federal noise standards. (yea 126; nay 269)	Yea
June 28	Passage of the bill to appropriate $5,296,077,357 for the transportation programs of the Dept. of Transportation and related agencies in fiscal 1977. (yea 376; nay 21)	Yea
June 28	Appropriate $5,179,890,909 for foreign assistance programs in fiscal 1976 and $759,275,000 for the July-Sept. transition period. (yea 231; nay 158)	Nay
June 29	Passage of the bill to appropriate $4,833,498,000 for foreign assistance programs in fiscal 1977. (yea 238; nay 169)	Nay
June 30	Authorize $850 million in fiscal 1977 contract authority for federally subsidized housing programs, to increase funding available for housing programs for the elderly and to extend a number of other housing-related programs through fiscal 1977. (yea 341; nay 68)	Yea
June 30	Appropriate $6,680,314,453 in fiscal 1977 for the Departments of State, Justice and Commerce, the Judiciary and 20 related agencies. (yea 360; nay 42)	Yea
June 30	Resolution expressing disapproval of the House to the administration's energy action No. 3 removing price and allocation controls from certain heating oil and diesel fuel. (yea 194; nay 208)	Yea
July 1	Adoption of the resolution to rescind the unilateral authority of the House Administration Committee to alter members' perquisites. (yea 311; nay 92)	Yea
July 1	Adoption of the bill appropriating $3,338,795,000 for fiscal 1977 for military construction programs and family housing for the armed services. (yea 357; nay 26)	Yea
July 20	Amendment to require states to pay a maximum weekly benefit equal to 50% of a claimant's weekly wage, up to two-thirds	

Date	Issue	Pike vote
	of the statewide average weekly wage in covered employment. (yea 113; nay 281)	Nay
July 20	Bill to extend coverage to 8.9 million additional workers, to increase the tax rate temporarily to 0.7% from 0.5%, and to increase the taxable wage base to $6,000 from $4,200. (yea 237; nay 157)	Yea
July 21	Bill to revise leasing procedures for the oil and gas resources on the Outer Continental Shelf. (yea 247; nay 140)	Yea
July 22	Passage, over the President's veto, the bill to authorize funding through fiscal 1977 of $2 billion for job-creating state and local public works projects, $1.25 billion for anti-recessionary aid to help state and local governments maintain services and $700 million for waste water treatment programs. (yea 310; nay 96)	Yea
July 22	Passage, over the President's veto, the bill to authorize $3.3 billion for military construction projects in fiscal 1977 and to require a year's advance notice of Pentagon plans to close or greatly reduce any major military base in the U.S. (yea 270; nay 131)	Yea
July 22	Bill to consolidate and strengthen the administration of public lands and make changes in federal grazing laws. (yea 169; nay 155)	Yea
July 27	Bill to amend the Articles of Agreement of the International Monetary Fund to permit floating exchange rates. (yea 289; nay 121)	Yea
July 27	Passage of the bill to prohibit debt collection agencies operating in more than one state from engaging in certain practices unfair to consumers. (yea 239; nay 162)	Yea
July 28	Passage of the bill to strengthen mine health and safety standards and enforcement practices. (yea 309; nay 66)	Yea
July 28	Passage of the bill to require that all meetings of federal agencies headed by 2 or more persons be open to the public unless the members voted to close a meeting for specified reasons. (yea 390; nay 5)	Yea
July 29	Bill to permit California to continue to pay special bonuses to Supplemental Security Income (SSI) recipients instead of entitling them to food stamps only if the state also passed federal cost-of-living increases in SSI benefits through to recipients. (yea 210; nay 179)	Nay
July 29	Adoption of the resolution to establish a House Select Committee on Narcotics Abuse and Control. (yea 361; nay 10)	Yea
July 30	Passage of the bill to authorize $475.6 million in fiscal 1978–80 for improvement of Indian health care programs. (yea 310; nay 9)	Yea
Aug. 2	Establish in the Energy Research and Development Administration (ERDA) an Energy Extension Service to provide a program of assistance to state and local governments on energy conservation. (yea 323; nay 55)	Yea
Aug. 4	Passage, over the President's veto, of the bill to amend the Mineral Leasing Act of 1920 to revise procedures governing the leasing and development of coal deposits on federal lands. (yea 316; nay 85)	Yea
Aug. 5	Passage of the bill to require annual federal payments to local governments to partially compensate for loss of tax revenues because of tax-exempt federal lands within their boundaries. (yea 270; nay 125)	Nay
Aug. 9	Bill to create a Voter Registration Administration within the Federal Election Commission to authorize a nation-wide voter postcard registration program. (yea 239; nay 147)	Yea
Aug. 10	Extending the life of the Federal Energy Administration through 1977, providing for federal financial incentives for energy conservation, eliminating certain oil price constraints, and encouraging reform of electric rate structures. (yea 293; nay 88)	Yea
Aug. 10	Bill to designate a 26.5 mile stretch of the New River in North Carolina as part of the Wild and Scenic Rivers System, thus invalidating a Federal Power Commission license for the construction of a hydroelectric power project. (yea 311; nay 73)	Yea
Aug. 10	Appropriate $56,618,207,575 for the Departments of Labor and Health, Education, and Welfare and related agencies for fiscal 1977. (yea 279; nay 100)	Yea
Aug. 10	Motion that the House recede from its disagreement to the Senate amendment striking from the bill a section to forbid the use of federal funds to pay for, promote or encourage abortions. (yea 150; nay 223)	Nay
Aug. 10	Passage of the bill to authorize a national swine flu immunization program and to give the federal government primary liability for law suits arising from the program. (yea 250; nay 83)	Yea
Aug. 23	Bill to establish a federal regulatory program for industrial and commercial chemicals, to require manufacturers to notify the Environmental Protection Agency (EPA) before marketing new chemicals and to authorize the agency to require testing of potentially dangerous substances. (yea 319; nay 45)	Yea
Aug. 24	Bill to give George Washington the rank of General of the Armies of the United States. (yea 275; nay 107)	Nay
Aug. 25	Passage of the bill to extend the federal guaranteed student loan program through fiscal 1980 and to modify the program to reduce the loan default rate. (yea 391; nay 3)	Yea
Aug. 25	Appropriations through fiscal 1977 of $2 billion for job-creating state and local public works projects, $1.25 billion for "countercyclical" aid to help state and local governments maintain services and $200 million for waste water treatment programs. (yea 311; nay 72)	Yea
Aug. 26	Authorizing the chairman of the Subcommittee on Oversight and Investigation of the Interstate and Foreign Commerce Committee to intervene in a pending court case regarding telephone wiretap information held by the American Telephone and Telegraph Co., and authorizing $50,000 to employ special counsel in the case. (yea 180; nay 143)	Yea
Aug. 30	Passage of the bill to revise the federal Supplemental Security Income (SSI) welfare program for the aged, blind and disabled. (yea 374; nay 3)	Yea
Aug. 31	Bill to authorize $100 million for the first two years of a five-year program to promote development of cars that use nonpetroleum-based fuels. (yea 344; nay 39)	Yea
Sept. 1	Amendment to Legislative Appropriations bill to deny the automatic cost-of-living salary increase scheduled to take effect on Oct. 1 for members of the House, senators, judges and top-level federal officials. (yea 325; nay 75)	Nay
Sept. 2	Passage of the bill to extend Law Enforcement Assistance Administration Authorization for one year, through fiscal 1977, with an authorization level of $895 million. (yea 324; nay 8)	Yea

COMPETITION IN THE TELEPHONE INDUSTRY

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. FRASER. Mr. Speaker, the appropriate role of competition in the telecommunications industry is a question many of us in the Congress are wrestling with. From my own study of the issue I have found that the limited degree of competition now allowed by the FCC in the terminal equipment and private line services has been useful in promoting and hastening technological changes. These improvements in the kinds of equipment available for consumers have been made both by the new competitors and by the Bell System.

Two events have occurred within the last few weeks which may have a major impact on the degree of competition which will eventually be allowed in the industry. First, Administrative Judge David Kraushaar issued a lengthy decision in the Federal Communications Commission docket 18128, which investigated the structure of A.T. & T. and Western Electric and the rate schedule for interstate long-distance telephone service. Second, on August 26 Data Transmission Corp.—Datron—which competed with A.T. & T. in transmitting computerized data, went out of business. This decision was reached 1 day after officials of Datron filed an antitrust suit against A.T. & T. on charges of predatory pricing practices designed to establish barriers to entry to competitors in the communications market and driving existing competitors out of business.

Much publicity has been given to Judge Kraushaar's decision which was largely favorable to A.T. & T., but I would like to bring to the attention of my colleagues a portion of the judge's ruling. In this section of the ruling, Judge Kraushaar summarizes much of the trial staff's findings on the atmosphere in the telecommunications industry after the Carterfone decision in 1968.

I think this record speaks for the positive role competition plays in bringing new products to the market. A.T. & T. was so aware of the shortcomings of some of its PBX equipment for the specialized needs of certain customers that it allowed Bell operating companies to purchase the non-Bell equipment to supply its customers.

The result of the Carterfone decision was not poor service as the telephone company had predicted. Instead it was a period of new and exicting developments as companies sought to meet the specialized needs of businesses. Such innovation would have been impossible to mandate by FCC regulations—but the FCC was able to effect such through its rulings to allow carefully restricted competition.

I would like to share with my colleagues portions of Judge Kraushaar's decision which deal with the developments in technology due, at least in part, to meeting the pressures of competition:

d. The Post-Carterfone Era, 1969–73.

357. The Trial Staff's proposed findings adequately review the changes in the market environment after *Carterfone*. Because of the market metamorphosis in the competitive climate that has occurred and the significance of this topic most of these findings are adopted (with editorial revisions) below.

358. As electronic PBXs became available in the 1960's it became apparent that these were not economical compared with the systems they were to replace. Also, independently manufactured products became available to the operating telephone company customers due to *Carterfone* in 1968. The impact of the latter on Western's PBX Product Line of the 60's has already been demonstrated, and, as will be shown, competition continued to impact the Bell System PBX service throughout the 1970's.

359. In November, 1968 the New Products Board, which was the forerunner of the Customer Products Council (CPC) recognized that interconnection would result in a more competitive market which would require "faster policy level decision on products and services being sold directly to customers." After discussing the role it should play in improving the decision process, the Board decided to review in detail the Bell System position in the PBX market. This review took place at the next meeting in January, 1969, where it was reported (Trial Staff Phase II Ex. 296C–22, p. 4):

The presentation and discussion which developed were intended to acquaint Board members with our current posture in this market and to highlight weaknesses in our present line of offerings and services. Broad comparisons of cost, size and features of Bell System and competitive devices indicated need for more variety in our PBX line for small to medium users. It is expected that Marketing, Engineering, Western Electric and the Labs will step up efforts to develop the necessary new offerings. The New Products Board will be kept advised.

Competition had already probed the market and deficiencies were found in the Bell product line serving small and medium users. These users comprised over 80% of total PBX users.

360. To meet the new competitive threat, Bell determined that a new product line and a new approach to the PBX market was necessary. The new product line was to be comprised of the 801A, 805A, 802A and 770A PBXs. The new approach to the PBX market included the new Western Electric Denver Plant, and greater emphasis on all aspects of the PBX market by the entire Bell System.

361. In the period 1969–70 some Bell operating telephone companies were beginning to consider the purchase of PBX equipment from non-Bell manufacturers. These purchases were tabulated and enumerated by the "Subscriber Product Information and Research Department" of Western Electric. Figures on the expected Bell operating company purchases of non-Bell equipment for the year 1970 were also tabulated. The major suppliers of non-Bell equipment were ITT and Nippon Electric, a Japanese manufacturer. In total, the purchases of non-Bell equipment came to 84 PBXs, with an additional purchase of 83 PBXs being planned.

362. SNETCO, *supra*, one of the Bell operating telephone companies that had purchased non-Bell equipment, declared in a memo entitled "Outside Suppliers—Customer Equipment," dated July 7, 1969, the reason for such purchases (Trial Staff Phase II Ex. 296C–22, p. 16):

For some time now, our ability to provide our PBX and Centrex customers with the service they want—on relatively short notice—with modern equipment—and at a reasonable cost to us has been in jeopardy. For obsolete step-by-step equipment (701PK, 701B), intervals are long and costs are high—particularly engineering and installation labor costs which are increasing rapidly; packaged crossbar systems (756A, 757A), are costly and the 757A has proved to be troublesome to install and maintain, modern electronic system development (810A) seems to be lagging. These conditions force us to look to manufacturers outside the Bell System.

Outside manufacturers appear to be equipped to meet our needs. There are four specific areas where we are impressed.

363. The four specific areas that "impressed" SNETCO about the independent manufacturers were: i) features; ii) schedules; iii) attitude; and iv) costs. These areas were not being met satisfactorily by Western in SNETCO's opinion. The conclusion of SNETCO's memo on Outside Suppliers was: "we can obtain well designed, reliable PBX equipment from manufacturing outside the Bell System, at reasonable cost, within reasonable time intervals at attractive prices." Trial Staff Phase II Ex. 296C–22, p. 17). SNETCO's management evidently thought well enough of its actions to report to its State Public Utilities Commission that its purchase from non-Bell suppliers had saved the company about 2.1 million dollars in one year.

364. Mr. Schiavoni, AT&T Engineering Director, Customer Telephone Systems, wrote the Engineering Staff heads of all the Bell operating telephone companies on March 30, 1970, concerning their recent interest in non-Bell PBX systems. After extolling the advantages of future Western equipment, to be available in 1971 and 1972, Mr. Schiavoni declared: "It is our understanding that a number of the operating companies are interested in non-Bell PBX systems to meet service commitments. In this connection, arrangements have been made for Western Eletcric Company to purchase PBXs of other than Western manufacturers for the operating companies when requested to do so." Trial Staff Phase II Ex. 296C–19, p. 23. The letter also provided information to the operating companies on various non-Bell PBXs.

365. Mr. Schiavoni sent two follow up letters to his March 30, 1970 General Letter. The first letter, dated April 16, 1970, transmitted planning information on the proposed electronic PBX product line and requested the operating telephone companies' views on plans for utilizing electronic PBX systems. The letter explained that the PBX product line would be comprised of the 101 ESS, 801A, 805A and 810A PBXs. Mr. Schiavoni noted that the five systems which he listed were "clearly not the final line, and indeed may not be a complete product line." Mr. Schiavoni also solicited information from the operating telephone company customers concerning the types of products that should be provided.

366. The second letter by Mr. Schiavoni, dated June 22, 1970, was a supplement to his March 30, 1970 General Letter. It provided a basic review of the Nippon Electric NA4–09. It was sent because "considerable interest" had been expressed by the operating companies in the NA4–09 PBX.

367. Mr. Ellinghaus, AT&T Executive Vice President, sent a letter to the Presidents of the operating companies dated June 25, 1970 supporting the three General Letters by Mr. Schiavoni. After discussing the availability of the new Western Electric Product Line, Mr. Ellinghaus explained that, while it was Bell's continuing intention to serve business customers, operating telephone companies ought to consider outside manufactured PBXs where "Bell System PBXs do not fully satisfy significant customer needs and our new designs are not yet available."

368. The record reflects two responses from the operating companies to the series of letters from Mr. Schiavoni and Mr. Ellinghaus. The first is a letter, dated September 28, 1974, from Mr. McMillan, Chairman of the TelCo CUE to Mr. Schiavoni. Mr. McMillan presented the TelCo CUE position

with respect to these letters stating (Trial Staff Phase II Ex. 296C–19, p. 34):

We believe you will find most, if not all, companies opposed to the discontinuance of the 756A PBX at this time. Because of the significant cost difference, neither the 800A nor the proposed 810A are considered a suitable replacement for the 756A. Outside suppliers are quickly becoming capable of meeting customer service demands and with the current interconnection policy, we must be able to provide comparable service at comparable cost if we are to place them in a competitive environment. In addition, we must realize a reduction in installation intervals and customer space requirements.

Mr. McMillan concluded his letter by stating (Trial Staff Phase II Ex. 296C–19, p. 35):

The Operating Companies would like the opportunity to express their views on plans for using the total dial PBX product line—those systems existed today as well as the proposed 800 line of PBX systems proposed in the 70's. We believe a different picture may emerge than that presented by the April, 1970 survey.

Seemingly, the operating companies did not believe that the new product line would be able to meet the competitive equipment and services provided by independent manufacturers.

369. The second response to the series of letters from Mr. Schiavoni was from Assistant Vice President—Planning, and Assistant Vice President—Development, of New York Telephone Company. Their reply to Mr. Schiavoni made several points concerning Messrs. Schiavoni's and Ellinghaus' letters. First, they reiterated the position of the TelCo CUE on the replacement of the 756A PBX with the 800 electronic PBX product line stating: "We do not consider the 800A or 801 a suitable replacement for the 756A, because of the significant cost differential in favor of the latter system." Second, they indicated that New York Tel. was "giving serious consideration" to the purchase of non-Bell PBX systems due to price and availability. But they indicated "[u]se of these systems, if adopted, will not be considered as an expedient or an interim measure," as recommended by Mr. Ellinghaus. Finally, they made it clear that long term planning was "nebulous at this time" because there was no firm cost, price, and availability information available from Western on its new product line.

371. In the July, 1970 meeting of the PBX Council, the activities of both Bell and the independent suppliers in the PBX market were discussed. First, the Council noted that a Cost Price Review Team (CPRT) was undertaking a comprehensive review of customer switching prices using independently manufactured competitive machines as a basis for comparison. Second, the Council discussed the Current Business Picture. Western's representatives explained that one reason for the current surplus of PBX systems at Western was the rapidly increasing rate of lost sales * * * purchase of foreign made PBXs. A report was presented to the Council on the results of a trip that various members of Bell had made to Japan. The report made it clear to the PBX Council that Bell could (Trial Staff Phase II Ex. 296C–19 p. 45):

. . . expect continued and aggressive pressures from the Japanese manufacturing companies. Japanese PBX equipment is in general well built and economical. Few innovations are involved but the low cost and availability will continue to plague us.

372. The PBX Council, which became the Customer Switching Committee (CSC), continued to investigate the PBX market. On October 28, 1970, the Committee met to review a presentation on PBXs they were to make to the Customer Products Council. Among other things, this review revealed that the Bell System was ". . . in price difficulty in the middle of the size range of our PBX offerings, i.e., 80–300 lines. The principal competitors are two Japanese machines." The latter conclusion was based on the CPRT price study of all PBXs, and it identified the two Japanese machines as the NEPAX 100, and the NA4–09, both manufactured by Nippon Electric. With respect to the NA4–09 the Customer Switching Committee recommended to the Customer Products Council that (Trial Staff Phase II Ex. 269C–19, p. 63):

. . . we provide such a machine with its known deficiencies, but make sure the purchaser is well aware of the operating characteristics. (One exception is that we would correct its transmission shortcomings.) We should provide such a machine promptly, or not at all. We will return to the CPC in about a month with a specific proposal to either purchase the Nippon PBXs for use by the operating companies or to present a plan for Western to manufacture a machine with very similar characteristics.

373. On November 5, 1970, the Customer Products Council met to review the proposals and recommendations of the Customer Switching Committee. The CPC determined that it was not necessary for the CSC to conduct a feasibility study on the possible purchase of the NA4–09. The minutes of the CSC reported this decision was made because the CPC "thought it mandatory that a Western-manufactured machine be provided." On the issue of competition and rates a Mr. Kemp, of AT&T's Marketing and Service Plans, reported to the CPC that competition was making inroads into the PBX market. To meet this threat he "stressed that an improved customer switching plan is needed to respond to expressed customer needs, to meet competition, to reflect actual investment and improve profitability, and to accommodate [sic] immediate changes and future innovations." Trial Staff Phase II Ex. 269C–19, p. 67. The outline for an improved customer switching plan approved by the CPC was (Trial Staff Phase II Ex. 296C–19, p. 67):

Short term—

Continue packaging concept—it has field support.

Get series 100 filed (only 18 states now have it):

805A and any other low cost vehicle will help.

Existing hardware prices must be adjusted.

Restructure present series 200 and 300 packages:

Offer features individually or at lower package rate.

Offer more package flexibility

Develop a DID/AIOD PBX offering.

Long term—

Continue effort to reduce cost of electronic PBX's (Need the flexibility).

Develop low-cost capabilities to offer:

All features as individual options to series 100.

All features optionally on "per station" basis.

Modular growth.

Develop pricing options:

Front end loading.

Lower rate after "X" years.

Separate maintenance visit charges.

Introduce usage oriented service.

374. The operating telephone companies were also involved in the probe of Bell problems in the PBX market. During the year 1970 a joint AT&T Bell Labs task force was organized to meet with operating telephone companies on the subject of customer switching systems. The task force report, entitled *Short Range Customer Switching Study Final Report,* reflected the Bell operating companies' viewpoints, as of October, 1970 on competition and the proposed new product line. On the issue of competition the report noted that AT&T Marketing was collecting information on "the level of competitive activity in each TelCo." Each telephone company sent a list of "competitive cases" to AT&T Marketing indicating the reasons why a customer did or did not choose Bell System equipment. The task force summarized the pattern of operating company interest in non-Bell equipment stating (Trial Staff Phase II Ex. 296C–19, p. 53):

It was interesting, and on the whole not unexpected, to note that those telcos which were not experiencing strong competition were not investigating Telco purchase of outside supplier customer switching equipment.

It was also reported that a number of telephone companies were investigating the use of outside-supplied PBXs as a means of improving their rates of return. A later study by New York Telephone Co. on PBX rate of return, entitled "Interdepartmental PBX/CTX Task Force Study," dated February 2, 1971, found that New York Telephone Co. had achieved a higher rate of return using the Nippon Electric NA4–09 over the existing Western PBXs at that time, for both series 200 and 300 PBX service.

375. On the question of the proposed product line, the joint AT&T-Bell Labs task force reported that the Bell operating telephone companies felt it would be a mistake to A&M (additions and maintenance only) the older 700 series PBXs, because the new 800 series PBXs were more expensive. Also, the Bell operating companies reported to the task force that the price and availability estimates by AT&T and Bell Labs lacked "credibility." The reason for the credibility gap given by the companies was: "Having been burned too often, the Telcos simply do not believe AT&T/BTL price and availability estimates." (Trial Staff Phase II Ex. 296C–19, p. 55).

376. On balance, the facts as described justify the Staff's summation that many problems had been manifested with the Bell PBX market. The Bell operating telephone companies were not satisfied with Western's PBX products and service and they exercised their independence by purchasing the competing products of the general trade manufacturers, whether in order to satisfy and retain their business customers or to improve their rates of return. Competitive equipment evidently became available that offered more features and was less costly than Bell equipment at that time. Also, there seem to have been product voids in Bell's PBX product lines that competitive equipment had been able to fill. This new market environment induced, or stimulated, Bell to develop new product lines (*i.e.,* the 801A, 805A, 802A and 770A PBXs), to improve its service, and to innovate new pricing techniques and tariffs. The case histories of the development of these new products are set forth in detail at para. D179–239, Volume II, of the Staff's Phase II Proposed Findings. They are a matter of record, and for that reason there is no need to go into such detail herein.

377. The Trial Staff has devoted considerable attention to discussing the "market environment" between 1972 and 1975 and a so-called Small PBX Study, followed by detailed analysis under the heading "Development of the New Product Line." Trial Staff Phase II Proposed Findings, Volume II, para. D240–263, inclusive. Again, it is considered to be redundant in the context of this Initial Decision to reiterate such detail herein, all of which is evidently cited in support of the identical Trial Staff thesis regarding such matters as a "serious gap" in Western's product line, the competitive superiority of non-Bell products in the "under 100 PBX product line," and a blow-by-blow description of how Bell tried to meet the competition. The evi-

dence in general does appear to support the following proposed summary of the Trial staff, however:

e. Summary.

378. A second action under Bell's new approach, as indicated above, was the development of a new product line to be comprised of the 801A, 805A, 802A, and 770A PBXs. Bell did not seriously consider the standardization and purchase of the lower cost independently manufactured PBXs. Instead, it used the Bell products already available on the market as a price and service benchmark for its new product line yet to be developed. Competition continued to impact the new product line throughout its development and introduction, causing Bell to:

Shorten development schedules.

Undertake cost reduction efforts.

Incorporate additional features not previously considered.

Introduce new products.

Terminate the development of PBXs if they could not meet the competition.

379. With the expedited implementation of its new approach to PBXs, Bell expected to thwart the competitive inroads into its market. The competition, however, was not inclined to give up its newly won customers, for it proceeded to develop new electronic PBX offerings still lower in cost and with additional features and space savings. Thus, the competition continued to erode the Bell PBX market share by concentrating on the under-100 line PBX market, which accounted for over 80% of all PBX users. Once again, Bell found its product line wanting in terms of price and features vis-a-vis competitive equipment.

380. As it had done in 1969, Bell in 1972 gave consideration to purchasing the superior independently manufactured equipment but then proceeded to develop yet another new product line in order, ostensibly, to leapfrog the competition and thereby protect the Bell market share.

381. It is thus self-evident that the ratepayers have benefitted in the PBX market from competition that made available lower cost equipment with new features that met customers' needs on a timely basis. Bell's response to PBX competition also redounded ultimately to the ratepayers' advantage. Bell purchased PBX equipment from general trade manufacturers, usually as an interim measure, while it proceeded with the development of new products of its own. Bell did not standardize on independently manufactured PBXs, even though many were more advanced, apparently, than Bell equipment and available at lower cost. Instead, Bell seems to have developed new products that sometimes, at least, were similar to competitive designs in order to stem the erosion of its PBX markets by the competition.

NATIONAL FLOWER

HON. HERMAN T. SCHNEEBELI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. SCHNEEBELI. Mr. Speaker, recently there has been increased interest in the idea of selecting a national flower for the United States.

A good friend of mine happens to be a colorful newspaper columnist for the Harrisburg Patriot, and he has spurred interest in central Pennsylvania by conducting a post card poll of his readers.

Paul "Irish" Walker has provided me with a copy of his September 7 "Roundabout" column reporting on his findings thus far. I know there is little likelihood the matter will be decided by the 94th Congress, but I wish to call this article to the attention of my colleagues and to insert it in the RECORD at this point so that it will be available at such time as the issue is actively considered.

Here then are the preliminary results of Mr. Walker's poll, and the opinion he solicited from an expert in the field of botany:

ROUNDABOUT

(By Paul Walker)

In our "postcard poll," ascertaining readers' choice for a national flower, the marigold is leading. The rose has quite a few backers as does the daisy, field buttercup and queen anne's lace. Phlox, which is our personal choice because it blooms in red, white and blue, also has many supporters.

As the balloting continues, we called in an expert—Dr. Edgar T. Wherry, 91, of Philadelphia, retired botany professor at the University of Pennsylvania, and well-known author. His book, "American Wildflowers" has been through many printings and is still a steady seller.

Let's share Dr. Wherry's thoughts on the national flower:

"First it must be native to the United States. This rules out marigold, daisy, dandelion, queen anne's lace and field buttercup.

"It should not be the national flower of any other country. This rules out the rose, sponsored by ex-Sen. Margaret C. Smith, R-Maine.

"Phlox fits the above requirements. It has the advantage, too, of growing in all 48 contiguous states and Alaska. Furthermore, it comes in red, white and blue, so that flower beds could be planted in our national flag design.

"Copies of the above qualifications should be sent to all senators and representatives."

Thank you, Dr. Wherry, and we're about to turn lobbyist for the phlox. Be sure your opinion will be relayed to the senators via Republican Sens. Hugh Scott and Richard S. Schweiker and Reps. Herman T. Schneebeli, R-Williamsport, and William F. Goodling, R-Jacobus.

Phlox's name is variety: garden phlox, wild sweet william, mountain phlox, sword-leaf phlox, wild blue phlox, crawling phlox and moss pink.

The rose, incidentally, is the national flower of Great Britain, Luxembourg, Iran and Honduras.

No country has picked phlox, which is par for the course, seeing as how phlox is 100 per cent American. Vote phlox!

(Write c/o The Patriot, Box 2265, Harrisburg, 17105; Ph. 737-0117)

HAS SALT I THREATENED OUR NATIONAL SECURITY?

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. KEMP. Mr. Speaker, in a recent syndicated column John Lofton, very ably summarized the Congressional Budget Office's report on "SALT and the U.S. Strategic Forces Budget." Mr. Lofton writes:

The CBO study states that within a year or so of the SALT I interim agreement, the U.S. witnessed an "unprecedented modernization program" of the Soviet ICBM force that had "a surprised scope and potential threat."

The emphasis the Russians have placed on this expansion is reflected in the estimate by the director of the CIA that in 1975 the dollar costs of these Soviet programs were seven times the U.S level.

The surprising magnitude of these Soviet programs—which are expected to spawn yet another generation of Russian ICBMs in 1978–79—has reinforced the U.S. concern with the future vulnerability of the 1,000 Minuteman ICBMs in the U.S. force structure. By the end of the 1970s, the pessimistic estimates, and by early to mid-1980s, by more optimistic estimates, the Soviets are expected to be able to destroy a high percentage of our Minuteman force, according to the CBO study.

The CBO summarized its report in this way:

In the case of strategic offensive programs, the SALT objectives were not achieved by the 1972 agreements, in light of the continued momentum of Soviet programs with a destabilizing potential.

The CBO report goes on to say that—

Since SALT I, the Soviets have concentrated on an unprecedented moderniaztion of their ICBM force. This has enabled them to increase the very type of threat which had been a principal concern of the United States in SALT I, and which it had hoped had been significantly curbed by SALT I: the destabilizing capability of a force of large Soviet ICBMs to destroy a high percentage of the U.S. ICBM force. Prior to and during SALT I, there was only one Soviet ICBM system, the SS-9, which posed that destabilizing potential. Since SALT I, there are at least two, if not three, such systems: the SS-18 follow-on to the SS-9; and the SS-17 and SS-19, the follow-on replacements for the widely deployed SS-11. This continued Soviet momentum in such programs—the very type that the United States had tried in 1969–72 to convince the Soviets would be contrary to a stability goal of SALT—raises troubling questions: Do the Soviets share the objective of stability and believe an attempt to achieve some form of major strategic advantage would be futile?

Mr. Speaker, Soviet actions clearly demonstrate that they do not share the objective of stability and that they are most determined to achieve military superiority. As the CBO study points out:

The very concepts of "stability" and "stable balance" are alien to Soviet ideology and their view of interstate relations.

Soviet actions are definitely alien to the very concepts of stability and stable balance, as their current deployment of their new mobile nuclear ballistic missile, the SS-X-20, indicates. On August 31, Dr. Ikle, the Director of our Arms Control and Disarmament Agency, denounced this new Soviet missile deployment as "a massive, unwarranted, and unexplained expansion."

Mr. Lofton's article follows:

KISSINGER'S STRANGE SALT INTERPRETATION

(By John D. Lofton, Jr.)

In a recent interview with reporter Theo Sommer from the West German newspaper Die Zeit, Secretary of State Henry Kissinger expressed incredulity that anyone would suggest that the 1972 Strategic Arms Limitation Talks (SALT) have not turned out to be in the best interest of the United States.

Rejecting the idea that detente has been a one-way street, or that the 1972 SALT-I agreement, which he negotiated, was to the unilateral benefit of the Soviets, Dr. Kissinger declared:

"I fail to see why an agreement that

stopped ongoing Soviet programs but no United States programs, could be against the interests of the United States."

Well, now. The fact is SALT-I did not stop the ongoing Soviet military buildup and, since this is so widely known, it is puzzling why Dr. Kissinger would say something that is so blatantly untrue.

The principal objectives of SALT-I, signed in Moscow on May 26, 1972, were to enhance the long-term stability and constrain the costs of the U.S.-Soviet strategic arms competition. As Ambassador Gerard Smith, chief U.S. SALT negotiator, stated at the time:

"What we are trying to do is to set up a useful device that will hold the situation while we negotiate, hopefully, a matching treaty. . . . I think that the measures that we have succeeded in spelling out in this interim agreement with the Russians will do just that. There will be a commitment on their part not to build any more of these ICBMs that have concerned us over the years."

But the Soviets have shown no such constraint whatsoever. A new study released by the nonpartisan Congressional Budget Office (CBO), titled "SALT and the U.S. Strategic Forces Budget," concludes:

"Since SALT-I, the Soviets have concentrated on an unprecedented modernization of their ICBM force. This has enabled them to increase the very type of threat which had been a principal concern of the U.S. in SALT-I and which it had been hoped had been significantly curbed by SALT-I: the destabilizing capability of a force of large Soviet ICBMs to destroy a high percentage of the U.S. ICBM force.

"Prior to and during SALT-I, there was only one Soviet system, the SS-9, which posed that destabilizing potential. Since SALT-I, there are at least two, if not three, such systems: the SS-18 follow-on to the SS-9; and SS-17 and SS-19, the follow-on replacements for the widely deployed SS-11.

"This continued Soviet momentum in such programs—the very type that the United States had tried in 1969-72 to convince the Soviets would be contrary to the stability goal of SALT—raises troubling questions: Do the Soviets share the objective of stability and believe an attempt to achieve some form of major strategic advantage would be futile?"

The CBO study states that within a year or so of the SALT-I interim agreement, the United States witnessed an "unprecedented modernization program" of the Soviet ICBM force that had "a surprising scope and potential threat."

The emphasis the Russians have placed on this expansion is reflected in the estimate by the director of the CIA that in 1975 the dollar costs of these Soviet programs were seven times the U.S. level.

The "surprising magnitude" of these Soviet programs—which are expected to spawn yet another generation of Russian ICBMs in 1978-79—has reinforced the U.S. concern with the future vulnerability of the 1,000 Minutemen ICBMs in the U.S. force structure. By the end of the 1970s, by pessimistic estimates, and by early to mid-1980s, by more optimistic estimates, the Soviets are expected to be able to destroy a high percentage of our Minuteman force, according to the CBO study.

Incidentally, this astounding Soviet buildup, ostensibly to be restrained by SALT-I, has occurred at a time when the U.S. strategic forces budget has declined significantly in real terms. In constant fiscal year 1977 dollars, our direct budget costs for strategic forces has declined from $10.3 billion in fiscal year * * *

Another expectation expressed by U.S. participants in the SALT-I negotiations was that the Soviets shared, or would come to share, the U.S. concern with strategic stability and see a mutual interest in parity or equality. But this hope has also been dashed by the Russians.

As the CBO study points out: "The very concepts of 'stability' and 'stable balance' are alien to Soviet ideology and their view of interstate relations. Their commentary on strategic arms limitation seems driven by their general concept of 'the correlation of forces,' which is the world balance of military, economic, political, social and ideological forces. This correlation is believed by them to be inexorably shifting over the long term in favor of the USSR vis-a-vis the United States."

Henry Kissinger isn't the only person perpetuating the myth that SALT-I was a good deal for the United States. Jimmy Carter has also hailed this sell-out to the Soviets as "a good agreement," one that "limited atomic weapons in a practical way."

Thus, it comes as no surprise that Dr. Kissinger is privately telling friends he could live with President Carter's foreign policy. The question is: Can the American people?

SUGAR PRICES

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. DE LA GARZA. Mr. Speaker, the continuance of rapidly declining sugar prices will put this Nation at the mercy of foreign suppliers—repeating in the kitchen what is happening on the highways where we are now at the mercy of foreign cartels.

Avenues are being explored to stop this decline. There have been appeals made to the President to remove the established foreign import sugar quota of 7 million tons. My colleague BOB BERGLAND, has introduced the Sugar Supply Assurance Act of 1976 to establish a base domestic price at which raw sugar may be imported into the United States. I wholeheartedly support these efforts.

In my district a sugar mill was established a few years ago to make us more independent of foreign suppliers.

Mr. Speaker, I want to bring directly to the attention of this House what officials of this new mill, Rio Grande Valley Sugar Growers, Inc. of Santa Rosa, Tex., have said to me in a telegram I received today recommending Executive action and congressional enactment so that a fine domestic industry will not be foresaken. I bring it to your attention rather than to say somewhere down the road "I told you so."

The telegram is as follows:

MAILGRAM

RIO GRANDE VALLEY SUGAR GROWERS, INC.,

Santa Rosa, Tex., September 9, 1976.

Hon. KIKA DE LA GARZA,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: The letter of August 31, 1976 from your office is indeed appreciated.

Global conditions which portend the destruction of the domestic sugar industry have been matters of critical concern to management of this office for several weeks, certainly, I concur in the concepts presented both by Senator Humphrey and Senator Long in their petition to the President for remedial action.

The world sugar economy has been under intensive study and continuing analysis here since the demise of the "Sugar Act", under the authority of which South Texas Enterprise was in good faith developed and initiated. The developments of recent months are indeed causes for industry alarm.

The sugar policy study, development by the President's Council on International Economic Policy, is characterized by his interpretations and errors in judgment, many of which were readily apparent by the time of its release in March 1976. The predicted inaccuracies of the administration are further demonstrated in L. William Seidman's reply of July 7 to Senator Long's letter of June 17.

The President's so-called "free open trade" policy is not compatible with global economics as related to sugar trade; in all other countries, the sugar economy is subject to government regulation. In view of this policy, we are deeply concerned in regards to U.S. participation in any "new international sugar agreement"; the nullification of headnote 2 provisions of the trade schedule would leave the domestic industry entirely to the mercy of foreign interests.

Executive action to provide interim relief and subsequent congressional inactment of equitable laws is imperative to the survival of the domestic industry.

Prayerfully we look forward to Angela's full recovery and return to youthful vigor and activity.

Sincerely,

ART W. BECKWITH,
President.

UNITED STATES SUPPORT FOR AFRICAN TERRORISTS AND THE PATRICE LUMUMBA COALITION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. McDONALD of Georgia. Mr. Speaker, the Communists have long supported terrorism—violent attacks on a noncombatant segment of the community for the purpose of intimidation to achieve a political or military objective—as a useful revolutionary tactic. Support for terrorism has now become fashionable—or at least expedient—in other circles.

Yesterday the Fund for New Priorities in America and the Women's Division of the United Methodist Church sponsored a congressional conference on Southern Africa in the Russell Senate Office Building. The invited panel of speakers participating included representatives of the Soviet and Communist Chinese-backed terrorist groups in Southern Africa who style themselves "national liberation movements."

Apparently in a bid to steal a march over the Soviets and their Cuban mercenary storm troopers by preempting their objectives, Secretary of State Kissinger at Lusaka declared American support for a program which will replace white, Western-alined influences with black Marxist totalitarian regimes. The Ambassador to the United Nations has stated that the United States is ready to provide medical and other aid to the ter-

rorists in Rhodesia whose victims have overwhelmingly been black Rhodesian civilians.

The terrorist conference participants clearly could not have been in this country without State Department waivers. The rhetoric at the meeting was shockingly vindictive, racist, and extreme. The Rhodesian terrorists were united in their opposition to Western nations subsidizing evacuation of Rhodesian whites and called for a "quick kill" policy.

Among the scheduled participants were:

O. T. Emvula, South West African Peoples Organization (pro-Soviet).

Thami Mhlambiso, African National Congress (ANC) of South Africa, the New York and U.N. representative of ANC, controlled by the pro-Soviet South African Communist Party.

Oliver Tambo, president of the African National Congress of South Africa.

David Sibeko, representing the Red Chinese supported Pan Africanist Congress (PAC) of Azania (South Africa).

Eddison Zvobgo, member of the central committee of the Red Chinese supported Zimbabwe African National Union (ZANU) and its faction of the African National Council of Rhodesia controlled by Abel Muzorewa, resident in the U.S. as an instructor in law at Lewis College.

Elton Razemba, also representing ZANU/ANC of Rhodesia, in New York.

Tapson Mawere, also representing ZANU/ANC of Rhodesia, in New York.

Callistus Ndlovu, representing the Zimbabwe African People's Union (ZAPU), Soviet backed and supported, and ZAPU's faction of the African National Council of Rhodesia led by Joshua Nkomo.

Basker Vashee, identified as an economist from the Transnational Institute (TNI), the Netherlands branch of the Institute for Policy Studies (IPS), Washington's leftist think-tank which consistently takes a pro-Soviet and pro-Cuban line. Vashee was also introduced as a member of the national executive of Nkomo's pro-Soviet ZAPU.

While the Fund for New Priorities in America targeted congressional personalities and staff, another organization is working to develop direct private assistance to the terrorist forces in Rhodesia.

The Patrice Lumumba Coalition—PLC—operating from Post Office Box 1651, New York, N.Y. 10017 (212-662-1235) and from the offices of the Pan African Skills Project—PASP, Room 826, National Council of Churches—NCC, 475 Riverside Drive, New York, N.Y. 10027 (same phone number as PLC), has stepped forward in recent months as a highly vocal support group for Marxist-Leninist African terrorists—the Zimbabwe African National Union—ZANU, and the South West African People's Union—SWAPO.

In addition to supporting the ZANU and SWAPO terrorists, the Patrice Lumumba Coalition is also promoting revolutionary violence in South Africa, stating in an August 23, 1976, mailgram:

Since armed struggle is the only solution to injustices in Southern Africa, the U.S. government should give massive military aid to the liberation movements, i.e., ZILA [Zimbabwe African Liberation Army of ZANU] in Zimbabwe, SWAPO in Namibia [South West Africa]; PAC [Pan-Africanist Congress of Azania and ANC [African National Congress] in South Africa.

The PLC claims chapters in New York; Washington, D.C.; Philadelphia; New Orleans; Baltimore; Indianapolis; San Francisco; Memphis and Oxford, Miss. The PLC was formed some 9 months ago, according to PLC chairman Irving Davis, who is also organizer of the PASP, by "leaders of the black consciousness movement of the 1960's, the principal agitators for black power."

These organizations include the Republic of New Africa—RNA—a violence-prone separatist group which hopes to carve an all-black nation out of several Southern States; the Black Liberation Army—BLA—operating through its above-ground support group, the National Committee for the Defense of Political Prisoners—NCDPP; the Pan-African Congress; and the Organization of African Unity—OAU—from its United Nations offices.

On August 25, 1976, the PLC and the Washington, D.C., based June 16 Coalition—J16C—cosponsored an educational forum in Washington, D.C., at which the main speakers were Rev. Muhammad Kenyatta of Philadelphia and Representative JOHN CONYERS, Democrat of Michigan. At this meeting the PLC stated:

Our strategic importance to the African revolution results from two factors. The first is that we are the largest visible aggregation of Black people outside of the African continent. The second is that we are a potential Achilles heel or Trojan horse that will either cripple the USA efforts to subvert African liberation or provide a political cover for that subversion.

On September 2, 1976, the Patrice Lumumba Coalition held a press conference at the Interchurch Center, 475 Riverside Drive, New York City, at which Irving Davis was joined by Elombe Brath, also of the PLC, and Tapson A. Mawere, chief representative of ZANU in North America, to denounce the upcoming meeting between Secretary of State Kissinger and South African Prime Minister Vorster.

During the press conference, Davis made repeated calls for the raising of money "by any means necessary" for the "support of armed struggle" and for "destroying black support for South Africa in the United States." In particular, PLC rhetoric was directed against Vernon Jordan of the Urban League; Rev. Leon Sullivan of the Opportunities Industrialization Center; Roy Wilkins; Jesse Jackson; Bishop H. H. Brookins; and Manhattan Borough President Percy Sutton.

The Patrice Lumumba Coalition issued an attack which read:

Help us expose the subtle treachery underfoot by certain Negro Judases * * * We need your support and that of all friends of African liberation to counteract this treachery and to make a positive contribution to African freedom.

The PLC position on Rhodesia was stated:

This is the time for armed struggle to be escalated—it is no time for political discussion.

Tapson Mawere, speaking for the Red Chinese-oriented ZANU, launched an attack on U.S. supporters of the Soviet-backed Nkomo faction which is now being proffered to the U.S. public as the "moderate" terrorist guerrilla organization. Specifically Mawere was highly critical of the Institute for Policy Studies and its trustee, National Lawyers Guild Attorney Robert L. Borosage, director of the Center for National Security Studies, for leading support for the Nkoma/Soviet faction which is also the apparent choice of the U.S. State Department as the future rulers of Rhodesia

The lives of the black and the white citizens of Rhodesia are being given into the hands of Communist totalitarians. The control of the Rhodesian chrome deposits is being turned over to enemies of America who will make the U.S.S.R. the sole world supplier of that vital and strategic metal. Congress and responsible Americans must immediately move to end this disastrous policy and to control the activities of terrorist agents in this country.

PLOWING UP FARM FACTS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. FINDLEY. Mr. Speaker, let the record speak for itself. Under the past 3 years of Republican farm policy administration, per capita farm income has averaged 98 percent of nonfarm income—the best in history. This contrasts with 65 percent under the Kennedy-Johnson years. Total farm income is more than twice as high as it was under the previous Democratic administration. In 1969, the U.S. taxpayer was providing 27 percent of the farmers' income in the form of Federal payments. Last year that was down to 2 percent—and a good portion of the 2 percent was spent on the peanut subsidy program.

The farmer is no longer on the Federal payroll, waiting for handouts, getting Government checks for not producing. He is working to harvest fence-row to fence-row so that others at home and abroad may eat. The farmer is not havesting Federal dollars, he is reaping the benefits of a free competitive market. He alone makes the farm management decisions; they are not made in Washington.

Although some aspirants for public office decry the present farm administration, look at the record. Agriculture Secretary Earl Butz has done a monumental job for all citizens, helping to put the farmer off Federal tax dollars and back into the business of producing food.

I would like to share the timely article by Mr. Patrick Buchanan which was published in the Chicago Tribune September 2, 1976. In it he plows straight, clear furrows through the farm facts.

The article follows:

PLOWING THROUGH FARM FACTS

(By Patrick Buchanan)

WASHINGTON.—"What America needs is a secretary of agriculture who speaks to the

President and for the farmer—not the other way around."

That cheer line, written by this author, was a pledge made by Richard Nixon to rural America in the campaign of 1968. It was a promise kept—with the naming of Earl L. Butz as secretary of agriculture.

Jimmy Carter sharply disagrees. To hear him out in Iowa last week, one would think the Republican administration's treatment of American farmers has been roughly comparable to Stalin's handling of the Ukrainian kulaks in the '30s.

"Rural families are just looking for an even break," he shouted. "That's not too much to ask, but it's a lot more than we've been getting the last eight years."

That so, Mr. Jimmy! Well, let's look at the record.

From 1960–69, the years of Kennedy, Johnson, and Orville Freeman at Agriculture, per capita income averaged 65 per cent of nonfarm income. From 1973 through 1975, it averaged 98 per cent of nonfarm income, and in 1973 it was almost 107 per cent. During those eight Democratic years, total net farm income averaged $12 billion a year. From 1973 through 1975, it averaged almost $27 billion.

Farm exports have risen from $6.7 billion in 1970 to an estimated $22 billion this year.

The total acreage for major crops has risen from 291 million acres in 1969 to 355 million planned for 1976.

During the '70s, the decades-long exodus of 30 million Americans from the farms trickled off. Between 1970 and 1974, the average annual decline in farm population was down to 1.2 percent. Enrollment in agricultural schools is rising.

In short, the '70s, the years when Butz was deciding government policy for American agriculture, have produced the greatest farm boom in United States history. And consumers and taxpayers have fared as well.

Today, Americans spend only 17 percent of disposable income for food, the lowest percentage in the world.

In 1969, the U.S. taxpayer was providing 27 percent of the farmers' income in government payment. Last year that was down to 2 percent.

Federal payments to farmers have fallen from an average of $3.4 billion in the calendar years 1966–1969 to only $768 million in calendar year 1975. Of that $768 million, no less than $490 million was for farmers' losses sustained in natural disasters.

This is hardly a record to justify Carter's rhetoric of rebellion out in Des Moines. Indeed, the last "agrarian populist" we let run American agriculture, Henry A. Wallace, FDR's Cabinet secretary, went down in history as the man who murdered 6 million baby pigs.

Butz prefers the free market approach. That approach has done more than take the American farmer through the best years in our agricultural history.

It has created a new respect for the American farmer. No longer is he the butt of jokes for living off congressional welfare or ploughing federal programs. Today, the U.S. farmer is recognized as the most efficient of American workers. The American farm community is credited with saving this country, through production and exports, from a monstrous trade deficit and a balance of payments crisis—after OPEC quintupled the price of imported oil.

True, the embargo on U.S. grain sales was a mistake. And there remains one redoubt of rural reaction Butz has been unable to conquer. That is the farm commodity, which a tiny monopoly still dominates, where subsidies and allotments remain, where competition is ferociously restricted, where the market has not been allowed its play That commodity is peanuts.

THE BALANCE(S) OF POWER: IV (vi)—STRATEGIC DEFENSIVE BALANCE

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. BRECKINRIDGE. Mr. Speaker, the foundation of the U.S. deterrence policy, that of assured destruction, has been undermined by a significant, though undramatic, element of the U.S.S.R.'s military posture—the Soviet Union's massive strategic civil defense program.

The extent and implications of Soviet war-survival preparations have too long remained in the shadows of détente and of the frantic search for "mutual limitation" of strategic arms. Civil defense as employed by the Communists is as much a part of the strategic balance as are missiles, bombers, and submarines. That crucial fact can no longer be ignored.

To continue my discussion of the Strategic Defense Balance in my series on the "Balance(s) of Power," I wish to conclude the section dealing with the debate on civil defense by inserting an article written by John L. Frisbee, executive editor of Air Force Magazine, that highlights aspects of the Soviet war-survival strategy * while opening a crack on a scene that has chilling implications for U.S. deterrence as expressed in an article, "Soviet Civil Defense—Upsetting the Strategic Balance," that appeared in the August 1976, issue of Air Force Magazine.

The article follows:

STRATEGIC DEFENSIVE BALANCE

Assured Destruction, the foundation of US deterrence on which our survival as an independent and influential world power ultimately rests, has been undermined by a significant, though undramatic, element of the USSR's military posture. That element—Russia's massive civil defense program—has been known to, but ignored by the US SALT negotiators. Consequently, you will find scant evidence of concern in the annual defense reports of the Secretary of Defense and the Chairman of the JCS. Nevertheless, concern is real, and it is justified. In recent weeks, the door has been opened a crack on a scene that has chilling implications for the US deterrent.

While these implications are being studied in the Pentagon (and one hopes in the State Department, too) and discovered on Capitol Hill, an important book has come off the press: War Survival in Soviet Strategy, by Leon Gouré, Director of Soviet Studies at the University of Miami's Center for Advanced International Studies. Here are a few highlights that emerge from the book and from other sources:

The Soviets have never accepted Assured Destruction as an operational strategy. They do not share the Western notion that a nuclear war would be over in a few days, and that there could be no winner. The Soviet concept is based on a first strike to blunt the US retaliatory capability and decimate our control and industrial structure, an extensive air defense system, and comprehensive civil defense measures that would enable them to fight on to victory. Civil defense, in their view, is a "decisive strategic factor"; victory depends on "survival preparations."

Guided by this strategy, the USSR began in the mid-1950s to invest an estimated $1 billion a year in civil defense. Since the SALT agreements of 1972, they have stepped up their civil defense expenditures. (The US Defense budget for FY '77 includes $71 million for civil defense.)

The scope of Soviet war survival preparations is difficult to grasp. The entire program is headed by a Deputy Minister of Defense, General Colonel A. T. Altunin. Enough hardened shelters have been built already to accommodate a large part of the administrative and industrial work force. Elaborate plans have been made and rehearsed for evacuating other urban residents to safe areas. All citizens are required to take courses in civil defense, and several million people, including 40,000 regular Civil Defense Troops, are involved in administering the program. Essential industry has been dispersed to nonurban areas, hardened against nuclear attack, and spare parts cached in secure storage.

How has all this affected the US Assured Destruction capability, generally defined as the ability to respond to a Soviet first strike by destroying half of their industry and killing forty percent of the population? The Soviets claim, and US defense experts believe, that Soviet preparations would reduce their casualties to about seven percent of the entire population and five percent of workers in essential industry. The US, with virtually no civil defense program, would lose half its population or more, depending on the nature of the Soviet first strike.

Now an even more ominous development has emerged. The Soviets are increasing their emphasis on shelters (to which people could repair in minutes) and reducing reliance on evacuation, which would take about seventy-two hours, could not be concealed, and hence would give us strategic warning. This move, coupled with the enormous buildup of Soviet offensive forces, has the earmarks of a drive for a credible first-strike posture and a world in which there would be only one superpower.

What can the US do about it? For economic, social, and political reasons, we may as well forget about duplicating the Soviet civil defense system or persuading them to scrap theirs. But former US Ambassador to the USSR Foy Kohler offers some alternatives in his foreword to Dr. Goure's book. The purpose of the SALT talks supposedly is to achieve equal security for both sides. We, therefore, should demand a higher ceiling on US offensive weapons to offset the imbalance in civil defense. He also suggests that we could threaten to pull out of the ABM Treaty of 1972 and build a comprehensive ABM system, relying on our technology to outdistance the Soviets. There are other, perhaps more effective measures, such as accelerating development of MX and improving missile accuracy; and still others that could be taken concurrently, including withholding technical and economic aid to the Soviets.

The extent and implications of Soviet war survival preparations have too long remained in the shadows of détente and of the frantic search for "mutual limitation" of strategic arms. Civil defense is as much a part of the strategic balance as are missiles and bombers. That crucial fact must no longer be ignored.

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*See Part IV (i), July 28, 1976, p. E4157 CONGRESSIONAL RECORD; Part IV (ii) August 5, 1976, p. 26066 CONGRESSIONAL RECORD.