countries; recently returned from the Middle East, [former NLG president and identified Communist Party, U.S.A. member].

Michael Krinsky—Attorney with Rabinowitz, Boudin and Standard; counsel to the Allende government of Chile and the government of Cuba.

Jose Lugo—Attorney in New York and Puerto Rico; counsel at East New York Legal Services.

ABUSES OF THE GRAND JURY

The emergence of the grand jury as a government tool for the harassment of individuals and the repression of progressive movements.

Guild lawyers will discuss their experiences in dealing with federal and state grand juries, such as those connected with the search for Patty Hearst, the investigation of the Weather Underground, the New York Black Liberation Army cases, Puerto Rican Socialist Party. * * *

Jim Reif—Attorney with the Brooklyn Community Law Office, formerly staff attorney with the Center for Constitutional Rights, speaker and author on grand jury matters.

Rhonda Copelon—Attorney with the Center for Constitutional Rights; represented WBAI and Jill Raymond in grand jury matters.

Kristin Booth Glen—Attorney representing Terri Turgeon and Ellen Grusse in the Susan Saxe investigation; attorney for WNCN.

Martin R. Stolar—Attorney with Stolar, Alterman & Gulielmetti; represented Attica, BLA [Black Liberation Army], Camden 28 defendants, and Lureida Torres (PSP member, investigation of FALN bombings].

Morton Stavis—Attorney, Center for Constitutional Rights; director, Constitutional Litigation Clinic, Rutgers Law School.

PRISON IN AMERICA

Daniel Alterman—Attorney with Stolar, Alterman & Gulielmetti; prosecuting the Brooklyn House of Detention suit alleging discrimination against indigents awaiting trial; Attica attorney.

Daniel Pochoda—Attorney; executive director, N.Y. State Commission of Correction; formerly with Prisoners' Rights Project, Legal Aid Society; Attica defense attorney.

Sharon Krebs—Ex-convict [N.Y. Crazies bank bombing conspiracy], former teacher of Women in Prison at the New School; social worker, the Legal Aid Society; secretary, Assata Shakur (Joanne Chesimard) Defense Committee [which is a front for the Weather Underground's Prairie Fire Organizing Committee].

Elizabeth Fink—Attorney; coordinator, Brooklyn House of Detention Project of the Center for Constitutional Rights; Attica defense attorney.

THE LABOR SCENE/EMPLOYEE RIGHTS

Bob Lewis—Staff counsel, United Electrical Workers.

David Scribner—Attorney, rank and file challenge to "Big Steel" Pact [and identified Communist Party, U.S.A. (CPUSA) member].

Harry Weinstock, I. Philip Sipser, Richard Dorn, Jerry Tauber—Attorneys representing Local 1199, the Association of Legal Aid Attorneys, the Boston Symphony Orchestra, Rheingold Brewery workers and others.

Gene Eisner, Richard Levy—Attorneys representing District 65, Taxi Rank and File Coalition and others.

Amy Gladstein—Attorney with the Brooklyn Community Law Office, formerly with the National Labor Relations Board.

Carol Arber—Attorney with the women's law collective of Lefcourt, Kraft & Arber; * * *

CRIMINAL LAW

Robert Bloom—Attorney, Panther 21 and BLA [Black Liberation Army] cases.

Sanford Katy—Attorney; represented the Panther 21, Henry Brown [Black Liberation Army] and other political-criminal cases.

Dan Meyers—Attorney for Tony Maynard; former counsel to the Young Lords Party.

William Mogulescu—Attorney; represents defendants in BLA and narcotics cases.

Margaret Ratner—Attorney for Attica Brother Dacajeweiah (John Hill) and Micki Scott [with other NLG members including Peter Weiss, William Kunstler, William Schaap and with Ramsey Clark applied to represent the Baader-Meinhof terrorists on trial in West Germany. Micki Scott is the wife of Jack Scott, a figure in the SLA fugitive investigation].

Ollie Rosengart—Former professor of law at NYU Criminal Law Clinic; author of Busted: A Handbook for Lawyers and the Rights of Suspects.

Elliott Wilk—Attorney with the Legal Aid Society * * *; Attica defense lawyer.

POLITICAL LEGAL HISTORY

Marshall Perlin—Attorney; representing Morton Sobell from 1955 to the present; the National Committee to Re-open the Rosenberg Case.

Arthur Kinoy—Noted appellate lawyer; professor of law, Rutgers Law School; vice-president, Center for Constitutional Rights.

Sam Neuberger—Attorney, Smith Act cases; involved in early labor struggles.

Ralph Shapiro—Labor attorney; represented victims of McCarthy era repression; lawyer for many labor unions.

Robert Boehm—Cooperating attorney, Center for Constitutional Rights; co-founder, Lawyers Committee Against the War in Vietnam.

Peter Weiss—Attorney; chairman of the board, Institute for Policy Studies; former president, American Committee on Africa.

REPRESSION

Governmental misconduct; FBI burglaries, CIA conspiracies, IRS investigations, SWAT, Red Squads and other special police units, COINTELPRO, surveillance and other political harassment. * * * Freedom of Information Act. What it is and how to use it.

Paul Chevigny—Staff attorney *NYCLU* (New York Civil Liberties Union); Attica defense lawyer; author of Police Power; Cops and Rebels and numerous articles on jazz.

Fred Cohn—Attorney for the 26th Army Band; *the Fort Dix 38, the Fort Hood 43* [armed forces mutineers] and numerous draft resisters; co-counsel for Shoshana/Pat Swinton [a fugitive for many years on bombing charges; apprehended; tried; acquitted and now a leader of the Weather Underground's Prairie Fire Organizing Committee Vermont chapter].

Bonnie Brower—Past president of the New York City Chapter of the National Lawyers Guild; former Legal Aid attorney for 3 years; curently working on *Meeropol* v. *Levi* (suit by the sons of Julius and Ethel Rosenberg for release of FBI files), a Freedom of Information Act case, and researching the documents that have been released.

Walter Goodman wrote in the New York Times Magazine (August 22, 1976):

"There is a body of theory—call it the William Kunstler or Mark Lane school—which holds that anyone convicted in this country of a crime with political overtones cannot be guilty if he or she shares the political predilections of the beholder, or can be made to serve them. Much of the fervor which continues to animate efforts on behalf of the Rosenbergs and of Alger Hiss is an expression of this faith."

Both Lane and Kunstler, it should be noted, are active in the National Lawyers Guild.

Michael Ratner—Attorney for Venceremos Brigade, BLA and Puerto Rican Socialist Party; expert on electronics surveillance litigation.

Jeffrey Segal—Staff writer for the Guardian, formerly on the staff of the Center for Constitutional Rights, author and lecturer on Senate Bill No. 1.

Speakers on "Racism and the Law" which includes "the Black Power Era; representation of the Black Panther Party and the Black Liberation Army; * * * the American Indian Movement; Wounded Knee; * * * continuing U.S. colonization of Puerto Rico; the independence movement" are:

Haywood Burns—Attorney, author and professor of law, NYU Law School; past executive director, National Conference of Black Lawyers.

Ken Kimmerling—Staff attorney with the Puerto Rican Legal Defense and Education Fund.

William Kunstler—Lawyer for H. Rap Brown, Carlos Feliciano (confessed and sentenced for possession of explosives and now president of the Puerto Rican Nationalst Party which led the 1950 armed uprising in Puerto Rico), Wounded Knee defendants and Attica Brothers.

Alan Schulman—New York City schoolteacher; steering committee member, People Against Racism in Education (which is a front for the Weather Underground's Prairie Fire Organizing Committee).

Lewis Steel—Former staff attorney with the NAACP; observer at Attica during the 1971 uprising; attorney for Rubin "Hurricane" Carter and John Artis.

Other NLG attorneys and "legal workers" are available on topics including environmental law, women and the law, education, rights of juveniles, mental health, housing and tenants rights.

PERSONAL EXPLANATION

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Ms. KEYS. Mr. Speaker, on Friday, September 10, 1976, I was unavoidably absent for Rollcall No. 711, on agreeing to the conference report on S. 327, to amend the Land and Water Conservation Fund Act of 1965. Had I been present, I would have voted "yea."

HOUSE OF REPRESENTATIVES—*Tuesday, September 14, 1976*

The House met at 12 o'clock noon.

Rev. R. Beverly Watkins, Arlington United Methodist Church, Arlington, Va., offered the following prayer:

O God our Father, we unite in prayer for Your blessings upon us today. We know that You care.

We come with thankful hearts, remembering all Your blessings. We are thankful for the strength to carry on, and for those with whom we can work honorably and faithfully for the common good.

We pray for the Members of this Congress, and for their families. Help them

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to be sufficiently free from anxiety that they may give their best to their awesome responsibilities.

Help us that we may make America the channel for the doing of Your will, for we pray in the name of the Redeemer. 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 PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Roddy, one of his secretaries, who also informed the House that on September 13, 1976, the President approved and signed a bill of the House of the following title:

H.R. 8410. An act to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate 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. 13655) entitled "An act to establish a 5-year research and development program leading to advanced automobile propulsion systems, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 327) entitled "An act 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 message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 3283. An act to authorize the Secretary of the Interior to construct, operate, and maintain the Oroville-Tonasket unit extension, Okanogan-Similkameen division, Chief Joseph Dam project, Washington, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3348. An act to amend title 38, United States Code, in order to extend and improve the program of exchange of medical information between the Veterans' Administration and the medical community, and for other purposes, and

H.R. 10192. An act to amend title 14, United States Code, to provide for the nondiscriminatory appointment of cadets to the U.S. Coast Guard Academy.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2212) entitled "An act to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. McCLELLAN, Mr. PHILIP A. HART, Mr. EASTLAND, Mr. KENNEDY, Mr. ROBERT C. BYRD, Mr. HRUSKA, Mr. HUGH SCOTT, Mr. THURMOND, and Mr. WILLIAM L. SCOTT to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3420) entitled "An act to authorize appropriations to the International Trade Commission," agreed to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. FANNIN, and Mr. HANSEN to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3790. An act for the relief of Camilla A. Hester.

The message also announced that the Vice President, pursuant to Public Law 94–399, appointed Mr. EAGLETON, Mr. CHILES, and Mr. MATHIAS to be members, on the part of the Senate, of the Temporary Commission on Financial Oversight of the District of Columbia.

APPOINTMENT OF CONFEREES ON H.R. 14260, APPROPRIATIONS FOR FOREIGN ASSISTANCE FOR FISCAL YEAR 1977

Mr. PASSMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 14260) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana? The Chair hears none, and appoints the following conferees: Messrs. PASSMAN, LONG of Maryland, ROUSH, OBEY, BEVILL, CHAPPELL, KOCH, CHARLES WILSON of Texas, MAHON, SHRIVER, CONTE, COUGHLIN, and CEDERBERG.

PERMISSION FOR MANAGERS TO HAVE UNTIL MIDNIGHT TO FILE CONFERENCE REPORT ON H.R. 15194, PUBLIC WORKS EMPLOYMENT APPROPRIATIONS FOR FISCAL YEAR 1977

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight to file a conference report on the bill (H.R. 15194) making appropriations for public works employment for the period ending September 30, 1977, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

TRIBUTE TO REV. R. BEVERLY WATKINS

(Mr. FISHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FISHER. Mr. Speaker, I would like to thank the Reverend R. Beverly Watkins for offering today's prayer. Reverend Watkins is the pastor of the Arlington United Methodist Church in south Arlington, Va.

Born in Poquoson, Va., Mr. Watkins is a southern gentleman who was educated in York County and Randolph Macon College. In 1940 he received a master of divinity degree from the Candler School of Theology of Emory University, Atlanta.

He has devotedly served congregations in Norfolk, Richmond, Alexandria, Newport News, and Arlington and has also served a term as superintendent of the Portsmouth district.

Reverend Watkins has been with the Arlington United Methodist Church since 1972. He is married to the former Maxine Hines of Williamsburg and they have two sons, a daughter and a granddaughter. I am pleased to welcome him into this Chamber along with his family and friends.

CONGRESS 2½ WEEKS AWAY FROM FAILURE ON FINANCIAL DISCLOSURE AND LOBBYING REFORM BILLS

(Mr. BRODHEAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRODHEAD. Mr. Speaker, this Congress is about 2½ weeks away from adjournment—and we are just that far away from a significant failure. Some of the reform legislation which should have been passed in this Congress may well be shelved due to the lack of time.

If ever there was a time when reform legislation was needed, it has been during the term of the 94th Congress. If ever a Congress was given a mandate for reform, it was the 94th Congress.

And yet the financial disclosure and lobbying reform bills—measures that could have put an end to conflict of interest and other such abuses in Congress—still linger in committees on the brink of extinction.

Even harder to understand is how the Committee on Standards of Official Conduct—the Ethics Committee—can be holding up these vital bills. Surely this committee, above all others, should understand the urgency of financial disclosure and lobbying reform and should give the bills speedy consideration.

Instead, we see continued delays and roadblocks.

Mr. Speaker, the people of the United States are fed up with the inaction of

Congress on this vital issue. They are fed up with indictments, stories of corruption and tawdry scandals on Capitol Hill.

I ask for immediate action by the House on these urgent bills. I intend to leave here on October 2 and tell the people of my district where I stood on these two pieces of legislation. I hope I do not have to tell them that I stood in the minority.

DESIGNATING VETERANS' ADMINISTRATION HOSPITAL IN MADISON, WIS., AS "WILLIAM S. MIDDLETON MEMORIAL VETERANS' HOSPITAL"

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 9811) to designate the Veterans' Administration hospital in Madison, Wis., as the "William S. Middleton Memorial Veterans' Hospital", and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Part 2, after line 4, insert:

SEC. 3. (a) In order to assist the Secretary of Health, Education, and Welfare in carrying out the National Swine Flu Immunization Program of 1976 pursuant to subsection (j) of section 317 of the Public Health Service Act (42 U.S.C. 247b), as added by Public Law 94–380, Ninety-fourth Congress (August 12, 1976), the Administrator of Veterans' Affairs, in accordance with the provisions of such subsection (j), may authorize the administration of vaccine, procured under such program and provided by the Secretary at no cost to the Veterans' Administration, to eligible veterans (voluntarily requesting such vaccine) in connection with the provision of care for a disability under chapter 17 of title 38, United States Code, in any health care facility under the jurisdiction of the Administrator. In carrying out such program, the Secretary may provide the Administrator with such vaccine at no cost to the Veterans' Administration.

(b) Notwithstanding the provisions of subsection (k) of such section 317, any claim or suit for damages for personal injury or death, in connection with the administration of vaccine as authorized by subsection (a) of this section, allegedly arising from the malpractice or negligence of personnel granted immunity under section 4116 of such title 38 while in the exercise of their duties in or for the Department of Medicine and Surgery of the Veterans' Administration, shall be considered and processed in accordance with the provisions of such section 4116, and the recovery authority provided the United States under paragraph (7) of such subsection (k) shall not be applicable to such claims or suits.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, I yield to the distinguished chairman to explain the legislation.

Mr. ROBERTS. Mr. Speaker, H.R. 9811 would designate the Veterans' Administration Hospital in Madison, Wis., as the "William S. Middleton Memorial Veterans' Hospital." The bill passed the House on April 5, 1976.

The Senate amendment would permit the Veterans' Administration health care facilities to participate in the national swine flu immunization program.

Under present law, the VA is only authorized to treat disabilities and diseases; authority is not generally provided for the VA to carry out any preventive health measures such as immunizations. The amendment would specifically allow the VA to participate in the swine flu immunization program by authorizing VA employees to administer the vaccine to veterans otherwise receiving care at VA health care facilities. The amendment requires that the vaccine be provided at no cost to the VA by the Secretary of HEW and makes clear the Secretary's authority to provide it at no cost. The cost of the incidental supplies—such as syringes, alcohol, and cotton—to administer the immunizations may also be provided by the Secretary under Public Law 94–380 using funds provided by Public Law 94–266, but under the Senate amendment the VA could absorb some or all of these incidental costs. The VA cost of supplies will not exceed $150,000 even if all 2,900,000 veteran patients who receive care each year at VA health care facilities were to receive the immunization.

The amendment specifically includes the following elements:

First, the VA's participation in the program is expressly conditioned on its receiving the vaccine at no cost from HEW, and HEW's authority to provide it at no cost is made explicit.

Second, the duration of the VA authority is made coextensive with the program authority in Public Law 94–380, until August 1, 1977.

Third, as was made clear in the legislative history surrounding enactment of Public Law 94–380, the vaccine will be administered to only those voluntarily requesting it.

Fourth, only veterans otherwise receiving care in VA health care facilities would be eligible to receive the vaccine.

Fifth, the VA would be charged with administering the swine flu vaccine in accordance with the provisions of the basic national swine flu immunization program.

Sixth, subsection (b) in the amendment provides that claims allegedly arising from the malpractice or negligence of VA personnel, granted immunity from suit and liability under present section 4116 of title 38, United States Code, while in the exercise of their official duties in the Department of Medicine and Surgery, will be considered and processed in accordance with that existing procedure under which the VA assumes any liability for those acts of its agents and immunizes those employees. Hence, the amendment expressly supersedes the HEW claim processing and litigation procedure established in Public Law 94–380—subsection (k) added to section 317 of the Public Health Service Act—but only as to such claims for the alleged malpractice and negligence of the section 4116-immunized VA personnel.

As to any claim for personal injury or death, in connection with the VA's vaccination of a veteran, against the United States arising out of the alleged failure of any manufacturer or distributor of the vaccine to carry out any obligation or responsibility assumed by it under a contract with HEW, or the alleged negligence on the part of such manufacturer or distributor, or any other claim cognizable under subsection (k) other than a section 4116 claim, the provisions of Public Law 94–380 would apply in full, and claims would be processed by HEW and any eventual litigation would arise pursuant to the new subsection (k).

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I support the gentleman's motion to concur with the Senate amendment to H.R. 9811.

This measure originally passed the House of Representatives on December 15, 1975. It provided that the Veterans' Administration hospital at Madison, Wis., be designated as the "William S. Middleton Memorial Veterans Hospital" in honor of the distinguished former Chief Medical Director of the Veterans' Administration, the late Dr. Middleton.

The Senate amendment adds to the House-passed bill a provision authorizing the Veterans' Administration to participate in the swine flu immunization program soon to be undertaken.

Specifically, the amendment will permit Veterans' Administration personnel to administer the vaccine to veterans receiving care in Veterans' Administration health care facilities. It will be given only to those veterans who voluntarily request it. The costs of the program will be borne by the Department of HEW on a reimbursement basis. The Veterans' Administration estimates that it will provide swine flu immunization to approximately 600,000 veterans under this program.

Mr. Speaker, it is entirely fitting that the facilities of the Nation's largest health care delivery system be utilized in this nationwide preventive health maintenance program. I support the amendment.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

AMENDING TITLE 38, UNITED STATES CODE, TO PROVIDE HOSPITAL AND MEDICAL CARE TO CERTAIN MEMBERS OF THE ARMED FORCES

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the 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 or World War II, with a Senate amendment thereto, and disagree to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Page 2, after line 20, insert:

SEC. 2. Any person who served during World War II as a member of the Women's Air Forces Service 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 SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, I would take the reservation to receive comments from the distinguished chairman on this particular piece of legislation.

Mr. ROBERTS. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Texas.

Mr. ROBERTS. Mr. Speaker, on July 21, 1975, the House passed and sent to the Senate, H.R. 71. As passed by the House, the bill would provide that 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 10 years shall, by virtue of such service, and upon satisfactory evidence thereof, be entitled to hospital and domiciliary care and medical services from the Veterans' Administration to the same extent as if such service had been performed in the Armed Forces of the United States.

On Friday, September 10, 1976, the Senate passed the bill, amended. The Senate passed bill is identical to the House bill except for one provision. An amendment offered by the distinguished Senator from Arizona (Mr. GOLDWATER) and adopted by the Senate, would extend hospital and domiciliary care and medical services to any person who served during World War II as a member of the Women's Air Force Pilots—WASP.

Mr. Speaker, although these civilian women contributed to our war effort, they were, in fact, civilians and not members of the military forces.

Numerous bills are pending before the Committee on Veterans' Affairs to grant various benefits to not only the WASP's but many other similar groups as well. Examples of such groups are the Women's Army Auxiliary Corps and the merchant marines. Although individuals serving in these organizations also contributed much to our war effort, they are not entitled to veterans benefits for such civilian service.

Mr. Speaker, we know there are thousands of Americans who performed most notable and significant service to the Nation in civilian employment of the Armed Forces. No civilian forces attached to the military during wartime are now entitled to veterans benefits. To approve the Senate amendment would be an invitation for civilians, including many wartime personnel in our vital defense plants and factories, to request the Congress to be treated equally with the WASP's should this legislation be enacted.

We have held no hearings on bills to provide medical benefits to civilians who served during these wartime periods. We would certainly want to hold hearings before making any decision to grant such entitlements.

Finally, Mr. Speaker, the Senate amendment is strongly opposed by the American Legion, the Disabled American Veterans, and the Veterans of Foreign Wars. Therefore, for the reasons I have outlined, I ask that the House disagree to the Senate amendment.

Mr. HAMMERSCHMIDT. Mr. Speaker, I join the distinguished chairman of the Committee on Veterans' Affairs in supporting H.R. 71 as it was passed by the House on July 21, 1975.

I believe that the provisons of this bill should be limited to members of the Polish and Czechoslovakian armed services who have been citizens of the United States for at least 10 years. These persons engaged in armed conflict against enemies of the United States during World War I and World War II.

Mr. Speaker, I object to the amendment to H.R. 71 offered by the distinguished Senator from Arizona (Mr. GOLDWATER). The amendment would extend hospital and domiciliary care and medical services to persons who served as Women's Air Force Service Pilots—WASP's—during World War II.

As a Member who served in the Army Air Corps during the Second World War, I remember the WASP's. I recognize and respect the service they provided our Nation.

But the WASP's served as civilians, not as members of the armed services. They are not entitled to veterans' benefits for civilian service. If they are given such entitlement, then the doors to medical eligibility will be open to various civilian groups who contributed to our wartime effort.

Mr. Speaker, I have not polled the minority members of the Committee on Veterans' Affairs. These members have not had the opportuniy to give the concept of civilian eligibility embodied in this amendment a hearing.

Numerous bills are pending before the committee to provide certain benefits to various civilian groups, including the WASP's. I believe that the committee should have the opportunity to hold hearings on these bills before it decides, and the House decides, to grant benefits to one group or another.

The American Legion, the Disabled Veterans of America, and the Veterans of Foreign Wars have come out in opposition to the Senate amendment. I would like to hear their views, and those of such civilian groups as the Women's Army Auxiliary Corps and the merchant marines, before acting in this area.

One of the themes of this Bicentennial Year is "remember the ladies." Mr. Speaker, I remember the WASP's, with full respect and admiration. But recognition for their accomplishments does not belong in H.R. 71.

I concur with Mr. ROBERTS in asking the House to disagree to the Senate amendment.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Illinois.

Mr. DERWINSKI. In other words, what will happen is that we will insist on the House version?

Mr. ROBERTS. The gentleman is correct.

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the two bills just considered.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON SPACE SCIENCE AND APPLICATIONS TO MEET DURING GENERAL DEBATE ON TUESDAY, SEPTEMBER 14, 1976

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that the Subcommittee on Space Science and Applications be permitted to sit this afternoon to take testimony during general debate.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION FOR COMMITTEE ON JUDICIARY TO FILE REPORT ON H.R. 13157

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent, on behalf of the Judiciary Committee, to have until midnight tonight to file a report on H.R. 13157, compensation of victims of crime.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CONFERENCE REPORT ON S. 2052, ORIENTATION OF DEPENDENTS OF USDA EMPLOYEES HAVING FOREIGN ASSIGNMENTS

Mr. DE LA GARZA. Mr. Speaker, I call up the conference report on the Senate bill (S. 3052) to amend section 602 of the Agricultural Act of 1954, 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 Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see Proceedings of the House of August 11, 1976.)

Mr. DE LA GARZA (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 Texas?

There was no objection.

The SPEAKER. The gentleman from Texas is recognized.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of the conference report on S. 3052. This bill authorizes orientation and language training for families of officers and employees of the Department of Agriculture assigned abroad or in anticipation of a foreign assignment.

The House had made a number of technical amendments to the bill as passed by the Senate. In conference these amendments were either accepted by the Senate or compromised in a manner to preserve the spirit of the House position.

The Senate bill had authorized the Department to use any appropriated funds, for the purposes of the legislation, effective upon enactment of the bill without any monetary limit on the use of such funds. The House had amended the bill to provide a specific authorization of not to exceed $35,000 annually. The conferees agreed to the merits of the House position on the desirability for a monetary limit on the authorization, but increased the annual authorization from $35,000 to $50,000 to take account of estimates of the Congressional Budget Office that the higher amount would probably be needed in the future because of inflation. The conferees also authorized the Secretary to make use of any funds appropriated to the Department, in an amount not to exceed $50,000, for the first year of the bill since the appropriation for the Department for fiscal year 1977 has already been adopted.

The Senate accepted other amendments of the House such as the amendment authorizing the use of foreign currencies generated under title I of Public Law 480 and the requirement of an annual report from the Secretary showing activities carried out under the bill. The House receded to the Senate in agreeing to make the program available to families of foreign agricultural personnel instead of limiting it to spouses. This takes account of the participation of other members of the family in representational activities abroad. With the monetary ceiling on the authorization, it is expected that the authority would be used only in meritorious situations.

Mr. Speaker, I sponsored the bill introduced in the House because I thought it important to the image of the United States that families of USDA assigned abroad have proficiency in the language of the country to which they are assigned. This is a good bill. Other departments of Government currently have the authority to provide for this language training but not the USDA. I urge the Members of the House to join me in support of the conference report.

Mr. THONE. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Nebraska.

Mr. THONE. Mr. Speaker, there is little that I can add to the explanation of this conference report as provided by Mr. DE LA GARZA, except to say that our conference was relatively brief, inasmuch as there were not what I would consider to be substantial differences between the House and Senate versions of this bill. The differences were resolved without considerable difficulty, and I believe that what we bring you today is a resolution of the differences in a manner that should be very acceptable to the House membership.

The House did recede on limiting the orientation and language training to spouses only, because the Senate argued that while there are few cases, USDA employees on foreign assignment might wish to take an older daughter or son to serve on a foreign assignment, and that it is helpful that such individual can receive the same type of language training that would be given to a spouse—and for that reason, the House receded with respect to that disagreement.

The Senate receded to the House with regard to provisions that authorized the use of foreign currencies generated under Public Law 480 to help carry out the program of language training in foreign countries to which USDA employees and their families are assigned. The Senate also receded to the House regarding a requirement that the Secretary of Agriculture submit annually to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry a detailed report showing activities carried out under this program.

Finally and most important, the committee on conference agreed to a provision that would limit appropriations not to exceed $50,000 annually, except for fiscal year 1976, for the purposes of language training for USDA employees and their families. I consider this to be a major concession on the part of the Senate in that it does limit the funds to be expended for this purpose, and it was also the agreement of the conferees that any Public Law 480 foreign currencies used for the purposes of language training would be subject to this $50,000 annual limitation.

In my opinion, the limitation on funding was the most important provision as far as the House was concerned, and I believe that $50,000 is a reasonable cap to place on these expenditures—and for that reason I urge your adoption of the conference report.

Mr. DE LA GARZA. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DERWINSKI. 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. 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 347, nays 10, answered "present" 1, not voting 72, as follows:

[Roll No. 720]

YEAS—347

Abnor	Dingell	Jones, N.C.
Adams	Dodd	Jones, Tenn.
Alexander	Downey, N.Y.	Jordan
Allen	Downing, Va.	Karth
Ambro	Drinan	Kasten
Anderson, Calif.	Duncan, Oreg.	Kastenmeier
Anderson, Ill.	Duncan, Tenn.	Kazen
Andrews, N. Dak.	Eckhardt	Kelly
Annunzio	Edgar	Kemp
Archer	Edwards, Ala.	Ketchum
Armstrong	Edwards, Calif.	Keys
Ashley	Eilberg	Kindness
Aspin	Emery	Krebs
Bafalis	Erlenborn	Krueger
Baldus	Evins, Tenn.	LaFalce
Baucus	Fary	Lagomarsino
Bauman	Fascell	Latta
Bedell	Fenwick	Leggett
Bell	Findley	Lehman
Bergland	Fisher	Lent
Bevill	Fithian	Levitas
Biester	Flood	Lloyd, Calif.
Bingham	Florio	Long, La.
Blanchard	Flowers	Long, Md.
Blouin	Flynt	Lott
Boggs	Foley	Lujan
Boland	Ford, Mich.	Lundine
Bolling	Forsythe	McClory
Bonker	Fountain	McCloskey
Bowen	Fraser	McCormack
Brademas	Frenzel	McDade
Breckinridge	Fuqua	McFall
Brodhead	Gaydos	McHugh
Brooks	Giaimo	McKay
Broomfield	Gibbons	Madden
Brown, Calif.	Gilman	Madigan
Brown, Mich.	Ginn	Maguire
Brown, Ohio	Goldwater	Mahon
Broyhill	Gonzalez	Mann
Buchanan	Goodling	Martin
Burgener	Grassley	Mathis
Burke, Calif.	Gude	Meeds
Burke, Fla.	Guyer	Melcher
Burleson, Tex.	Hagedorn	Metcalfe
Burlison, Mo.	Haley	Meyner
Burton, John	Hall, Ill.	Mezvinsky
Burton, Phillip	Hall, Tex.	Michel
Butler	Hamilton	Mikva
Byron	Hammer-schmidt	Miller, Calif.
Carney	Hannaford	Miller, Ohio
Carr	Harkin	Mills
Cederberg	Harris	Mineta
Clancy	Harsha	Minish
Clausen, Don H.	Hawkins	Mink
Clawson, Del	Hayes, Ind.	Mitchell, Md.
Clay	Hechler, W. Va.	Mitchell, N.Y.
Cleveland	Heckler, Mass.	Moffett
Cochran	Hefner	Mollohan
Cohen	Hicks	Montgomery
Collins, Ill.	Hightower	Moore
Collins, Tex.	Hillis	Moorhead, Calif.
Conable	Holland	Moorhead, Pa.
Conte	Holtzman	Morgan
Conyers	Horton	Mosher
Corman	Howard	Murphy, Ill.
Cornell	Hubbard	Murphy, N.Y.
Cotter	Hughes	Myers, Ind.
D'Amours	Hungate	Myers, Pa.
Daniel, Dan	Hutchinson	Natcher
Daniel, R. W.	Hyde	Neal
Daniels, N.J.	Ichord	Nedzi
Danielson	Jacobs	Nichols
Davis	Jarman	Nix
de la Garza	Jeffords	Nolan
Derrick	Jenrette	Nowak
Derwinski	Johnson, Calif.	Oberstar
Devine	Johnson, Colo.	Obey
Dickinson	Johnson, Pa.	O'Brien
	Jones, Ala.	O'Hara
		Ottinger

Passman	Rousselot	Symington
Patten, N.J.	Roybal	Talcott
Patterson, Calif.	Runnels	Taylor, Mo.
Pattison, N.Y.	Ruppe	Taylor, N.C.
Pepper	Russo	Teague
Perkins	Ryan	Thompson
Pettis	Santini	Thone
Pickle	Sarasin	Thornton
Pike	Sarbanes	Traxler
Poage	Satterfield	Treen
Pressler	Schneebeli	Ullman
Preyer	Schroeder	Van Deerlin
Price	Schulze	Vander Jagt
Pritchard	Sebelius	Vander Veen
Quie	Seiberling	Vanik
Quillen	Sharp	Vigorito
Railsback	Shipley	Waggonner
Randall	Shriver	Walsh
Rangel	Shuster	Weaver
Rees	Sikes	Whalen
Regula	Simon	White
Reuss	Sisk	Whitehurst
Rhodes	Skubitz	Whitten
Richmond	Slack	Wiggins
Rinaldo	Smith, Iowa	Wilson, Bob
Roberts	Smith, Nebr.	Wilson, C. H.
Robinson	Snyder	Wilson, Tex.
Rodino	Solarz	Winn
Roe	Spence	Wirth
Rogers	Staggers	Wright
Roncalio	Stanton, J. William	Wydler
Rooney	Stark	Wylie
Rose	Steiger, Wis.	Yates
Rosenthal	Stokes	Yatron
Rostenkowski	Studds	Young, Alaska
Roush	Sullivan	Young, Fla.
		Zablocki

NAYS—10

Ashbrook	Landrum	Mottl
Bennett	Lloyd, Tenn.	Paul
Crane	McDonald	
Evans, Ind.	Milford	

ANSWERED "PRESENT"—1

Mazzoli

NOT VOTING—72

Abzug	Evans, Colo.	Peyser
Addabbo	Fish	Riegle
Andrews, N.C.	Ford, Tenn.	Risenhoover
AuCoin	Frey	St Germain
Badillo	Green	Scheuer
Beard, R.I.	Hanley	Spellman
Beard, Tenn.	Hansen	Stanton, James V.
Biaggi	Harrington	Steed
Breaux	Hébert	Steelman
Brinkley	Heinz	Steiger, Ariz.
Burke, Mass.	Helstoski	Stephens
Carter	Henderson	Stratton
Chappell	Hinshaw	Stuckey
Chisholm	Holt	Symms
Conlan	Howe	Tsongas
Coughlin	Jones, Okla.	Udall
Delaney	Koch	Wampler
Dellums	McCollister	Waxman
Dent	McEwen	Wolff
Diggs	McKinney	Young, Ga.
du Pont	Matsunaga	Young, Tex.
Early	Moakley	Zeferetti
English	Moss	
Esch	Murtha	
Eshleman	O'Neill	

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Andrews of North Carolina.
Mr. Addabbo with Mr. Carter.
Mrs. Spellman with Mr. English.
Mr. St Germain with Mr. Peyser.
Mr. Zeferetti with Mr. Brinkley.
Mr. Young of Georgia with Mr. Steelman.
Mr. Moakley with Mr. du Pont.
Mr. Delaney with Mr. James V. Stanton.
Mrs. Chisholm with Mr. Symms.
Ms. Abzug with Mr. Esch.
Mr. Chappell with Mr. Scheuer.
Mr. Breaux with Mr. Conlan.
Mr. Badillo with Mr. Stephens.
Mr. Hanley with Mrs. Holt.
Mr. Koch with Mr. Eshleman.
Mr. Matsunaga with Mr. Steiger of Arizona.
Mr. Moss with Mr. Coughlin.
Mr. Murtha with Mr. Jones of Oklahoma.
Mr. Evans of Colorado with Mr. Ford of Tennessee.
Mr. Helstoski with Mr. Howe.
Mr. Burke of Massachusetts with Mr. Stuckey.
Mr. Biaggi with Mr. Green.
Mr. Dent with Mr. Harrington.
Mr. Dellums with Mr. McCollister.
Mr. Early with Mr. Fish.
Mr. Risenhoover with Mr. Hébert.
Mr. Diggs with Mr. Wampler.
Mr. Riegle with Mr. Henderson.
Mr. Steed with Mr. Waxman.
Mr. Stratton with Mr. McEwen.
Mr. Udall with Mr. Frey.
Mr. Wolff with Mr. Hansen.
Mr. AuCoin with Mr. Heinz.
Mr. Beard of Rhode Island with Mr. McKinney.
Mr. Tsongas with Mr. Beard of Tennessee.

Mrs. LLOYD of Tennessee changed her vote from "yea" to "nay."

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.

REVISED DEFERRAL FOR SOCIAL SECURITY ADMINISTRATION'S LIMITATION ON CONSTRUCTION ACCOUNT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–610)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I report a net increase of $11.1 million in the amount previously deferred for the Social Security Administration's Limitation on construction account.

The details of the revised deferral are contained in the attched report.

GERALD R. FORD.

THE WHITE HOUSE, *September 14, 1976.*

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the conference report on S. 3052 just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO SIT DURING 5-MINUTE RULE TODAY

Mr. FLYNT. Mr. Speaker, I ask unanimous consent that the Committee on Standards of Official Conduct may be permitted to sit today for the purpose of taking testimony and receiving evidence only during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, the gentleman by his statement has assured us that it is primarily for hearings and investigative purposes only?

Mr. FLYNT. During the 5 minute rule, that is correct.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

Mr. TREEN. Further reserving the right to object, Mr. Speaker, I would ask the gentleman from Georgia what the committee will be receiving testimony on?

Mr. FLYNT. Mr. Speaker, if the gentleman will yield, this is on the investigation directed by the House pursuant to the provisions of House Resolution 1042 relating to the Select Committee on Intelligence.

Mr. TREEN. And that would be the only purpose?

Mr. FLYNT. During the 5 minute rule, that is correct.

Mr. TREEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

ANNOUNCEMENT OF FIRST MEETING OF COMMISSION ON ADMINISTRATIVE REVIEW

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, I would like to announce to my colleagues that the first meeting of the Commission on Administrative Review will be held on Friday, September 17, 1976, at 9 a.m. in room 1302 of the Longworth Building.

PROVIDING FOR CONSIDERATION OF H.R. 15319, HABEAS CORPUS RULES

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1535 and ask for its immediate consideration.

The clerk read the resolution as follows:

H. RES. 1535

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 15319) 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. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto final passage without intervening motion except one mo-

tion to recommit with or without instructions.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Illinois (Mr. ANDERSON) and I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1535 provides for the consideration of H.R. 15319, habeas corpus rules, to promulgate certain amendments to the rules of procedure for use in cases and proceedings arising under title 28, United States Code, sections 2254 and 2255. The resolution provides for an open rule, with 1 hour of debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

The habeas corpus rules legislation makes certain changes in the rule of procedure in section 2254 providing that a person being held in State custody may apply to a Federal court for a writ of habeas corpus "only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." The bill also makes certain changes in section 2255 providing that a person who is held in Federal custody may, by motion, seek release from that custody "upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack."

H.R. 15319 amends, in both sections 2254 and 2255, Supreme Court rule 2, petitions; rule 8, evidentiary hearings; rule 9, delayed or successive petition; and rule 10, powers of magistrates.

Most of the changes made in the bill are technical or clarifying changes, with one exception relating to rule 9. As promulgated by the Supreme Court, rule 9 provided that petitions and motions for relief filed 5 years after judgment created a presumption of prejudice to the government. The petitioner or movant had the burden of overcoming this presumption. The bill deletes this rebuttable presumption in order to conform the rules to existing statutory and case law. Also, rule 9 as promulgated by the Supreme Court permitted dismissal of a successive petition or motion alleging new grounds for relief if the court found that the failure to raise those grounds previously was "not excusable." The bill changes this standard to permit the court to dismiss if it finds that the failure constituted an abuse of the writ or the procedures.

Mr. Speaker, I urge adoption of House Resolution 1535 so that we may proceed to the consideration of the changes in the habeas corpus rules, H.R. 15319.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, House Resolution 1535 would make in order the consideration of the bill, H.R. 15319, the so-called habeas corpus rules. This resolution provides for 1 hour of general debate to be equally divided between the chairman and ranking minority member of the Committee on the Judiciary. The bill would then be read for amendment under the 5-minute rule. In short, this is a straight, 1-hour open rule with no limitation on germane amendments and no waivers.

Mr. Speaker, the bill which this rule would make in order makes some eight amendments in all to the two sets of Supreme Court habeas corpus rules promulgated on April 26, 1976. Those two sets of rules deal with the conditions and procedures under which prisoners held in State or Federal custody may apply to a Federal court seeking release from that custody. Those rules were to have taken effect on August 1, 1976, under the terms of the "Rules Enabling Acts," but that effective date was postponed until 30 days after this Congress adjourns sine die by Public Law 94-349 which passed this House on June 7, 1976, and was signed into law on July 8.

Mr. Speaker, the habeas corpus bill was reported from Judiciary by a voice vote on August 31; there are no minority or dissenting views in the report. This rule was likewise reported by voice vote in the Rules Committee. I am informed that the administration has no objection to this bill. I urge adoption of this rule and passage of the bill it makes in order.

Mr. Speaker, I have no requests for time, and I reserve the remainder of my time.

Mr. PEPPER. Mr. Speaker, I have no requests for time.

I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MCFALL). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. 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.

Mr. PEPPER. Mr. Speaker, will the gentleman withhold his request?

Mr. ROUSSELOT. What is there to withhold?

Mr. PEPPER. We were going to handle three rules that were noncontroversial. We have two more to handle, and I would hope that the gentleman would let us dispose of those rules more rapidly before we have a quorum call.

Mr. ROUSSELOT. I think we call this a vote, but I am willing to discuss it. Does the gentleman want to have a vote on just one?

Mr. PEPPER. We have already had one. We have two more. They are noncontroversial rules, and I would hope that we might be able to dispose of those three rules. They are noncontroversial rules.

Mr. ROUSSELOT. This is not a quorum call; this is a vote.

Mr. PEPPER. I beg the gentleman's pardon.

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 359, nays 0, answered "present" 1, not voting 70, as follows:

[Roll No. 721]

YEAS—359

Abdnor
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammer-schmidt
Hannaford
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Pike
Poage

Pressler	Sarasin	Thompson
Preyer	Satterfield	Thone
Price	Schneebeli	Thornton
Pritchard	Schroeder	Traxler
Quie	Schulze	Treen
Quillen	Sebelius	Ullman
Railsback	Seiberling	Van Deerlin
Randall	Sharp	Vander Jagt
Rangel	Shipley	Vander Veen
Rees	Shriver	Vanik
Regula	Shuster	Vigorito
Reuss	Sikes	Waggonner
Rhodes	Simon	Walsh
Richmond	Sisk	Waxman
Rinaldo	Skubitz	Weaver
Roberts	Slack	Whalen
Robinson	Smith, Iowa	White
Rodino	Smith, Nebr.	Whitehurst
Roe	Snyder	Whitten
Rogers	Solarz	Wiggins
Roncalio	Spellman	Wilson, Bob
Rooney	Staggers	Wilson, C. H.
Rose	Stanton, J. William	Wilson, Tex.
Rosenthal	Stark	Winn
Rostenkowski	Steiger, Wis.	Wirth
Roush	Stokes	Wright
Rousselot	Studds	Wydler
Roybal	Symington	Wylie
Runnels	Talcott	Yates
Ruppe	Taylor, Mo.	Yatron
Russo	Taylor, N.C.	Young, Alaska
Ryan	Teague	Young, Fla.
Santini		Zablocki

NAYS—0

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—70

Abzug	Fish	Riegle
Addabbo	Fisher	Risenhoover
Andrews, N.C.	Ford, Tenn.	St Germain
AuCoin	Green	Sarbanes
Badillo	Hanley	Scheuer
Beard, R.I.	Hansen	Spence
Biaggi	Harrington	Stanton, James V.
Breaux	Hébert	Steed
Brinkley	Heinz	Steelman
Burke, Mass.	Helstoski	Steiger, Ariz.
Carter	Henderson	Stephens
Chappell	Hinshaw	Stratton
Chisholm	Holt	Stuckey
Conlan	Howe	Sullivan
Coughlin	Johnson, Colo.	Symms
Delaney	Jones, Okla.	Tsongas
Diggs	Koch	Udall
Dingell	Leggett	Wampler
du Pont	McCollister	Wolff
Early	McKinney	Young, Ga.
English	Matsunaga	Young, Tex.
Esch	Moakley	Zeferetti
Eshleman	O'Neill	
Evans, Colo.	Peyser	

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Fish.
Mr. Burke of Massachusetts with Mr. Riegle.
Mr. Addabbo with Mr. Stephens.
Mr. AuCoin with Mr. Udall.
Mr. Harrington with Mr. Wampler.
Mr. Breaux with Mr. Risenhoover.
Mr. Chappell with Mrs. Sullivan.
Mr. Badillo with Mr. Stuckey.
Mrs. Chisholm with Mr. du Pont.
Mr. Delaney with Mr. Scheuer.
Mr. Evans of Colorado with Mr. McCollister.
Mr. Biaggi with Mr. Peyser.
Mr. Hanley with Mr. Spence.
Ms. Abzug with Mr. Green.
Mr. Dingell with Mr. Hansen.
Mr. Beard of Rhode Island with Mr. McKinney.
Mr. St Germain with Mr. Coughlin.
Mr. Diggs with Mr. Esch.
Mr. English with Mr. Symms.
Mr. Ford of Tennessee with Mr. Henderson.
Mr. Hébert with Mrs. Holt.
Mr. Helstoski with Mr. Moakley.
Mr. Leggett with Mr. James V. Stanton.
Mr. Koch with Mr. Steiger of Arizona.
Mr. Matsunaga with Mr. Early.
Mr. Jones of Oklahoma with Mr. Howe.
Mr. Sarbanes with Mr. Heinz.
Mr. Steed with Mr. Conlan.
Mrs. Spellman with Mr. Eshleman.
Mr. Tsongas with Mr. Fisher.
Mr. Wolff with Mr. Johnson of Colorado.
Mr. Young of Georgia with Mr. Carter.
Mr. Zeferetti with Mr. Brinkley.
Mr. Stratton with Mr. Andrews of North Carolina.

Mr. BAFALIS changed his vote from "nay" to "yea."

The resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WHITE. Mr. Speaker, on July 1, I voted against the motion on House Resolution 1372 to recommit the measure with instructions to report it back with a substitute to rescind the authority given to the House Administration Committee by the 92d Congress, retroactive to June 23, 1976. The CONGRESSIONAL RECORD of July 1, 1976, incorrectly shows me as "not voting" on rollcall No. 502. I ask unanimous consent that this statement appear in the permanent RECORD to reflect this error.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 14940, IMPLEMENTATION OF THE TREATY OF FRIENDSHIP AND COOPERATION BETWEEN THE UNITED STATES AND SPAIN

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1519 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1519

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14940) to authorize the obligation and expenditure of funds to implement for fiscal year 1977 the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 14940, the House shall proceed to the consideration of the bill S. 3557, section 402 of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, and it shall be in order in the House to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof the provisions of H.R. 14940 as passed by the House.

The SPEAKER pro tempore. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1519 provides for the consideration of H.R. 14940 to authorize the obligation and expenditure of funds to implement for fiscal year 1977 the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes.

The resolution would permit the House to consider the legislation under an open rule with 1 hour of general debate to be divided and controlled in the customary manner. The rule also makes it in order to call up the bill S. 3557 for the purpose of substituting the House-passed language, and waives points of order which could be raised under section 402 of the Congressional Budget Act—Public Law 93-344.

Section 402 prohibits consideration of authorization bills for fiscal year 1977 unless they were reported by May 15, 1976. S. 3557 was reported in the Senate, after the May 15 deadline, on June 11 and was passed in the Senate on June 18, 1976. Earlier that day, Senate Resolution 464, making it in order for the Senate to consider the authorization bill, was adopted.

H.R. 14940 does not violate the Budget Act. The bill was made necessary by Section 507 of the International Security Assistance and Arms Export Control Act of 1976—Public Law 94-329, which actually constitutes the only legal authorization of the security assistance appropriations needed to implement the treaty for fiscal year 1977. That act authorized such sums as may be necessary to implement the Spanish Bases Treaty, subject to a hold on the obligation and expenditure of these funds until approved by the Congress in subsequent legislation such as H.R. 14940.

The need for legislation to release the funds grew out of the House request of the Senate to consider the inclusion of a reservation to any Senate consent to the treaty which would retain for the House its constitutional and historic prerogative of legislative authorization of appropriations to fulfill security treaty commitments. The executive branch viewed provisions in the treaty as constituting authorization in law for the appropriations necessary to implement the treaty, and this constituted an unprecedented attempt by the executive branch to authorize security assistance appropriations by means of a treaty provision, rather than by legislation.

We are calling up the Senate bill, S. 3557, solely for the purpose of inserting the House-passed language and, therefore, the waiver does not violate the Budget Act. This assurance was provided to the Committee on Rules by the Budget Committee which has no objection to the waiver.

Mr. Speaker, the hope has been expressed that this new treaty between the

United States and Spain will further Spain's progress toward free institutions and toward greater participation in the institutions of Western European political and economic cooperation.

I urge adoption of House Resolution 1519 so that we may proceed to the consideration of H.R. 14940.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1519 would make in order consideration of the bill, H.R. 14940, which authorizes the obligation and expenditure of funds to implement in fiscal year 1977 the provisions of the Treaty of Friendship and Cooperation between the United States and Spain. This rule provides for 1 hour of general debate to be equally divided between the chairman and ranking minority member of the Committee on International Relations. Following general debate, the bill will be read for amendment under the 5-minute rule.

Mr. Speaker, the only difference between this and any other 1-hour open rule is that provision is made, after passage of the bill, to take up the Senate version, S. 3557, and insert the language of the House-passed bill. In order to do this, it is necessary to waive section 402 (a) of the Budget Act against consideration of the Senate bill. Section 402 of the Budget Act prohibits House consideration of any measure authorizing new budget authority unless it has been reported in the House on or before May 15 preceding the beginning of the fiscal year in which that new budget authority is to take effect. Our Rules Committee did receive a letter from Chairman ADAMS of the Budget Committee agreeing to the budget waiver since it is technical in nature only. There is no language in the House bill which is violative of the Budget Act and the waiver is only necessary in order to insert the House language under the Senate number. I therefore urge the adoption of this rule.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF S. 2371, REGULATION OF MINING IN AREAS OF THE NATIONAL PARK SYSTEM

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1520 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1520

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 2371) to provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the National Park System, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1520 is an open rule providing 1 hour of general debate on the bill S. 2371, providing for the regulation of mining activity within areas of the national park system.

Mr. Speaker, S. 2371 passed the other body in February and was referred in the House to the Committee on Interior and Insular Affairs which reported the bill by a vote of 34 to 5. The bill as reported deals only with mining activity at six units of the national park system. These six units are currently open to mineral entry under the provisions of the mining law of 1872. Enactment of the bill as reported would close five of these areas and a portion of the sixth, subject to valid existing mining rights. The bill would also impose restraints on continued production from existing operations and place a 4-year moratorium on new operations at three of the areas. Finally, the bill requires certain studies by the Secretary of the Interior and provides the Secretary with specific authority to regulate mining activity permitted under the bill.

Mr. Speaker, I urge the adoption of House Resolution 1520 so that we may proceed to the consideration of S. 2371.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as explained by the gentleman from California (Mr. SISK), this rule provides for 1 hour of general debate on S. 2371, regulation of mining in areas of the national park system, and that the bill shall be open to all germane amendments.

The primary purpose of S. 2371 is to close five units of the national park system, plus part of a sixth, to further mineral entry, subject to valid existing rights.

The five units closed to further mineral entry are, first, Crater Lake National Park; second, Mount McKinley National Park; third, Death Valley National Monument; fourth, Coronado National Monument; and, fifth, Organ Pipe Cactus National Monument. The sixth unit, which is partly closed to further mineral entry is Glacier Bay National Monument.

The bill also includes specific authority for the Secretary of the Interior to regulate the exercise of the valid mineral rights existing within the national park system.

The administration has no objection to this bill as reported.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOTTL. 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 360, nays 0, not voting 70, as follows:

[Roll No. 722]

YEAS—360

Abdnor	Cochran	Goodling
Adams	Cohen	Gradison
Alexander	Collins, Ill.	Grassley
Allen	Collins, Tex.	Gude
Ambro	Conable	Guyer
Anderson, Calif.	Conte	Hagedorn
Anderson, Ill.	Conyers	Haley
Andrews, N.C.	Corman	Hall, Ill.
Andrews, N. Dak.	Cornell	Hall, Tex.
Annunzio	Cotter	Hamilton
Archer	Crane	Hammer-schmidt
Armstrong	D'Amours	Hannaford
Ashbrook	Daniel, Dan	Harkin
Ashley	Daniel, R. W.	Harris
Aspin	Daniels, N.J.	Hawkins
Bafalis	Danielson	Hayes, Ind.
Baldus	Davis	Hechler, W. Va.
Baucus	de la Garza	Heckler, Mass.
Bauman	Dellums	Hefner
Beard, Tenn.	Dent	Hicks
Bedell	Derrick	Hightower
Bell	Derwinski	Hillis
Bennett	Devine	Holland
Bergland	Dickinson	Holtzman
Bevill	Dodd	Horton
Biester	Downey, N.Y.	Howard
Bingham	Downing, Va.	Hubbard
Blanchard	Drinan	Hughes
Blouin	Duncan, Oreg.	Hungate
Boggs	Duncan, Tenn.	Hutchinson
Boland	Eckhardt	Hyde
Bolling	Edgar	Ichord
Bonker	Edwards, Ala.	Jacobs
Bowen	Edwards, Calif.	Jarman
Brademas	Eilberg	Jenrette
Breckinridge	Emery	Johnson, Calif.
Brodhead	Erlenborn	Johnson, Colo.
Brooks	Evans, Ind.	Johnson, Pa.
Broomfield	Evins, Tenn.	Jones, Ala.
Brown, Calif.	Fary	Jones, N.C.
Brown, Mich.	Fascell	Jones, Tenn.
Brown, Ohio	Fenwick	Jordan
Broyhill	Findley	Karth
Buchanan	Fisher	Kasten
Burgener	Fithian	Kastenmeier
Burke, Calif.	Flood	Kazen
Burke, Fla.	Florio	Kelly
Burleson, Tex.	Flowers	Kemp
Burlison, Mo.	Flynt	Ketchum
Burton, John	Foley	Keys
Burton, Phillip	Ford, Mich.	Kindness
Butler	Forsythe	Krebs
Byron	Fountain	Krueger
Carney	Fraser	LaFalce
Carr	Frenzel	Lagomarsino
Cederberg	Frey	Landrum
Clancy	Fuqua	Latta
Clausen, Don H.	Gaydos	Leggett
Clawson, Del	Giaimo	Lehman
Clay	Gibbons	Lent
Cleveland	Gilman	Levitas
	Ginn	Lloyd, Calif.
	Goldwater	Lloyd, Tenn.
	Gonzalez	

Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McKay
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steiger, Wis.
Stephens
Stokes
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Zablocki

NAYS—0

NOT VOTING—70

Abzug
Addabbo
AuCoin
Badillo
Beard, R.I.
Biaggi
Breaux
Brinkley
Burke, Mass.
Carter
Chappell
Chisholm
Conlan
Coughlin
Delaney
Diggs
Dingell
du Pont
Early
English
Esch
Eshleman
Evans, Colo.
Fish
Ford, Tenn.
Green
Hanley
Hansen
Harrington
Harsha
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Holt
Howe
Jeffords
Jones, Okla.
Koch
McCollister
McHugh
McKinney
Matsunaga
Moakley
Murphy, N.Y.
O'Neill
Peyser
Rees
Riegle
Risenhoover
St Germain
Sarbanes
Scheuer
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stratton
Stuckey
Studds
Sullivan
Symms
Tsongas
Udall
Wilson, Tex.
Wolff
Young, Ga.
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

Mr. O'Neill with Mr Hébert.
Mr. Chappell with Mr. Fish.
Mr. Addabbo with Mr. Jeffords.
Mrs. Chisholm with Mr. du Pont.
Mr. Biaggi with Mr. Harsha.
Mr. Matsunaga with Mr. McCollister.
Mr. Delaney with Mr. Hansen.
Mr. Beard of Rhode Island with Mr. James V. Stanton.
Mr. Badillo with Mr. Moakley.
Mr. St Germain with Mr. Henderson.
Mr. Wolff with Mr. Peyser.
Mr. AuCoin with Mrs. Sullivan.
Mr. Harrington with Mr. Steiger of Arizona.
Mr. Evans of Colorado with Mr. Jones of Oklahoma.
Mr. Hanley with Mr. McKinney.
Ms. Abzug with Mr. Dingell.
Mr. Diggs with Mr. Heinz.
Mr. Koch with Mr. Coughlin.
Mr. Zeferetti with Mr. Carter.
Mr. Young of Georgia with Mr. Charles Wilson of Texas.
Mr. Tsongas with Mr. Esch.
Mr. English with Mr. Conlan.
Mr. Burke of Massachusetts with Mr. Studds.
Mr. Stratton with Mr. Steelman.
Mr. Riegle with Mr. Eshleman.
Mr. Udall with Mr. Murphy of New York.
Mr. Risenhoover with Mr. Helstoski.
Mr. Green with Mr. Symms.
Mr. Early with Mr. Steed.
Mr. Howe with Mrs. Holt.
Mr. Brinkley with Mr. Scheuer.
Mr. Breaux with Mr. Stuckey.
Mr. McHugh with Mr. Sarbanes.
Mr. Ford of Tennessee with Mr. Rees.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON WATER AND POWER RESOURCES TO SIT THIS AFTERNOON

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that the Subcommittee on Water and Power Resources have the right to sit in hearing this afternoon, on hearings only.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

HABEAS CORPUS RULES

Mr. HUNGATE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15319) 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.

The SPEAKER. The question is on the motion offered by the gentleman from Missouri.

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 consideration of the bill H.R. 15319, with Mr. COTTER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule the gentleman from Missouri (Mr. HUNGATE) will be recognized for 30 minutes and the gentleman from California (Mr. WIGGINS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Missouri.

Mr. HUNGATE. Mr. Chairman, I rise in support of the bill H.R. 15319. At the outset, I should like to say that the bill has been drafted with bipartisan support and I know of no opposition to it.

BACKGROUND

Statutes known as the Rules Enabling Acts empower the Supreme Court to promulgate rules of practice and procedure for use in civil and criminal cases and proceedings. The Enabling Acts require that rules so promulgated be reported to the Congress by May 1 of each year, and they further provide that any rules so reported cannot take effect for 90 days. The purpose for the 90-day wait is to give Congress an opportunity to review the substance of whatever rules the Supreme Court may promulgate.

On April 26 of this year, the Supreme Court promulgated numerous rules of practice and procedure. These rules were to become effective on August 1, 1976, and they covered a wide area—including procedure in bankruptcy cases, procedure in criminal cases, and procedure in postconviction cases and proceedings. The rules promulgated by the Court, together with explanatory notes, were printed in House Document No. 94-464. In all, the rules and notes take up some 600 printed pages.

It became apparent that there was some controversy concerning the criminal procedure rules and the postconviction rules, which I shall refer to as the habeas corpus rules. Consequently, the Congress enacted legislation deferring the effective date of these rules—Public Law 94-349. The effective date of the habeas corpus rules was delayed from August 1 of this year until 30 days after the 94th Congress adjourns sine die. The effective date of the criminal procedure rules was delayed for 1 year because more of them were controversial.

The reason for delaying the effective date was to give Congress an adequate amount of time to study the substance of the proposed rules. H.R. 15319 is the result of a careful study of the habeas corpus rules.

THE HABEAS CORPUS RULES

There are two different statutes dealing with postconviction remedies in the nature of habeas corpus. One, 28 U.S.C. section 2254, deals with the situation where a person is held in State custody. It provides that the person may apply to a Federal court for a writ of habeas corpus "only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States."

The other statute, 28 United States Code, section 2255, deals with the situation where a person is held in Federal custody. Section 2255 provides that the person may, by motion, seek release from that custody "upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack."

The Supreme Court's April 26 order promulgated a set of rules of procedure for cases and proceedings under each

statute. The procedures that they establish are very similar. H.R. 15319 approves in toto the majority of the rules; only four rules in each set are amended by the legislation.

Perhaps the most noteworthy change is in rule 9 of each set of rules. As promulgated by the Supreme Court, rule 9 permitted a court to dismiss a petition for a writ of habeas corpus under 28 United States Code, section 2254 or a motion to set aside a sentence under 28 United States Code, section 2255 if the delay in filing the petition or motion prejudiced the United States or the State in its ability to respond. Further, it provided that—

> If the petition is filed more than five years after the judgment of conviction, there shall be a presumption, rebuttable by the petitioner, that there is prejudice to the state. When a petition challenges the validity of an action, such as revocation of probation or parole, which occurs after judgment or conviction, the five-year period as to that action shall start to run at the time the order in the challenged action took place.

H.R. 15319 changes these provisions so that rule 9 will not impose upon a person a rebuttable presumption of prejudice after 5 years. It is our belief that it is not sound policy to put such a burden on the petitioner or movant. Those facts that can prove or disprove prejudice are readily ascertainable by the United States or the State. It is not easy, and perhaps in some instances not possible, for a prisoner to ascertain those same facts. Further, the legislation will bring rule 9 into conformity with other provisions of law—especially those provisions embodied in congressionally enacted statutes.

Rule 9, as promulgated by the Court, also permitted a judge to dismiss a second or successive petition, or motion, even if the petition or motion alleged new and different ground for relief, if the judge found that the failure to assert those grounds in a prior petition or motion was "not excusable." H.R. 15319 deletes the "not excusable" language and amends the rule to permit dismissal if the judge finds that the failure to assert the new grounds in a prior petition or motion constituted an abuse of the writ or the procedures of the rule.

The Committee believes that the "not excusable" language created a standard that was new and undefined, one that gave a judge too broad a discretion to dismiss second or successive petition. The "abuse of writ" standard, on the other hand, brings rule 9(b) into conformity with existing law. A congressionally enacted statute, 28 United States Code section 2244(b), provides that a judge may deny a second or successive petition for a writ of habeas corpus which alleges new grounds only if the judge is satisfied that the petitioner deliberately withheld these grounds "or otherwise abused the writ." The Supreme Court used the same phrase in the case of *Sanders* v. *United States*, 373 U.S. 1, 17 (1963).

Other amendments to the rules were made by H.R. 15319. These changes were deemed to be more housekeeping in nature. Rule 2 was amended to make it clear that a petitioner or movant need only substantially comply with the new forms. The rule as promulgated was felt to put too much emphasis on strict compliance with the forms.

Rule 2 was also amended by H.R. 15319 to provide that if a petition or motion "does not substantially comply with the requirements of rule 2 or rule 3, it may be returned to the petitioner—or movant—if a judge of the court so directs." The change was made to insure that it is a district court judge who makes such a decision and not the court clerk.

Rule 8 of both sets of rules was amended to clarify that a judge, in his discretion, could appoint counsel, at an earlier or later time than the evidentiary hearing states if the "interest of justice so requires."

Rule 10 gives magistrates the authority to exercise certain powers under these rules, if the district court permits such action by local rule. H.R. 15319 amends rule 10 to require that the district courts first establish "standards and criteria" for the performance of any duties delegated to the magistrate by these rules.

The changes outlined are the only ones made by the bill. All the other rules were approved in their entirety.

Mr. Chairman, I urge the passage of this bill and reiterate that the bill has been drafted and reported out of the Judiciary Committee with bipartisan support. We feel it represents both an improvement of the original rules and a positive congressional input.

Mr. Chairman, at this time I express appreciation to the committee for their bipartisan effort. The Members on both sides of the aisle have contributed greatly to the study and understanding and improvement of these rules.

Mr. Chairman, I also express thanks to our staff, without whom we would not have reached this point.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I am happy to concur in the remarks of the distinguished gentleman from Missouri and associate myself with the gentleman's comments. I commend the gentleman for his leadership in this matter.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I would like to compliment the gentleman from Missouri, the chairman of the subcommittee (Mr. HUNGATE), for his enormous skill in bringing this bill forward today, a bill that will go far to protect the prerogatives of the Congress and insure the fair administration of justice in the courts.

The bill before us, H.R. 15319, concerns rules and forms to be followed in habeas corpus actions in the Federal district courts.

The writ of habeas corpus is a fundamental guarantee of liberty in our democratic system. It is the ultimate means by which a prisoner can test the legality of his or her imprisonment. Restricting the availability of the writ imperils, therefore, the freedoms we cherish.

Nonetheless, the proposed rules of habeas corpus, promulgated by the Supreme Court, contain provisions that not only appear to suspend the writ of habeas corpus, but also seriously to narrow the availability of the writ.

The subcommittee's action removes most of the restrictions that have been unwisely placed on the use of the writ, and therefore, substantially improves the proposed rules regarding habeas corpus.

Rule 9, as proposed by the Supreme Court, would have for the first time imposed a 5-year time limitation on filing of habeas corpus petitions by creating a prejudicial presumption for petitions filed later. The original rule 9 would have also seriously restricted a prisoner from raising new grounds in a second habeas corpus petition. The committee bill removed the time limit and lifted the overly stringent ban on successive petitions.

The committee's bill also deletes the proposed requirement that a prisoner's petition for habeas corpus strictly conform to a specific form. Instead the bill requires substantial compliance, thus permitting persons to seek the writ of habeas corpus without dotting every "i" and crossing every "t".

The committee bill revises rule 8 to clarify the authority of the judge to appoint counsel, not only for evidentiary hearings, but whenever justice so requires. Rule 10, as revised by the committee, makes clear that functions performed by a magistrate with respect to habeas corpus petitions must conform to standards and criteria established by the district court.

I support these revised rules, and I am glad that, as a member of the Criminal Justice Subcommittee, I was able to participate in improving the rules as promulgated. I regret, however, that time does not remain in this Congress to revise the procedure by which these rules were promulgated.

This bill marks the third time in 3 years that the Congress has had to revise rules, supposedly "promulgated" by the Supreme Court, but in fact written by the Judicial Conference and rubber stamped by the Court without independent analysis. Congressional review of these rules, and previously of the rules of evidence and rules of criminal procedure, revealed serious problems in the proposals requiring remedial legislation.

In my judgment, there are serious deficiencies in the rulemaking procedure. Despite the fact that the Judicial Conference proposes rules that profoundly affect the administration of justice in our Federal courts, it does not hold hearings or publicize adequately its proposed actions. Unless legislation is enacted, the rules automatically go into effect.

I hope in the next Congress that the Rules Enabling Act will be reviewed, and this rulemaking procedure revised.

Mr. HUNGATE. Mr. Chairman, I thank the gentlewoman for those kind remarks.

Mr. Chairman, this is a case where the Congress is having an influence on the course of law.

Mr. Chairman, I have no further requests for time.

Mr. WIGGINS. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I, too, rise in support of H.R. 15319.

The Committee on the Judiciary has examined extensively the rules of procedure governing habeas corpus (28 U.S.C. 2254 and 2255) promulgated earlier this year by the U.S. Supreme Court. The committee received the opinions of numerous lawyers, scholars, and public officials. The result of the committee's examination has been an improvement which received bipartisan support.

Since these Supreme Court rules governing habeas corpus will go into effect 30 days after the sine die adjournment of the 94th Congress, if no legislative action is taken, it is important that improvements such as these be approved as expeditiously as possible.

Together with its rules, the Supreme Court also promulgated a set of forms to be followed by those petitioning for habeas corpus relief. In accord with the spirit of habeas corpus, H.R. 15319 provides that the petition be only in substantially the form prescribed so as not to penalize persons for minor mistakes. In dealing with delayed petitions, the Supreme Court's rules established 5 years as the point at which prejudice to the State is presumed and authorized dismissal of the petition for that reason. Although prejudice to the State occasioned by a delay in filing a habeas corpus is certainly to be considered, it was felt that deletion of the arbitrary 5-year period more accurately states existing case law and places the burden of proving prejudice on the proper party.

In dealing with successive petitions for habeas corpus, the Supreme Court rules permitted judges to dismiss if the petitioner asserted new grounds for relief and his failure to raise them in an earlier petition was "not excusable." H.R. 15319 deletes "not excusable" and inserts "constituted an abuse of the writ" to bring the section into conformity with existing case law and to present as clear a standard as possible.

H.R. 15319 also modifies the rules to emphasize that counsel may be appointed for indigent persons at any time during any stage of the case "if the interest of justice so requires."

Finally, the bill changes the proposed rules to specify that magistrates cannot be delegated duties under the rules unless empowered by district court rule and only "to the extent that the district court has established standards and criteria for the performance of such duties."

Mr. Chairman, this bill, so far as I know, was unanimously supported by the members of the Committee on the Judiciary and by the subcommittee, which gave it careful consideration. I know of no amendments to be offered to the bill, save perhaps some technical amendments. I urge adoption of the bill.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. WIGGINS. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. HYDE), a member of the subcommittee.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding to me. I wish to support everything that has been said thus far on this important legislation, and to pay tribute to the Criminal Justice Subcommittee. It is a great pleasure to work with such fine legal minds, who are not only lively and thoughtful in approaching these problems, but extremely skilled.

We have a great staff, headed by Tom Hutchison, who is the chief counsel to the majority; and Bob Lembo, who is assistant minority counsel; Ray Smietanka and M. Douglass Bellis, who serve our subcommittee on the legislative council.

Mr. Chairman, I also want to pay a special tribute to the chairman of the subcommittee, the gentleman from Missouri (Mr. HUNGATE), who brings not only an incisive legal mind to these problems, but a sense of dispatch and great humor which is unique in this body. So, it is a great pleasure to have served on the subcommittee, and I think this is a product vastly superior to what was submitted to us by the Judicial Conference and the Supreme Court.

Mr. Chairman, I urge its prompt adoption.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Chairman, I thank the distinguished chairman of the subcommittee for yielding to me. I listened attentively and have been very much impressed by what has been said. I gather that the net result of this act has been to enlarge the ambiance, or nexus, or context of the procedures which the Supreme Court and the Conference have produced.

Is there any area in this measure in which there are procedural restrictions not found in the Conference or Supreme Court recommendations?

Mr. HUNGATE. I will reply—and my colleagues will correct me as I err—that the Supreme Court sent these rules over under the Rules Enabling Act, with which the gentleman is familiar, and if we do nothing, we get it. So we did take action to postpone this habeas corpus change because we feared some of them might be too restrictive and if no action should be taken here today, 30 days after the Congress adjourns we will have new rules with which the Congress had nothing to do.

So what we sought to do is, the courts seemed to us in the Conference to be concerned with an escalating number of writs of habeas corpus and a plethora, if that is a clean word, over and over and over, and being tied down with frivolous conditions might keep them tied down with matters of no substance and delay them in reaching more serious meritorious matters.

But we did not want to expedite the people in jail out of business. We did not want them to be tied too tightly to a strict form. If a man got the form substantially correct, we said that should be enough, substantially. We tried to make it so that it would not be presumed against him simply because he did not get to file a writ of habeas corpus for 5 years, that he was automatically presumed to be wrong. The Court will still be in a position to probably handle its business more expeditiously, and we believe the Judicial Conference thinks so too.

But we submit we have taken a step for the individual who might need this great writ, which ranks with the Magna Carta and is much cheaper to visit.

Mr. GONZALEZ. I thank the distinguished chairman. I am in wholehearted agreement with him. I might add that has been the philosophical intent on the part of the committee and the subcommittee. I agree with the chairman and the other Members in this action, and I congratulate the gentleman on the expeditious nature of the action.

Mr. HUNGATE. I thank the gentleman, and I thank my colleagues for their customary generosity. I know of no abler group of men with whom I have had the privilege of working in this Congress than the present Members of that subcommittee, and that almost includes Dave Dennis, so that is as high a praise as I can give. As a matter of fact, had I known how kind they were to be, I might have quit years ago.

Mr. WIGGINS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. HUNGATE. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the rules governing section 2254 cases in the United States district courts and the rules governing section 2255 proceedings for the United States district courts, as proposed by the United States Supreme Court, which were delayed by the Act entitled "An Act to delay the effective date of certain proposed amendments to the Federal Rules of Criminal Procedure and certain other rules promulgated by the United States Supreme Court" (Public Law 94-349), are approved with the amendments set forth in section 2 of this Act and shall take effect as so amended, with respect to petitions under section 2254 and motions under section 2255 of title 28 of the United States Code filed on or after February 1, 1977.

SEC. 2. The amendments referred to in the first section of this Act are as follows:

(1) Rule 2(c) of the rules governing section 2254 cases is amended—

(A) by inserting "substantially" immediately after "The petition shall be in"; and

(B) by striking out the sentence "The petition shall follow the prescribed form.".

(2) Rule 2(e) of the rules governing section 2254 cases is amended to read as follows:

"(e) RETURN OF INSUFFICIENT PETITION.—If a petition received by the clerk of a district court does not substantially comply with the requirements of rule 2 or rule 3, it may be returned to the petitioner, if a judge of the court so directs, together with a statement of the reason for its return. The clerk shall retain a copy of the petition.".

(3) Rule 2(b) of the rules governing section 2255 proceedings is amended—

(A) by inserting "substantially" immediately after "The motion shall be in"; and

(B) by striking out the sentence "The motion shall follow the prescibed form.".

(4) Rule 2(d) of the rules governing sec-

tion 2255 proceedings is amended to read as follows:

"(d) RETURN OF INSUFFICIENT MOTION.—If a motion received by the clerk of a district court does not susbtantially comply with the requirements of rule 2 or rule 3, it may be returned to the movant, if a judge of the court so directs, together with a statement of the reason for its return. The clerk shall retain a copy of the motion.".

(5) Rule 8(c) of the rules governing section 2254 cases is amended by adding at the end: "This rule does not limit the appointment of counsel under section 3006A of title 18, United States Code, at any stage of the case if the interest of justice so requires.".

(6) Rule 8(c) of the rules governing section 2555 proceeding is amended by adding at the end the following: "This rule does not limit the appointment of counsel under section 3006A of title 18, United States Code, at any stage of the proceeding if the interest of justice so requires.".

(7) Rule 9(a) of the rules governing section 2254 cases is amended by striking out the second and third sentences.

(8) Rule 9(b) is amended by striking out "is not excusable" and inserting "constituted as abuse of the writ".

(9) Rule 9(a) of the rules governing section 2255 proceedings is amended by striking out the final sentence.

(10) Rule 9(b) of the rules governing section 2255 proceedings is amended by striking out "is not excusable" and inserting "constituted an abuse of the procedure governed by these rules".

(11) Rule 10 of the rules governing section 2254 cases is amended by inserting ", and to the extent the district court has established standards and criteria for the performance of such duties" immediately after "rule of the district court".

(12) Rule 10 of the rules governing section 2255 proceedings is amended by inserting ", and to the extent the district court has established standards and criteria for the performance of such duties," immediately after "rule of the district court".

Mr. HUNGATE (during the reading). Mr. Chairman, I ask unanimous consent that the bill 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 Missouri?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the committee amendments.

Mr. HUNGATE. Mr. Chairman, I ask unanimous consent that the committee amendments be considered en bloc, that the reading of the committee amendments be dispensed with, and that they be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The committee amendments are as follows:

Committee amendments: Page 3, line 12, strike out "This rules does" and insert in lieu thereof "These rules do".

Page 3, beginning in line 13, strike out "section 3006A of title 18, United States Code," and insert in lieu thereof "18 U.S.C. § 3006A".

Page 3, line 16, strike out "2555" and insert in lieu thereof "2255".

Page 3, beginning in line 16, strike out "proceeding" and insert in lieu thereof "proceedings".

Page 3, beginning in line 17, strike out "This rules does" and insert in lieu thereof "These rules do".

Page 3, beginning in line 18, strike out "section 3006A of title 18, United States Code," and insert in lieu thereof "18 U.S.C. § 3006A".

Page 3, line 25, insert "in lieu thereof" immediately after "inserting".

Page 4, line 5, insert "in lieu thereof" immediately after "inserting".

Page 4, line 14, strike out "atfer" and insert in lieu thereof "after".

Page 4, line 14, insert a comma immediately after "duties".

The committee amendments were agreed to.

The CHAIRMAN. Are there any further amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCFALL) having assumed the chair, Mr. COTTER, 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. 15319) 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, pursuant to House Resolution 1535, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WIGGINS. 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 360, nays 4, not voting 66, as follows:

[Roll No. 723]

YEAS—360

Abdnor
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Davis
de la Garza
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammer-schmidt
Hannaford
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steiger, Wis.
Stephens
Stokes
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Zablocki

NAYS—4

Grassley	Mottl	Paul
Kelly		

NOT VOTING—66

Abzug	Evins, Tenn.	Peyser
Addabbo	Fish	Rees
AuCoin	Ford, Tenn.	Rhodes
Badillo	Green	Riegle
Beard, R.I.	Hanley	Risenhoover
Biaggi	Hansen	St Germain
Boggs	Harrington	Sarbanes
Breaux	Hébert	Scheuer
Brinkley	Heinz	Steed
Burke, Mass.	Helstoski	Steelman
Carter	Henderson	Steiger, Ariz.
Chappell	Hinshaw	Stratton
Chisholm	Holt	Stuckey
Conlan	Howe	Studds
Danielson	Jones, Okla.	Sullivan
Delaney	Koch	Symms
Diggs	Leggett	Tsongas
du Pont	McCollister	Udall
English	McKinney	Wolff
Esch	Matsunaga	Young, Ga.
Eshleman	Moakley	Young, Tex.
Evans, Colo.	O'Neill	Zeferetti

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Fish.
Mr. Breaux with Mr. du Pont.
Mr. Chappell with Mr. Riegle.
Mr. Addabbo with Mr. Helstoski.
Mrs. Chisholm with Mr. Esch.
Mr. Biaggi with Mr. McCollister.
Mr. Matsunaga with Mr. Hansen.
Mr. Delaney with Mrs. Holt.
Mr. Beard of Rhode Island with Mr. Eshleman.
Mr. Badillo with Mr. Henderson.
Mr. St Germain with Mr. Peyser.
Mr. Wolff with Mr. Steiger of Arizona.
Mr. AuCoin with Mr. Jones of Oklahoma.
Mr. Harrington with Mr. McKinney.
Mr. Evans of Colorado with Mr. Heinz.
Mr. Hanley with Mr. Danielson.
Ms. Abzug with Mr. Carter.
Mr. Diggs with Mr. Conlan.
Mr. Koch with Mr. Steelman.
Mr. Zeferetti with Mr. Symms.
Mr. Young of Georgia with Mr. Stuckey.
Mr. Tsongas with Mr. Evins of Tennessee.
Mr. English with Mr. Hébert.
Mr. Burke of Massachusetts with Mr. Howe.
Mr. Stratton with Mr. Leggett.
Mr. Udall with Mr. Rees.
Mr. Green with Mrs. Sullivan.
Mr. Risenhoover with Mr. Steed.
Mrs. Boggs with Mr. Sarbanes.
Mr. Brinkley with Mr. Studds.
Mr. Ford of Tennessee with Mr. Scheuer.
Mr. Moakley with Mr. Rhodes.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUNGATE. 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 just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 2710

Mr. JONES of Alabama. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 271) to extend certain authorizations under the Federal Water Pollution Control Act, as amended, with Senate amendments to the House amendments, disagree to the Senate amendments, and request a conference with the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama? The Chair hears none, and appoints the following conferees: Messrs. JONES of Alabama, ROBERTS, WRIGHT, ROE, JOHNSON of California, ANDERSON of California, BREAUX, HARSHA, DON H. CLAUSEN, and CLEVELAND.

IMPLEMENTATION OF TREATY OF FRIENDSHIP AND COOPERATION BETWEEN THE UNITED STATES AND SPAIN

Mr. FASCELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14940) to authorize the obligation and expenditure of funds to implement for fiscal year 1977 the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida.

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 consideration of the bill H.R. 14940, with Mr. COTTER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Florida (Mr. FASCELL) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. WINN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 14940, which constitutes the implementing legislation for the Treaty of Friendship and Cooperation between the United States and Spain. The treaty is widely known as the Spanish Bases Treaty although it contains a number of provisions which are not related to defense.

H.R. 14940 has three main purposes. The chief purpose is to authorize the obligation and expenditure of funds to implement the Spanish Bases Treaty for fiscal year 1977. The total cost of H.R. 14940 is estimated by the Committee on Internal Relations to be approximately $36 million.

It should be noted that this is only a 1-year authorization, although the treaty commitment runs for 5 years.

A second purpose is to authorize several other actions by the executive branch necesary to implement the treaty, such as to allow the sale to Spain of four minesweepers without an additional report to the Congress and to use the proceeds from the lease of F-4E aircraft to Spain for the repurchase of F-4C aircraft from Spain.

The bill's third purpose is to express a policy statement by the Congress of concern for the evolution of domestic processes in Spain.

Mr. Chairman, this bill, R.H. 14940, is a necessary follow-up to section 507 of the International Security Assistance Act of 1976, H.R. 13680, which authorized the appropriation of such funds as may be necessary to implement the provisions of the Spanish Bases Treaty for fiscal year 1977. Section 507 prohibited the obligation and expenditure of these funds until further implementing legislation for the base agreement with Spain, such as this bill, has been approved by the Congress.

This somewhat unusual procedure, involving two separate authorizing actions, was used in order both to meet the May 15, reporting deadline for authorizing legislation and to give the International Relations Committee the time required for a thorough scrutiny of the details of the treaty and the required implementing legislation.

This bill, together with section 507 of the International Security Assistance Act, H.R. 13680, constitutes the necessary legislation to allow the executive branch to spend the funds, once they are appropriated, to implement the Spanish Treaty. Chairman MORGAN is to be commended for his efforts to protect the full authorization prerogatives of his committee and this body. It is another example of the kind of responsible leadership typical of his distinguished tenure as chairman of the Committee on International Relations. I fully share his view that the Congress must retain its full power of the purse over the security assistance programs, including those related to international agreements.

Mr. Chairman, H.R. 14940 would free $35 million for obligation and expenditure in fiscal year 1977 as follows:

Fifteen million dollars for grant military assistance;

Two million dollars for grant military training;

Seven million dollars in security supporting assistance for cultural, education, scientific and technological programs; and

Twelve million dollars to provide guaranties for up to $120 million in military sales credits.

In addition, the bill would permit transfer of naval vessels which Spain may wish to purchase from the United States, and

Would permit the United States to go forward with a lease of aircraft to Spain at a possible cost to the United States of $2 million.

Finally, the bill contains a policy statement of the Congress expressing concern for the evolution of democratic institutions in Spain. It is similar to language in the Senate's resolution of advice and consent expressing the intent of the Congress that the treaty will serve to support and foster Spain's progress toward free institutions and toward Spain's greater participation in Western European political and economic cooperation. This policy statement makes it clear that the treaty does not create a mutual defense commitment to Spain or an expansion of the U.S. commitment to the North Atlantic Treaty Organization in that

area, but that the Congress does look forward to the development of such an expanded relationship between Western Europe and a democratic Spain which would be conducive to fuller Spanish cooperation with NATO.

Mr. Chairman, this bill, H.R. 14940, has been carefully drafted and marked up in the Committee on International Relations and thoroughly scrutinized. I hope the House sees fit to pass this bill and to thereby endorse both the authorization prerogatives of the House relating to security assistance programs and the treaty commitments of the United States toward Spain.

Mr. Chairman, should the House adopt the language of H.R. 14940 I intend to bring up S. 3557, the companion Senate bill, and move to strike out all after the enacting clause and insert in lieu thereof the text of H.R. 14940 as it has passed the House.

Mr. MITCHELL of Maryland. Will the gentleman yield for a question?

Mr. FASCELL. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, with reference to the second major objective of the bill, another purpose is to authorize several other actions by the executive branch necessary to implement the treaty. May I raise a question about the extent to which, if any, the treaty allows for Central Intelligence operations from our country in Spain.

Mr. FASCELL. It does not provide anything.

Mr. MITCHELL of Maryland. Does it preclude those operations at all?

Mr. FASCELL. It does not even discuss them. That is not the purpose of the agreement at all.

Mr. MITCHELL of Maryland. If the gentleman will yield further, I would like to explain why I am raising the questions. As the gentleman knows, there is a tremendous struggle going on on the African Continent as several of the black African nations are seeking their independence. We have seen from time to time that there has been CIA involvement with one faction or another in the various African nations that are struggling for independence.

In addition to that, there have been reports indicating that those CIA operations were based in certain parts of the world, and one mentioned was Spain. That is the reason I am raising the question.

The gentleman is assuring me that, No. 1, there is no such arrangement made between the Central Intelligence Agency in Spain in this bill?

Mr. FASCELL. Mr. Chairman, in this bill there is absolutely nothing for the CIA. The other purposes the bill refers to, which brings the question in the first instance, are very particularly spelled out in the bill.

Mr. MITCHELL of Maryland. Mr. Chairman, I thank the gentleman for yielding.

Mr. FASCELL. Mr. Chairman, that basically covers the principal purposes of the bill. I did want to talk about the policy statement for a moment, but I will leave that for another member of the committee whose amendment was involved in that policy statement. I think it is a very important one.

Mr. Chairman, I reserve the balance of my time at this moment.

Mr. WINN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. BROOMFIELD).

Mr. Chairman, I rise on behalf of H.R. 14940, and join my colleague, the distinguished chairman of the Subcommittee on International Political and Military Affairs, in urging the House to act favorably on this historic and vital legislation. I would like to commend Mr. FASCELL for his handling of the legislation in committee and his clear explanation of the bill just now. While I do not need to repeat his comments, I would like to emphasize a point or two I think important.

Mr. Chairman, this legislation is historic, because we are standing with the Spanish at a turning point in their history. When we began our security arrangements with Spain in 1953, we did so by means of executive agreements with a dictatorship. While this arrangement was somewhat distasteful to many Americans, it served our national interest well during a period when we needed to secure the southern flank of Europe against a Soviet thrust. Now, a quarter of a century later, we have concluded a treaty to the same purpose with a moderate Spanish Government. It is appropriate that we elevate the importance of our Spanish relations, because the current fledgling government of Spain needs our encouragement far more than Franco's regime ever did, and for that matter we need Spain far more than we ever did before. This new set of agreements can only strengthen the moderates in the Spanish Government, by providing a comprehensive set of ties between our countries in a variety of field—economic, cultural, education, and scientific, to name part of the list.

Mr. Chairman, this legislation is also vital, because it supports the treaty package which is strategically invaluable to the United States. In the past year our relations with our eastern Mediterranean allies have deteriorated, Italy reflected sizable Communist gains in their last election, and the Soviets meanwhile have massively increased their naval presence in the Mediterranean.

We cannot afford the luxury of dismissing our ties with Spain as a holdover from the Cold War. In my opinion, we should retain the closest of ties with Spain. Further, when Spain enters NATO, as it must in a very few years, it will behoove us to be in a close relationship with that country.

Mr. Chairman, I am also a sponsor of H.R. 14940 because we need to assure that the Congress has an appropriate role in implementing the treaty package. Without such legislation the treaty itself would be the only authorizing authority, and I do not believe that we should permit that state of affairs to develop. The precedent would clearly be a dangerous one. While I think that execution of foreign policy is constitutionally a matter for the executive branch, I am sure that no diplomacy can be successful without the support of the people through their elected representatives in Congress. There is a clear division of responsibility in this matter, and we should make it clear that we are going to carry out our part.

Mr. Chairman, I urge my colleagues to support this legislation.

Mr. BROOMFIELD. Mr. Chairman, I rise in support of the Treaty of Friendship and Cooperation between the United States and Spain. Let me explain, very briefly, why I think this treaty is important to the security of this country and to the stability of the entire Mediterranean area.

It is difficult these days to be optimistic about the security situation in the Mediterranean. We can no longer take for granted the continued vitality of NATO, the keystone of our alliance system. NATO's southeast flank has been crippled by the bitter, intractable Cyprus dispute and our allies have added the issue of air and mineral rights in the Aegean to their agenda of grievances.

Further to the East the situation in Lebanon is disquieting and has demonstrated on at least two occasions the importance of an American naval presence in the area. The Arab-Israeli dispute, quiet for almost a year, still retains the potential to erupt again in violence. We have seen the Italian Communist Party make significant gains in the most recent elections, raising long-term questions about Italian participation in NATO. President Tito of Yugoslavia is ailing, and we must begin now to consider the complex and dangerous question of succession in that nation.

In this troublesome environment, there is an oasis of stability, an important area in which U.S. forces and bases have not become an embarrassment or an impossibility. The treaty we discuss today would make it possible for this Nation to maintain important security installations on Spanish territory and, at the same time, would demonstrate our determination to foster the best possible relations with the Spanish Government and people as King Juan Carlos attempts to redress problems created by more than 35 years of authoritarian rule.

There are those who will argue that King Juan Carlos is not moving fast enough in the direction of democratic reform; there will be suggestions that we withhold the approval implicit in this treaty until we have a clearer idea where Spain is heading. I respectfully disagree. Most of us had the privilege of hearing King Juan Carlos when he was in this country recently, and I, for one, was impressed and convinced of his determination to relax the restrictions that have stifled freedom in Spain for almost four decades.

The Spanish people need the friendship and support of the United States as they dismantle the apparatus of totalitarianism and move in the direction of democracy. By working together as partners we may be able to hasten develop-

ments that will produce a democratic, stable, and prosperous Spain sensitive to American security interests in the Mediterranean.

The treaty before us is not an American gratuity to the Spanish Government. In the political language of today, it is indeed a two-way street. Access to air and naval installations in Spain is vital to a continued strong American presence in the Mediterranean area, a presence that serves the interests of this country, of Spain, and of the Western democracies.

Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of H.R. 14940—Treaty of Friendship and Cooperation between the United States and Spain—and wish to commend the members of the committee for their positive contribution to America's defense as represented in this bill. This Treaty of Friendship and Cooperation between the United States and Spain provides for continued American use of military facilities on Spanish territory with their strategic importance for North Atlantic and Mediterranean security. The build-up of Soviet naval forces, the instability in the eastern Mediterranean and the uncertainty of access to military bases in Greece and Turkey give added significance to passage of this bill. It supports Spain's role in North Atlantic defense and contributes to its possible future role in NATO. While these provisions do not form a commitment to defend Spain, they do recognize its continuing role in the security of the west.

This treaty also gives recognition and encouragement to Spain's commitment to political and social development and liberalization. To reaffirm the friendly and cooperative relationship which exists between our two countries, Mr. Chairman, I urge passage of this bill.

Mr. WINN. Mr. Chairman, I reserve the balance of my time, but as of now I have no further requests for time.

Mr. FASCELL. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the full committee, the gentleman from Pennsylvania (Mr. MORGAN).

Mr. MORGAN. Mr. Chairman, this bill, H.R. 14940 authorizes the obligation and expenditure of funds for fiscal year 1977 to implement the provisions of the Treaty of Friendship and Cooperation with Spain, otherwise known as the Spanish Bases Treaty. Although the treaty commitments cover a 5 year period this bill covers only 1 year, fiscal year 1977.

The authorization for the appropriation of these funds was contained in section 507 of the International Security Assistance and Arms Export Control Act of 1976.

Section 507, at the same time, prohibited the obligation and expenditure of these funds until further legislation implementing the base agreement with Spain has been enacted into law.

Mr. Chairman, there is an important principle involved in H.R. 14940. The Spanish Bases Treaty, as originally submitted to the Senate by the executive branch, would have authorized the appropriation of funds to implement the Treaty.

I and other Members of the Committee on International Relations found this unacceptable in that it would have eliminated the Committee and the House from the authorization of a security assistance program. Mr. ZABLOCKI is especially to be commended for his persistent efforts to resist this move by the executive branch.

Such a procedure is unprecedented and was of considerable concern to us.

I, therefore, wrote to Senator SPARKMAN, chairman of the Senate Foreign Relations Committee, protesting the attempt by the executive branch to authorize security assistance appropriations through a provision in the Spanish Bases Treaty, rather than by legislation coming before the authorizing committee under normal procedures.

In response to my letter, Senator SPARKMAN expressed his agreement with the position of the International Relations Committee.

As a result, the Senate Resolution of advice and consent contained a declaration which said, and I quote:

> The sums referred to in the Supplementary Agreement on Cooperation Regarding Materiel for the Armed Forces and Notes of January 24, 1976, appended to the Treaty, shall be made available for obligation through the normal procedures of the Congress, including the process of prior authorization and annual appropriations, and shall be provided to Spain in accordance with the provisions of foreign assistance and related legislation.

This bill is pursuant to that declaration. It is not in any way intended to constitute congressional approval of the treaty itself, but rather as implementing legislation.

Mr. Chairman, the United States has had access to military bases in Spain since 1953 in return for economic and military assistance from the United States. This present treaty will help insure U.S. access to useful military facilities at a reasonable cost, and will help to provide a solid base for expanded future cooperation with Spain.

Mr. Chairman, I hope that the Members of this body will approve this bill which has been carefully drawn by the Committee on International Relations. It is a good bill, one which will contribute to the security of the United States and to Western Europe.

Mr. FASCELL. Mr. Chairman, I yield such time as he may consume to the distinguished ranking minority member of the full committee, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Chairman, I rise in support of H.R. 14940. My remarks shall be brief and are intended only to reaffirm my particular concern over one important aspect of this legislation.

It is an issue already addressed by the distinguished and respected chairman of the House International Relations Committee (Dr. MORGAN) and our esteemed colleague from Florida (Mr. FASCELL), chairman of the Subcommittee on International Political and Military Affairs. Their wholehearted support of my concern has been reassuring.

Briefly and to the point, I have consistently voiced apprehension and disappointment over executive branch procedures in negotiating this treaty and what, in turn, that conduct reflects as their attitude toward the Congress.

Specifically, I refer to the alarming disregard of the Executive toward the power of the purse granted to Congress in the Constitution. What the negotiating record of this treaty reflects is an unprecedented attempt by the Executive to authorize the appropriation of security assistance funds by treaty provision, rather than by authorizing legislation as has always been the case in the past.

All of this suggests that the executive branch looks upon the legislative authorization process as something which can be separated from the essential spending power of the Congress.

By their reckoning, that constitutional prerogative is something which can be dispensed with at will and replaced with a treaty provision when it so pleases the treaty makers.

Attempts by Chairman MORGAN to diminish that assertion and halt that usurpation of power have gone far toward minimizing the lasting negative impact which could have been created. I am hopeful that any similar executive branch efforts will be resisted in the future.

On that understanding, and with the expressed determination to have that understanding prevail in the future, I shall vote in favor of H.R. 14940 and urge my colleagues to do likewise.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I want to commend the gentleman from Wisconsin for his leadership in this effort. There are several things of note which I think ought to go in the RECORD because of the gentleman's concern and his followup on the matter with the chairman of the full committee and with the committee in the other body.

First of all, as the gentleman knows, the arrangements with Spain in the past have been executive agreements and, as a result of the interest and concern of the gentleman from Wisconsin, and others, the administration agreed at this time the matter would be submitted to the Congress by way of a treaty. Then the question arose, after the treaty was signed and presented to the other body, as the gentleman knows, as to whether or not the treaty itself would be the authorizing vehicle for the funds necessary to implement the treaty. And there, of course, the gentleman from Wisconsin and the chairman stepped in and, as a result, now we have the authorizing and appropriations process in the regular order. I think that this procedure is something which ought to be followed in the future. So this bill sets a very fine precedent in maintaining the oversight by the House

in these matters and it is also one of the rare occasions in which the House has had an opportunity to involve itself in the treaty, in its actual substance. So I want to commend the gentleman for his efforts.

The final thing that was accomplished by these efforts is that we took the implementing legislation on a 1 year basis, instead of taking all 5-years for the entire treaty, so that the Congress, and the House specifically, in authorizing the appropriations would have oversight on this matter.

Mr. ZABLOCKI. I want to thank the gentleman from Florida for his kind remarks. I want to point out that it was not only the work of the gentleman from Wisconsin, or any one Member, but it was the fine work and persistence of the chairman of our committee, who had written the chairman of the Foreign Relations Committee in the other body, Senator SPARKMAN, and the chairman of the subcommittee which made it possible that this legislation would be on a 1-year basis, which really locks in and demands for the House a necessary role in the authorization process.

Mr. FASCELL. Mr. Chirman, I yield such time as he may consume to the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Chairman, I rise in support of this bill. I would like to address myself very briefly to what seems to me to be the most serious objection which was raised during the course of our hearings on this measure to the treaty with Spain itself. There were a number of Members of the House, for whom the triumph of fascism and the defeat of the Republican cause during the Spanish Civil War 40 years ago was one of the most critical events of our century, who thought it would be a mistake for us to link ourselves so closely with Spain before democracy took firmer root in that country. I have to say that there is a measure of validity to that concern.

On the other hand, it was the clear conscious of the Senate, which adopted this treaty overwhelmingly, as well as the International Relations Committee, which considered this legislation very carefully, that the defeat of this legislation authorizing funds for 1 year to implement the treaty with Spain would objectively serve to discourage the development of democracy in Spain. And the reason for this is that those forces within Spain which are most prominently associated with this treaty also happen to be the forces which are most actively committed to the development of the full flowering of democracy in that country. We were deeply concerned that if this legislation were defeated, instead of encouraging the development of democracy in Spain, it would objectively serve to discourage it.

At the same time, I think it is also very important to point out that the reservation put into the treaty, as a consequence of the letter sent by the distinguished chairman of the International Relations Committee to the Senate Foreign Relations Committee, providing that the adoption of the treaty was in no way meant to obviate the necessity for the annual authorization and appropriating procedures in the House, as well as the Senate, that if in fact this treaty does not lead to the development of democracy in Spain, this House and the other body retain the right in the future, depending on circumstances, not to appropriate the money called for by the treaty.

Mr. Chairman, in conclusion, I want to point out to my colleagues on the Committee that section 3 of this bill, as the result of an amendment adopted in our committee, specifically provides that the Congress "intends that the treaty will serve to support and foster Spain's progress toward free institutions and toward Spain's participation in the institutions of Western Europe political and economic cooperation."

I would suggest to Members of the Committee that the adoption of this amendment and the legislative history of this bill, based on the hearings in our committee, the debate in the Senate, and the debate today in the House, make it abundantly clear that we expect this treaty to encourage the development of democracy. We do not simply hope it will encourage the development of democracy; we expect it to do that, and if it does not, we retain the right not to provide the funds called for in the treaty.

On that basis, Mr. Chairman, I think there is every reason to support this legislation, and then after it is passed, we can take a close look at what happens in Spain in the coming year before deciding whether to authorize and appropriate the funds called for by the treaty next year.

Mr. FASCELL. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. WINN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman. I have no further requests for time, but I would like to take this opportunity while I have the attention of the House and have possession of the microphone to pay tribute to the chairman of the full Committee on International Relations (Dr. MORGAN) who is retiring at the end of this session of Congress.

It has been a great pleasure for me personally to work with the gentleman from Pennsylvania (Dr. MORGAN). He has been fair, and he has been interested in every one of the bills and in every piece of legislation that has not only come through this subcommittee but from the entire committee. He has counseled the Members on both sides of the aisle, and he is one of the fine negotiators in this Congress. I take this time specifically to pay tribute to him and say that we will miss him. I hope he will not be very far away.

Mr. BURKE of Florida. Mr. Chairman, as a cosponsor of H.R. 14940—as well as being a member of the Committee on International Relations—I rise in support of this bill (H.R. 14940) which will authorize the obligation and expenditure of funds to implement for fiscal year 1977 the provisions of the Treaty of Friendship between the United States and Spain signed at Madrid on January 24, 1976. Unquestionably, the implementation of this treaty is an act of great significance to the United States and those forces of freedom scattered throughout the North Atlantic and Mediterranean region.

First, let me say that this treaty places the relationship between the United States and Spain on a much more solid basis. Ever since September 1953, our relationship with Spain has rested on the more fragile basis of executive agreements, as distinct from a treaty relationship. The most recent of these agreements—entered into effect in 1970 for a period of 5 years—was extended in September 1975 for 1 year and is thus due to expire this coming September. With a view to extending the U.S. basing rights in Spain, negotiators from the two countries began discussions in late 1974.

However, during the period of discussion, an event of far-reaching consequence occurred in Spain—the death of Generalissimo Francisco Franco, whose Fascist reign had dominated Spanish life since the victory of his Nationalist forces in the savage civil war of the late 1930's. For Spain, Franco's death unquestionably marks the beginning of a new era, opening the opportunity for a progressive liberalization of Spanish political life and expanded relations between Spain and the other nations of Western Europe.

With the implementation of this treaty, it can be anticipated that the next step will be further consideration by the members of NATO—who have until now looked askance at Spanish participation in any regional agreement having to do with the military defense of Western Europe—to allow Spain to become a member of the North Atlantic Treaty Organization. I think that she would fit in very well geographically and militarily. And with the political reforms that are presently set in motion, I would judge that Spain would also fit in politically.

Mr. Chairman, this treaty comes to us at a time when events and trends in world affairs cannot on balance be said to offer the United States much grounds for encouragement. Peace in the Middle East remains as ever as elusive dream. The tragedy that has been visited upon the people of Lebanon continues. The Soviet Mediterranean Fleet—already outnumbering the U.S. Sixth Fleet by a dozen ships—has been reinforced by a major strategic aircraft carrier with two more on the way. Throughout the entire Eastern Mediterranean region, the United States finds that its strategic position has eroded to such an extent that it is becoming necessary to reevaluate whether or not a strong presence in this area will be possible in the not too distant future.

In the meantime, the problems within NATO continue unabated. The conflict between Greece and Turkey over Cyprus remains unresolved. The uncertainty over the political future of Italy and the instability of events in Portugal are constant reminders of an alliance in disintegration. Upcoming elections raise doubts about the continuity and direction of power in both France and Germany whereas in England the new government under the leadership of James Callahan face problems seemingly insurmountable.

In the North Atlantic region, Soviet pressure on Norway over the Spitzburgen Island group continues and the course of diplomatic negotiations leaves one little reason to be sanguine about the outcome. Against this backdrop, therefore, the Treaty of Cooperation and Friendship with Spain—and particularly the hoped for evolution toward democracy in that country—becomes an especially bright light and source of encouragement.

In the first instance, this treaty enhances the military dimension of our national security. By affording the United States access to the three airbases at Torrejon, Zaragosa, and Moron and the naval base at Rota, our overall security posture in Western Europe, the Mediterranean, and the North Atlantic is strengthened. The truth of this becomes particularly pronounced as the Soviet conventional buildup in this area continues. For unless the United States has facilities from which to be able to project conventional power into areas of national concern, it will soon find that increased Soviet pressure will assume an increasingly commanding role in the direction which events will take. These naval and airbases are essential ingredients in the successful employment of American power in this vital area of the world.

However, our national security cannot be measured in military terms alone. There is also a political and an economic dimension. Of greater significance than the economic—greater because it gives direction and meaning to trade and commerce—are the political factors. In addition to countering a growing Soviet military presence, the stationing of American military contingents in the Iberian peninsula will help to promote Spain's progress toward free and democratic institutions and a more liberal and progressive philosophy of government. It will help it to stand in opposition to those forces of totalitarianism both on the right from its fascist groups and on the left from both the Communist Party and groups even more radical. This promotion of Spain's deliberate and steady evolution toward the institutionalization of democratic principles will serve to enhance the security of the United States.

Mr. Chairman, the basic rationale underlying this conclusion is very clear. American security in large part depends upon our ability to defend ourselves from foreign aggression. This largely explains the presence of the American alliance system around the world. However, the national defense requires more than a military capability and willingness to use that capability. In addition it is important to consider the internaional political climate and the kinds of values and political institutions which exist in it throughout the strategic areas of the world. For we can be successful in deterring military aggression and yet, at the same time, see a kind of international political structure come into existence which will be inimical to our own political life and values. And if we are forced to interact with an international environment totally opposed to our way of life, then, it will only be a matter of time before we become like that which we formerly opposed.

Hence, it is imperative that we make every effort to preserve those democratic institutions presently existing around the world and to encourage by the presence of our full commitment those which are beginning to emerge. For apart from a world order conducive to American institutions, the United States will have no environment in which to express itself as a nation and will eventually succumb to the multiplicity of forces with which it is fundamentally at odds. The long-term survival of the United States and those European nations with which it is aligned are inextricably bound together. Europe cannot hope to remain independent without the United States and the United States cannot preserve its integrity without the appropriate environment in which to interact.

Mr. Chairman, on August 4, 1914, just days after Germany had declared war on Russia and France, Edward, Viscount Grey of Fallodon, standing at the windows of his room in the Foreign Office watching the lamplighters extinguish the lights in St. James' Park, solemnly declared:

> The lamps are going out all over Europe; we shall not see them lit again in our lifetime.

Thus, in a brief but poignant statement was expressed the future destiny of Europe. Grey saw that Europe, which during his day had been the cultural, social, political, military, and economic center of the world, was to be reduced to a second-rate power status. No longer was it to be allowed the opportunity of controlling those events which would determine its own fate. Instead it was moving toward a new world configuration, a configuration as yet unknown at that time. Let us make certain that the same will not be said of the United States at some point in the not too distant future.

I urge that the U.S. House of Representatives give its approval to the implementation of this Treaty of Friendship with Spain. It will not only strengthen the friendship between our two countries and help to maintain peace and stability throughout Western Europe, by giving support to those forces of democracy in Spain, it will also enhance our own national security.

Mr. SIKES. Mr. Chairman, I am glad to add my support to H.R. 14940, a bill to implement the Treaty of Friendship and Cooperation between the United States and Spain.

The close ties between our nations go back many years. They began during the American Revolution when Spanish forces successfully engaged the British in Mobile and in Pensacola. These and other activities in the Caribbean and in the Gulf of Mexico helped to hold British and Indian forces in check when they otherwise would have been engaged against the struggling American colonies. The relations between our two countries and our peoples have grown even closer in recent years. The confrontation for the world leadership between Communist dictatorships and the Western Powers has emphasized the need for both friendship and for mutual cooperation in trade and defense.

The agreement to be implemented by H.R. 14940 is the result of many months of discussions between officials of the two governments. By adopting this version of the implementation mechanism, we will accomplish several very important things for ourselves, our allies, and for the cause of world peace.

First, we will be expressing our support of the democratic processes now underway in Spain. The bill is, in part, a policy statement by the Congress that we are concerned about freedom everywhere in the world.

Second, the bill provides a continuation of the agreement for the use of military bases and facilities in Spain by American forces stationed in Europe or who may be sent to Europe on training or other exercises.

Finally, the bill provides a method whereby we can compensate the Spanish people and government for the use of these facilities as well as assisting them in defending themselves against attack should such equipment be required for that purpose.

All who have studied the application of military power in Europe know how important our facilities in Spain are to our own security and to the security of our friends in NATO. While it is regrettable that the important submarine base at Rota will not be available for U.S. based Poseiden submarines, the base will continue to be an important facility for use for training and other purposes.

The air base at Torrejon will be used for a fighter wing as well as for a headquarters function, storage of war materiel, and for other purposes. Zaragoza will be used by the United States as will Moron. In addition, there are about 18 other smaller facilities which will be available to U.S. forces as a result of this agreement including vital weather, communications, and storage facilities.

In return, the United States, through this agreement, will provide certain assistance for the life of the treaty—5 years.

This treaty in no way constitutes a defense agreement as such. It serves only to provide the United States with badly needed military facilities abroad at reasonable cost. This is particularly important when we consider that many areas have been closed to our forces in recent years. A very important consideration is the fact that this agreement provides us a welcome opportunity to work toward bringing Spain into closer association with the NATO alliance.

Mr. Chairman, this body should be fully aware of the importance of the warm relationship and mutual understanding which exists between the Government and people of the United States and Spain. The continuation of our relationship with Spain may be the key to peace in the Mediterranean. The Spanish want peace even as we do. They want security for their homes and their loved ones. They want our support and help in their own efforts toward economic and political stability.

For these reasons, I fully support this legislation. It serves well the national interests of the United States and our friends, and it will help a special ally, Spain, move with us toward our common goals.

I urge support of H.R. 14940.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to carry out the programs and activities provided for in the Treaty of Friendship and Cooperation between the United States of America and Spain, signed at Madrid on January 24, 1976, including its Supplementary Agreements and the exchange of notes related to those Supplementary Agreements (hereafter in this Act referred to as the "treaty"), of the amounts authorized to be appropriated for fiscal year 1977 under section 507 of the International Security Assistance and Arms Export Control Act of 1976, not to exceed the following amounts shall be available for obligation and expenditure to carry out the treaty:

(1) For military assistance under chapter 2 of part II of the Foreign Assistance Act of 1961, $15,000,000.

(2) For security supporting assistance under chapter 4 of part II of such Act, $7,000,000.

(3) For international military education and training under chapter 5 of part II of such Act, $2,000,000.

(4) For guaranties under section 24 of the Arms Export Control, $12,000,000.

(b) For purposes of section 507 of the International Security Assistance and Arms Export Control Act of 1976, this Act satisfies the requirement of subsection (b) of such section with respect to funds appropriated under such section to carry out the treaty.

SEC. 2. (a) Except as provided in subsection (b), foreign assistance and military sales activities carried out pursuant to the treaty shall be conducted in accordance with provisions of law applicable to foreign assistance and military sales programs of the United States.

(b) Section 620(m) of the Foreign Assistance Act of 1961 shall not apply with respect to the programs and activities described in subsection (a).

(c) In carrying out the provisions of article VI of Supplementary Agreement Number 7 (relating to modernizing, semi-automating, and maintaining the aircraft control and warning network in Spain), the United States contribution of not to exceed $50,000,000 shall be financed from Department of Defense appropriations made for that purpose.

(d) This Act satisfies the requirements of section 7307 of title 10 of the United States Code with respect to the transfer of naval vessels pursuant to Supplementary Agreement Number 7.

(e) In order to carry out the provisions of article X of Supplementary Agreement Number 7 (relating to lease and purchase of aircraft), the proceeds from the lease of aircraft to Spain under that article shall be available only for appropriation for the purchase of aircraft by the United States for the purposes of that article.

SEC. 3. (a) The Congress, recognizing the aspiration of Spain to achieve full participation in the political and economic institutions of Western Europe, and recognizing further that the development of free institutions in Spain is a necessary aspect of Spain's full integration into European life, intends that the treaty will serve to support and foster Spain's progress toward free institutions and toward Spain's participation in the institutions of Western Europe political and economic cooperation.

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

(c) The Congress, recognizing that the treaty provides a framework for continued nuclear cooperation for peaceful purposes with Spain, looks forward to a continued relationship in this field commensurate with steps taken by Spain toward becoming a party to the Treaty on the Non-Proliferation of Nuclear Weapons or placing all of its nuclear facilities under safeguards administered by the International Atomic Energy Agency.

SEC. 4. The authorities contained in this Act shall become effective only upon ratification of the treaty and shall continue in effect only so long as the treaty remains in force.

Mr. FASCELL (during the reading). Mr. Chairman, I ask unanimous consent that the bill 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.

The CHAIRMAN. Are there any amendments?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCFALL) having assumed the chair, Mr. COTTER, 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. 14940) to authorize the obligation and expenditure of funds to implement for fiscal year 1977 the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes, pursuant to House Resolution 1519, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. 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 331, nays 34, not voting 65, as follows:

[Roll No. 724]

YEAS—331

Abdnor
Adams
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Bedell
Bell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
de la Garza
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Gradison
Grassley
Gude
Guyer
Hagedorn
Hall, Ill.
Hamilton
Hammer-schmidt
Hannaford
Harris
Harsha
Hawkins
Hayes, Ind.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holland
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kasten
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Miller, Ohio
Mineta
Minish
Mink
Mitchell, N.Y.
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nichols
Nix
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steiger, Wis.
Stephens
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob

Wilson, Tex.	Wright	Yatron
Winn	Wydler	Young, Alaska
Wirth	Wylie	Young, Fla.
Wolff	Yates	Zablocki

NAYS—34

Allen	Gaydos	Moffett
Burke, Calif.	Goodling	Montgomery
Burton, John	Haley	Mottl
Carney	Hall, Tex.	Nolan
Carr	Hechler, W. Va.	Paul
Cochran	Holtzman	Pressler
Conyers	Jacobs	Roush
Davis	Johnson, Colo.	Roybal
Dellums	Kastenmeier	Stark
Drinan	Miller, Calif.	Stokes
Edgar	Mills	
Emery	Mitchell, Md.	

NOT VOTING—65

Abzug	Ford, Tenn.	O'Neill
Addabbo	Green	Passman
AuCoin	Hanley	Peyser
Badillo	Hansen	Riegle
Beard, R.I.	Harkin	Risenhoover
Beard, Tenn.	Harrington	St Germain
Biaggi	Hébert	Scheuer
Breaux	Heinz	Steed
Brinkley	Helstoski	Steelman
Burke, Mass.	Henderson	Steiger, Ariz.
Carter	Hinshaw	Stratton
Chisholm	Holt	Stuckey
Conlan	Howe	Studds
Delaney	Jones, Okla.	Symms
Diggs	Koch	Tsongas
du Pont	Long, Md.	Udall
English	McCollister	Wiggins
Esch	McKinney	Wilson, C. H.
Eshleman	Matsunaga	Young, Ga.
Evans, Colo.	Milford	Young, Tex.
Fish	Moakley	Zeferetti
Ford, Mich.	Nedzi	

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Hébert.
Mr. Hanley with Mr. Harrington.
Mr. Addabbo with Mr. Passman.
Mr. Evans of Colorado with Mr. Milford.
Mr. Koch with Mr. Beard of Tennessee.
Mr. Zeferetti with Mr. Badillo.
Mr. Beard of Rhode Island with Mr. Biaggi.
Mr. Breaux with Mr. du Pont.
Mr. Delaney with Mr. Esch.
Mr. Matsunaga with Mr. Fish.
Mr. Moakley with Mr. Brinkley.
Mr. Nedzi with Mr. Wiggins.
Mr. Ford of Michigan with Mr. Symms.
Mr. Diggs with Mr. Conlan.
Mr. Green with Mr. Scheuer.
Mr. Helstoski with Mr. Peyser.
Mr. Jones of Oklahoma with Mr. English.
Mr. Stratton with Mr. Henderson.
Mr. Tsongas with Mr. Studds.
Mr. Udall with Mr. Long of Maryland.
Mr. Charles H. Wilson of California with Mr. Eshleman.
Mr. Riegle with Mrs. Holt.
Mr. Risenhoover with Mr. Steiger of Arizona.
Mr. Ford of Tennessee with Mr. Young of Georgia.
Mr. Burke of Massachusetts with Mr. Stuckey.
Mrs. Chisholm with Mr. Howe.
Ms. Abzug with Mr. McCollister.
Mr. Harkin with Mr. Heinz.
Mr. Steed with Mr. Steelman.
Mr. St Germain with Mr. McKinney.
Mr. AuCoin with Mr. Hansen.

Messrs. JACOBS and HECHLER of West Virginia changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 1519, the Committee on International Relations is discharged from further consideration of the Senate bill S. 3557, to authorize the appropriation of funds necessary during the fiscal year 1977 to implement the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Motion offered by Mr. FASCELL: Strike out all after the enacting clause of S. 3557 and insert in lieu thereof the provisions of H.R. 14940, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, and was read the third time, and passed.

The title of the Senate bill was amended so as to read: "To authorize the obligation and expenditure of funds to implement for fiscal year 1977 the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 14940) was laid on the table.

GENERAL LEAVE

Mr. FASCELL. 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 just passed.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PROVIDING FOR THE REGULATION OF MINING ACTIVITY WITHIN, AND REPEALING THE APPLICATION OF MINING LAWS TO, AREAS OF THE NATIONAL PARK SYSTEM, AND FOR OTHER PURPOSES

Mr. TAYLOR of North Carolina. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 2371) to provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the National Park System, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina.

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 consideration of the Senate bill, S. 2371, with Mr. CORMAN in the chair.

The Clerk read the title of the Senate bill.

By unanimous consent, the first reading of the Senate bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from North Carolina (Mr. TAYLOR) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. SEBELIUS) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from North Carolina (Mr. TAYLOR).

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, S. 2371 is an important and controversial measure, but it is also one on which the House should act this year.

S. 2371 is the product of public hearings, a field investigation, and careful consideration by the Subcommittee on National Parks and by the full Interior Committee. It addresses a situation affecting six units of our national park system.

Designation as a unit of this system has always been considered to be the most secure form of protection which can be given to any Federal land. The 300 areas comprising our national park system are to be protected from development, and preserved for the benefit and enjoyment of the people of the United States.

Yet six of these areas are open to mineral entry under the Mining Law of 1872. These areas are:

Mount McKinley National Park, Alaska.

Crater Lake National Park, Oreg.

Death Valley National Monument, California and Oregon.

Glacier Bay National Monument, Alaska.

Organ Pipe Cactus National Monument, Ariz.; and

Coronado National Memorial, Ariz.

Except for part of Glacier Bay National Monument in Alaska, S. 2371 would close these areas to any further mineral entry under the mining laws, subject to valid existing rights. This would mean that no new claims could be filed for minerals in these areas.

Valid claims and patented rights, however, would still be subject to mining activity. The bill as reported directs the Secretary of the Interior to make studies of these rights and report back to the Congress with estimates of the costs of their acquisition, as well as an assessment of the consequences of allowing mining of the consequences of allowing mining to continue. He may even recommend boundary adjustments to exclude mineralized areas, if he sees fit. In this way, if Congress should determine at some future date that some or all of these existing rights should be purchased, the factual material needed to make a decision will be available.

Finally, in the case of three of the areas—Death Valley, Mount McKinley, and Organ Pipe Cactus—the bill restrains mineral production to its existing levels where additional surface area is to be disturbed. Any opening of new mines is precluded until Congress has the opportunity to receive the acquisition study and make an informed decision.

Mr. Chairman, we visited Death Valley National Monument last May. In that area increased mining activity with modern earth moving machinery in recent years is making dramatic changes. The

provision adopted by the committee will permit existing mining operations to continue in Death Valley while the Secretary makes his study and report to Congress. At the same time, new mining operations would be delayed from starting in the valley, so we would not have new areas altered during this period.

This legislation has generated tremendous public interest, as many people were made aware for the first time that mining can take place in these areas. I believe S. 2371 as amended offers the Congress an opportunity to make a reasonable first step toward resolving these conflicting uses. We can close these areas to further mineral entry, protect the holders of valid existing rights, and direct that the necessary information be gathered to allow Congress to make informed choices in the future.

There has been some misunderstanding of the effect of this legislation. S. 2371 will permit continued operations where they now exist in Death Valley. The bill would even permit the opening up of new mines in Glacier Bay and two of the other areas, so long as they were located on valid existing claims. We are not going to cause any great economic dislocation here.

This bill stops new claims from being established but permits existing operations to continue. It directs a 4-year study and prohibits the opening of new mines on existing claims during the 4-year study period. Hopefully, after the study is completed we can find a way to give these areas the same protection now enjoyed by all other units of the National Park System.

I urge my colleagues to join me in passing this worthwhile measure.

Mr. SEBELIUS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, when it came to my attention a number of months ago that several of our National Park System units were wide open to mining and prospecting. I was both shocked and alarmed. I suppose my reaction was typical of that of many other Members whom I have heard express the same surprise.

National Park System status is generally the highest order of protection that can be bestowed on the federally owned lands of this Nation. In nearly all cases, these lands have been set aside—predominantly by specific act of the Congress itself—because of their special, unique and superlative national significance of natural, historic and/or scenic values. Yet it is a fact that there remain six areas of our National Park System which are open to the prospective desecration which can be brought by mining and prospecting activities. It is this situation which this bill is designed to correct.

I want to point out that, while it might appear to be desirable to abruptly and permanently halt any activity which could harm these sensitive environments, this bill does not and can not go quite that far.

This bill, as amended by the committee, will repeal application of the 1872 mining law to all six areas except for for Glacier Bay National Monument. By so doing, all new prospective destructive exploration activity will be halted. However, valid claims and rights which already exist may continue to operate and extract under certain controls and conditions as outlined by the bill. Moreover, for those extractive activities, the Secretary will be expected to tightly, but reasonably, control them so as to maximize protection of the environment. The only exception to these provisions is part of Glacier Bay National Monument, where, under the committee amendment, roughly a half million acres would remain open to further exploration and possible extraction. This is designed to accommodate some known and prospective further deposits of nickel.

Mr. Chairman, I and other members of the Interior Committee recently had the opportunity to inspect the mining activity at Death Valley National Monument in California. It is my feeling that there is indeed some mining activity there which has unduly scarred the landscape, and there is more that could occur there, without the enactment of this bill, which could cause much further damage. On the other hand one of the mining operations observed was operated in quite admirable fashion. Overall, however, this bill constitutes a very fair and equitable way to get a handle on the problem there.

I would point out that there was not opportunity for the committee to inspect the Glacier Bay National Monument problem, and in the absence of that, the ranking minority member of the full committee (Mr. SKUBITZ) and I planned an inspection trip there in July which was disapproved by the majority. So unfortunately, no committee member has had the opportunity to assess that important situation on-site and all decisions are being made by remote influences.

Mr. Chairman, this bill, as amended, has gone through a lot of debate and refinement by the committee, and its basic thrust is good and still remains close to the action taken by the Senate.

I urge the adoption of this bill by the House so that we can add a very needed and important measure of increased protection to these six units of the National Park System.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, seldom have I seen such immediate and overwhelming public response to legislation as last year when I introduced the bill to prohibit mining in the national park system. People all over the country were shocked to learn that mining is still allowed in some of our greatest national parks and monuments, areas that have been set aside to preserve intact our Nation's greatest natural and historical resources for present and future generations.

Out of nearly 300 units of the national park system, all but 6 are already closed to mining. But Glacier Bay, Death Valley and Organ Pipe Cactus National Monuments, Crater Lake and Mount McKinley National Parks, and Coronado National Memorial are not.

The bill I originally introduced, H.R. 9799, would have simply banned new mineral entry in the parks, subject to valid existing rights. The Senate-passed version of the bill, S. 2371, made a number of improvements in the details of the legislation, including provisions to more closely regulate existing mining. It was this bill that the House Interior Committee acted on and the one that is before us today.

There have been a number of misconceptions about this bill. In fact, the legislation will do less than the proponents want and less than the opponents fear. The bill would allow present mining to continue, thus protecting both existing jobs and production levels. It would, on the other hand, ban for 4 years any new surface disturbance on land in three of the areas, including Death Valley, that have not yet been mined. Most important, it would call a halt to the staking of new claims and thereby prevent even wider devastation in the future.

Although the legislation will benefit all parks, there are two which are of special concern, Death Valley and Glacier Bay, because they are the most threatened by mining activities. They have also been the focus of most of the interest in this bill.

Death Valley National Monument in California is a 2 million acre park famous for its rugged terrain and the magnificent desolation of its landscape. It is the lowest, hottest, driest place in the Western Hemisphere, and also one of the most fragile. Scars on the desert floor last forever. Reclamation, as we know it, is all but impossible.

Today the ancient and lone prospector with his mule and pick and shovel is gone and replaced by giant bulldozers that are stripping the surface of the land. Pictures which I took in May, when the subcommittee took its field trip, are over on the left side of the room on a placard for the Members to look at, as are pictures of Glacier Bay. In the early 1970's, underground mining was replaced by strip mining, when Tenneco started its large open pit borate mine. Now all the talc mines, except one, are surface mines, and some of the old underground mines have been made into strip mines. The only mineral commodities produced in the valley today are talc and borates.

The indications are that there are ample supplies outside of the national parks to meet needs. Colemanite, one of the borates being mined, is chemically interchangeable with other borates which are found in large quantities outside the monument. They may add a little bit to the cost sometimes, but they are chemically usable and interchangeable. The largest known borate reserve in the world is held by U.S. Borax at Boron, Calif., outside the monument. On the other hand, Tenneco, which has massive strip mining operations in the monument, produced only 5.4 percent of the total U.S. borate production. Indeed, half of our Nation's borate production is exported.

Talc is a particularly common mineral, occurring in many States in the United States, with California, the whole State, ranking fifth in production.

I cannot stress too much the fact that

this bill will not close any active mines in Death Valley. It will not curtail existing production, and it will not put anyone out of a job. Indeed, if the monument is massively defaced by strip mining, it will lose the very qualities which have attracted hundreds of thousands of visitors each year.

The monument itself has generated more jobs over the years than the mining companies. The companies employ about 60 persons, whose jobs are not in jeopardy by the bill. The National Park Service, its concession at Scotties Castle, and the motels on private land in the monument employ over 90 people in the summer and upward of 300 in the winter.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 4 additional minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Furthermore, Mr. Chairman, the payments-in-lieu-of-taxes bill, which passed the House in August by a wide margin, would provide Inyo County, which contains much of Death Valley, with an estimated $472,000 a year in Federal payments. Thus, even if all the mining in Death Valley ceased, which would not result from this bill, Inyo County would receive more than double what it is currently receiving in the $200,000 in tax revenues generated by the mining interests.

To temporarily suspend mineral entry for 4 years, as the amendment suggested by the gentleman from California (Mr. KETCHUM) would do, would be a meaningless gesture, and worse yet, it would gut the legislation. I will, therefore, vigorously oppose this amendment.

Mr. Chairman, let us turn to Glacier Bay. A not-too-funny thing happened on the way to the floor with this bill. The Committee on Interior and Insular Affairs, by a very close vote, deleted the western coast of Glacier Bay National Monument from the protection of the bill. I think this was a serious mistake, and so do a large number of other Members who joined me in filing separate views. Therefore, I intend to oppose that amendment.

The bill would protect all valid existing rights in Glacier Bay National Monument even without that amendment. No mining is occurring there now, and none would be prevented by this legislation, that is, none on existing claims. Inclusion of the western coast would not have any significant effect on the Nation's supply of minerals or on our Nation's economy.

Indeed, to include the entire National Park System while deleting the mineralized portions of Glacier Bay would make a mockery of this bill. We would be, in effect, saying that mining is off limits in all but one-fifth of one of our national parks.

The western coast of Glacier Bay contains spectacularly beautiful, pristine wilderness. It has our largest protected coastal wilderness. It is in fact the only wild, completely protected land/sea interface within the entire Pacific rim.

The minerals in Glacier Bay will always be there if we should need to mine them, but a wilderness once destroyed can never be reborn.

Both my original bill and the Senate-passed version included all of Glacier Bay. Both bills would allow the mining of existing claims and would have merely stopped the staking of new claims.

At present anyone with a pick and shovel—or, more likely, a bulldozer—can go into Glacier Bay and stake a claim. To compound the problem, the archaic mining laws would give the owner of a patented claim not only the right to the minerals, but actual title to the land. Although no mining has yet occurred, 20 claims have already been patented in Glacier Bay.

Before we expand mining in our parks, Mr. Chairman, we should first utilize those other areas where the same minerals exist. Nickel is the major mineral in Glacier Bay, and it is estimated to contain only 1 percent of our Nation's nickel resources. While it may or may not be of high quality, the fact is that it is not considered economically mineable, and, therefore, it cannot be considered a reserve.

Mr. Chairman, the U.S. Bureau of Mines estimates the nickel resources in Minnesota to be 6½ million tons, compared to 200 million tons estimated in Glacier Bay. The Office of Technology Assessment lists Minnesota as having 88 percent of the nickel resources, and Alaska as a whole as having only about 3.6 percent. The OTA further states: "Minnesota is the most promising area for exploration. The estimated size of this State's nickel resources is enormous."

Statistics alone, however, do not give the whole picture. This legislation would not prevent the mining of the 200 million tons of nickel in Glacier Bay now under claim. It will not cut off anything from anybody who has valid rights in the monument. What the bill would do is to preserve the future of this monument, on the same grounds and for the same purposes that we have preserved the rest of our national park system.

Mr. Chairman, the protection contained in this bill is as much needed in Glacier Bay as it is in Death Valley or in any of our great national parks.

Mr. SEBELIUS. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise to associate myself with the remarks of the gentleman from Ohio (Mr. SEIBERLING), who has just spoken.

I think it was a terrible shock to all of us in my constituency, where we have a large number of people who are very much concerned about the future of this country and its resources, to find that mining is allowed in our national parks. It was an enormous surprise to me and to all of us in the conservation and ecology movement, to discover that this was possible, not only that it was possible to allow it to continue, but that it was going on at all.

Mr. Chairman, I hope very much that the Alaska area can be kept as it is now, with no more than the patented claims which are valid. I hope that in Death Valley we can do the same.

Mr. KETCHUM. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, may I ask the gentlewoman from New Jersey (Mrs. FENWICK) whether she has ever been to Death Valley?

Mrs. FENWICK. I have never been to Death Valley.

Mr. KETCHUM. Mr. Chairman, I hope the gentlewoman from New Jersey will listen to my presentation.

Mrs. FENWICK. Mr. Chairman, it seems to me that if there were matters concerning national security with which we were dealing, that would be another question. Furthermore, if there were no other reserves or no other places from which these minerals could be obtained, that would be another question. However, if there are large reserves right outside of the national parks, how on earth can we in this House consider ripping up the national parks? For what purpose, Mr. Chairman?

Since we have larger supplies outside of these areas which are supposed to be preserved, how can we justify the development in ways that are damaging to the enviromnent of these particular areas? That, to me, is the question, not how do we justify this bill, but how do we justify anything contrary to it, and how do we justify the exemption that has been given to the Glacier Bay area in Alaska?

Mr. SEBELIUS. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Alaska (Mr. YOUNG), who is vitally interested in Glacier Bay.

Mr. YOUNG of Alaska. Mr. Chairman and Members of the House, I have the privilege of representing the whole State of Alaska, and I am representing here today the position of the State of Alaska.

My colleagues, it disturbs me at times when my good colleagues, the gentleman from Ohio (Mr. SEIBERLING) and the gentlewoman from New Jersey (Mrs. FENWICK), stand up and tell me what is right for the State of Alaska.

If I am not right, then the people will not send me back here.

Mr. Chairman, let us keep that in mind as this dialog is carried forth today.

One of the Members spoke about a funny thing that happened in committee, saying there was an amendment adopted by a two vote margin. Although that is not a large margin, it is a majority. That amendment was adopted in the committee because the Governor of the State of Alaska supports that amendment.

Mr. Chairman, that amendment, as adopted, separates 452,000 acres of land from the other 2,400,000 acres of land exempted from the mining laws. It allows the Department of the Interior to finish their study of the amount of minerals that are thought to be in that area.

We know today that there is the largest single nickel deposit in Glacier National Monument. We know today that the United States imports 90 percent of

the nickel consumed. We know that this deposit of nickel alone is worth $1.2 billion. We also know, through the Bureau of Mines, that there is a large deposit of chrome, a large deposit of magnesium, a large deposit of iron ore. We do not know for sure, but we think they are there.

Mr. Chairman, my good friend, the gentlewoman from New Jersey (Mrs. FENWICK), said that this is not a national security question.

I cannot remember how many times we have argued on this floor as to whether we should import Rhodesian chrome. Yet, we have the possibility of chrome in Alaska. We know we have nickel.

Mr. Chairman, if any of the Members are from industrial areas, if any of them are familiar with the construction of automobiles, tractors, and so forth, let any Member show me one thing that does not have a percentage of nickel in it, and I will show him a piece of junk.

Mr. Chairman, we have to have that nickel to have properly manufactured goods for the consumer in the United States.

People talk about the great and glorious wilderness area at Glacier Bay National Monument, and I agree. However, there are 2,400,000 acres over here. I have a small picture. I did not have the privilege of having the Park Service pictures that the gentleman from Ohio (Mr. SEIBERLING) had.

I did not have those pictures, but I have small pictures that were taken approximately 20 miles from where any tourist ever was, and the mining site would be 40 miles beyond, and you cannot see it.

Furthermore, in mining the nickel, the nickel is in a nugget approximately 10,000 feet underground, under Brady Glacier, not Glacier Bay. This will be mined by a deep shaft mine. There will be no surface mining. We have the estimates that once the mining begins there will be only 34 acres disturbed in the whole mining process, 34 acres out of 3,800,000 acres.

Yet despite that, certain people on the floor of this House, and certain special interest groups across the United States, say we are destroying this vast wilderness. That is poppycock; it is not the truth.

The truth of the matter is that under this bill, and I support the bill, we have excluded 2,400,000, acres left it in the park inviolate, where there will be no mining, but we have taken out 400,000 acres to allow the Department of the Interior to carry on their continuing studies, and to allow the 20 claims to be valid.

The statement was made that under the present bill, or under the bill that will try to be amended, that there will be no taking away of the rights of claims in Glacier Bay National Monument land, and that the claims are valid. They are right, the claims are valid, but they forget to recognize that under the provisions there is no access to the claims. Can anyone tell me how they are going to mine 1 billion 200 million tons of nickel without access to it? I would like to hear about it. They must build a 10-mile road.

Some people have said the Park Service will allow us to have access. I say that is not true. The Park Service has never in its history allowed an access to any claims; McKinley is an example of where it did not. The claims are valid. They are patented, but they are absolutely useless.

So, Mr. Chairman, I am saying for the benefit of this Nation, and with the Governor's support, and the support of the Secretary of the Interior, and I have here Mr. Kleppe's letter and the support of the legislature of the State of Alaska, we can do this.

Let me read to you from the statement of the Assistant Secretary of the Interior for Fish and Wildlife and Parks, Nathaniel P. Reed, before the Subcommittee on National Parks and Recreation of the House Committee on Interior and Insular Affairs:

> The Department's position on this issue is that all units of the National Park System should be withdrawn from new locations of mining claims, subject to valid existing rights, except for Glacier Bay National Monument. The reason for this exception is that Glacier Bay is thought to contain large deposits of nickel and copper, critical minerals which are in short supply. Until a mineral survey of this National Monument has been conducted, we recommend that no final decision on its withdrawal be made. The Bureau of Mines and the U.S. Geological Survey have undertaken this survey, and their report is due in 1978.

My good friends, all I say to you, as I did in my opening remarks, is that I represent the State of Alaska and that I am trying to provide to this Nation vitally needed minerals, and also recognizing that this is one of the most beautiful spots in the United States, Glacier Bay. I am allowing 2,400,000 acres to remain, to be pristine, but I am taking out 400,000 acres to be studied by the Department of the Interior so that they may be utilized by the people, the consumers, of this great United States.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, the gentleman from Alaska mentioned that this area was in his district and not my district. I might add that of course it belongs to the people of the United States, it is a national monument, it is a part of the National Park System. Further, I do not believe the gentleman from Alaska has any constituents living in Glacier Bay.

Mr. YOUNG of Alaska. That strengthens my point. There have been no visitors there, including myself.

Mr. SEIBERLING. There have been about 60,000 visitors who went there last year.

Mr. YOUNG of Alaska. They were in this section over here in the bay area and not down here. Those 60,000 visitors were over 40 miles away, where the real visitation area exists.

The further fact is, and let us be realistic about 60,000 visitors, they have never seen Brady Glacier.

Mr. SEIBERLING. If no one visited it, then how does the gentleman account for the pictures on the left side of the room over here?

Mr. YOUNG of Alaska. Those pictures were taken by the Park Service from their helicopter and were distributed to the gentleman from Ohio, not to me.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Chairman, I think we are being treated in microcosm this afternoon to the inevitable and continuing confrontation that is going to labor this body for years to come between the nonrenewable and the renewable resources. When I originally embarked upon this legislative foray some 20 months ago, I came with the naive expectation that there would be a fair, reasoned and analytical appreciation of the importance of the mineral resources to the economic and human betterment of this Nation. Unfortunately, it has been my experience, at least in some quarters and with some mentalities, that the mineral industry is such a convenient and easy target for outrageous distortion and misrepresentation for the purpose of playing to a much larger theater of voter reaction that it is often impossible to sort out accurate facts and figures within all the emotional colloquy. For those that have honestly involved themselves in examination of issues relative to the understandable difference of opinion between those responsible for protecting the renewable resource and those responsible for trying to communicate the importance of our nonrenewable resource this sort of rank political posturing is nonproductive.

Nickel happens to be the mineral resource that is in issue here this afternoon. This nation is presently importing 73 percent of our nickel. The principal importing nation is Canada, our ally across the northern border, who it is asserted would always deal fairly with us on the subject of the value of nickel. We have the interesting precedent of how fairly they have dealt with this Nation on the price of natural gas at the wellhead, which they have increased in 2½ years from 54 cents to $1.52, three times in violation of existing contractual relationships with American distributors. I have no doubt that if an economic impetus suggests a similar kind of hijacking when it comes to the price of nickel, we will get treated the same way.

I think we must fairly assess that prospect in examining the merits of the proposed legislation. My good friend, the distinguished legal scholar, eminent authority upon many complex issue areas with which this House must deal, the gentleman from Ohio (Mr. SEIBERLING) has made a case in part based upon substantial fact and in part based upon his own sources of misinformation. The distinguished gentleman from Ohio does not come before the body with the intention of misleading the body; he does come be-

fore the body with totally erroneous or only partially accurate information. I will address myself to those inaccuracies and then invite the gentleman from Ohio to respond in specific.

First of all, in somewhat more rhetorical than substantive sense he asserts that anyone with a pick and shovel, or more likely a bulldozer, can go into Glacier Bay and can stake a claim. That simply is not a fair assertion. Entries of any kind, even for prospecting, must be preceded by a permit issued by the Monument Superintendent. Never in the history of Park Service activity has bulldozing in the national parks been permitted by a monument superintendent. The claim is overstated and unfounded.

The distinguished author on matters related to environment and mines and mining and sincere protector of the environment has asserted that the archaic mining laws give the owner of a patent claim not only the right to minerals but actual title to the land itself.

The CHAIRMAN. The time of the gentleman from Nevada has expired.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. Chairman, will the gentleman yield for a question?

Mr. SANTINI. Mr. Chairman, I yield to the gentleman from North Carolina. I have a series of questions I would like to share with the gentleman.

Mr. TAYLOR of North Carolina. Mr. Chairman, did the gentleman state that never in the history of this country has bulldozing taken place in national parks?

Mr. SANTINI. For the purpose of extracting minerals.

Mr. TAYLOR of North Carolina. We went to Death Valley and we saw where the shovels and equipment, much heavier than bulldozers, were being used to extract minerals in the national park area.

Mr. SANTINI. But that was not with the consent of the National Park Service. I think the law is eminently clear that they had the authority as a condition precedent for occupation of the national park use to preclude irrational disturbance or unsightly surface and the chairman's point is well taken. There was irresponsibility in the Death Valley National Park by some of those engaged in the removal of talc.

To continue my point that the archaic mining laws give the owner of a patent claim not only the actual claim but also title to the land itself, this is not, I repeat, an actually correct assertion. We have limited the right to locate and enter patented mineral deposits and exclusive of the land containing them. The law is clear. The assertion of the gentleman from Ohio is unfounded.

He further contended that none of the existing claims has yet been mined. Well, this too is not true. The G.S. Bulletin 1058–B describes the LeRoy Mine on the side of Mount Parker in the monument. It had a mill for concentrating purposes under the same regulations as are currently in force.

We have several other points of unintentional misrepresentation that I would be happy to discuss at further length with the gentleman from Ohio when the amendment comes in issue, but I think it is important for Members of this body to recognize and realize that we are dealing with a mineral resource, nickel, that is in critically short supply in this country, and we are dealing with deposits that represent 1.1 billion pounds of nickel and 600 million pounds of copper. Converting pounds to tons, it is more accurate to say the deposit in question is 250 percent of the entire United States reserve of nickel. That is 250 percent of the entire United States reserve of nickel.

It is a question involving a vital national resource and I hope my colleagues will examine all of these facts and figures in a careful and unemotional light.

Mr. SEBELIUS. Mr. Chairman, I yield to the gentleman from California (Mr. KETCHUM), in whose district most of the Death Valley Monument is.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman from Kansas for yielding me this time.

Much has been said here today about to whom this land belongs, and there is absolutely no question, the land belongs to the people of the United States of America, and we the elected representatives are the people who are sent by our districts to represent to the best of our ability their interests in that particular area.

I have listened to a great deal that has been said about the desecration that occurs in Death Valley, and I hope that the gentlewoman from New Jersey is listening because this concerns her and I share her concern. Since she told me in response to a question that she has never visited Death Valley, let me attempt to paint for the gentlewoman a picture of Death Valley, the lowest spot in the United States.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield when the time permits?

Mr. KETCHUM. I know the pictures are there, yes, and I also know how those pictures were taken. They were taken from a helicopter, which is the only way one can find that mining in Death Valley.

The Valley is 160 miles long, and that is 160 miles of the most tortured landscape God has ever put on the face of this globe. I would challenge the gentlewoman from New Jersey or any Member of this body to drive the length of Death Valley and find a mine for me.

The temperature when we visited there in May, it was a lovely spring day, was about 93°. Everything in the park closes down about the first of June.

Now, the only really incompatible thing that we saw in Death Valley, oddly enough, was Furnace Creek Inn and Death Valley's Scotty's Castle. I do not think the rest of the tour had an opportunity to see that, but if one wanted to see something incompatible with the landscape of Death Valley that desecrates it for those that like to see land like this was, guess, a golf course—a golf course in Death Valley. If the prospectors years ago had an opportunity to see a golf course and the green grass, that would have been the end. They would never put a pick and shovel in it and they would have stayed there and thanked the Lord for the golf course.

Over the years Death Valley has been the scene of many mining experiences; the burro, the prospector, the canteen, all very lovely, all very picturesque, and I might add, all gone.

Mr. Chairman, this bill is absolutely unnecessary under the law. The law which we are talking about here today will repeal the Death Valley Mining Act of 1933. All I am going to try to do, instead of repeal, is suspend it for 4 years. Let us see what we are going to suspend. Here is the law. It says that the mining laws of the United States are extended to the area included within the Death Valley National Monument in California or as it may hereafter be extended, subject, however, to the surface use of entries, locations, or patents under general regulations to be prescribed by the Secretary of the Interior.

How broad an interpretation can we get?

Mr. Chairman, I agree with the gentleman from Nevada (Mr. SANTINI) when the gentleman says that the Secretary had this authority all along and he has not exercised it. I do not say he, the present Secretary, but all of them since 1933.

So we really do not need this act. He could at any time have taken a claim that was either unpatented or one that was invalid and tossed it out.

Mr. Chairman, what do people come to Death Valley for? The people come to Death Valley, most of them, to take pictures of this rather interesting landscape and they come, for of all things, to see the mines.

We have been told that this will not affect employment. I am telling this House that 97 people have already been laid off in Death Valley because the mining companies presently mining there do not know what the outcome of this legislation will be.

The CHAIRMAN. The time of the gentleman from California (Mr. KETCHUM) has expired.

Mr. SEBELIUS. Mr. Chairman, I yield 3 additional minutes to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman from Kansas for yielding this additional time.

Mr. Chairman, there are individuals presently working in Death Valley, about 197. The population of all of Inyo County is slightly over 16,000, so what we are talking about is a little over 2 percent of the total population. If we want to throw them all out of work, this is a good way to do it.

Now, as far as strategic materials for the national defense, and again I address myself to the gentlewoman from New Jersey, 12 percent of this Nation's talc, which is of a quality that cannot be matched, as well as its critical borate materials, colemanite and ulexite, and let me say that all colemanite and ulexite comes from National Monument.

Now, what is colemanite and what is ulexite and who cares? Well, colemanite is used in the production of fiberglass. Fiberglass is used in the production of insulation. Insulation saves energy and I think that is in the national interest.

Mr. Chairman, let me also point out the only other source of colemanite in the world that we know of comes from Turkey. If we want to do to ourselves what we have just managed to squeak through in oil, and we are not through with that yet, then, of course, we should pass this bill. Then we can become dependent upon Turkey and I am sure some time in the not too distant future our Greek friends will rise again and we will have a Greek-Turkish confrontation, such as we had on this floor some two and a half years ago.

The amendment which I will offer simply suspends the mining laws for 4 years while a study is conducted, and then let the Congress act in its wisdom.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Nevada.

Mr. SANTINI. In verification, I think, for those Members of the House interested in our comparative efforts in legislative futility you might be interested in title 16, section 447, relating to the Death Valley National Monument. It is provided therein that the Secretary has the authority to curtail any undesirable surface use; and I quote:

> Those surface uses or locations, entries or patents under the general regulations to be prescribed by the Secretary of the Interior.

The legal reality, I believe, is that the Secretary of the Interior right now has the authority to impose any of the proscriptions he desires such as those suggested by the gentleman from Ohio in his advocacy of the action of the bill. Are we simply engaged in a process of administrative buck passing? I believe what is being requested is, "Please give us the authority to do what we already have the authority to do."

Mr. KETCHUM. The gentleman is entirely correct.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 additional minute to the gentleman from California.

Mr. KETCHUM. I thank the gentleman.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. The gentleman emphasizes a golf course which is being operated in Death Valley. Does the gentleman realize that the golf course is on privately owned land, that it is privately financed and privately operated, and operated in connection with Furnace Creek Inn?

Mr. KETCHUM. Certainly, I am aware of that.

Mr. TAYLOR of North Carolina. It is not part of the park.

Mr. KETCHUM. No, but it is within the monument, as the gentleman well knows. It cannot really be construed as being compatible, although I can tell the gentleman that it is a great golf course to play.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, several statements have been made to the effect that I am woefully misinformed, and have inaccurate information. Let me just make a couple of observations here.

First of all, with respect to Death Valley, the gentleman from California has made the statement that 12 percent of the Nation's talc comes from Death Valley. He also made the statement that all of the Nation's colemanite and ulexite come from Death Valley. With respect to talc, it is a common substance with huge reserves outside the national monument area. In fact, New York State supplies the highest amount, followed by Montana, Georgia, Texas, and California. Twenty-five States have ample supplies of talc.

Let us go to colemanite and ulexite. Huge amounts are available at the U.S. Borax mine at Ryan, Calif., outside the monument. As a matter of fact, the estimates are that they have 2½ times as much colemanite and ulexite as are in Death Valley. So, again we are not talking about any shortage of supply as far as minerals in Death Valley are concerned. If Turkey were to shut off the supply altogether, the United States could supply its own needs of boron compounds for 50 years. So, that issue is just out of the picture.

Let me make one other point about Glacier Bay. The gentleman from Alaska said that my information was not accurate. He has also said that the Governor of Alaska——

Mr. YOUNG of Alaska. Mr. Chairman, what did the gentleman just state?

Mr. SEIBERLING. That my information was not accurate.

Mr. YOUNG of Alaska. That is true.

Mr. SEIBERLING. Let me just say that is not correct. In the first place, Office of Technology Assessment states that the place where we should be mining nickel is in Minnesota, where 88 percent of the resources are located.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 additional minutes to the gentleman from Ohio.

Mr. SEIBERLING. Let me say in the second place that the gentleman from Alaska states that the Governor of Alaska supports his amendment. That is inaccurate.

I have here a letter of March 23, from the Governor of Alaska, the Honorable Jay S. Hammond, which I will ask unanimous consent, when we get back in the House, to include in the RECORD. And it states that he supports excluding only 187,000 acres from this bill, whereas the gentleman's amendment would exclude 530,000 acres. So how is that for accuracy?

MARCH 23, 1976.

Hon. DON YOUNG,
Congressman for Alaska, House of Representatives, Longworth Office Building, Washington, D.C.

DEAR DON: I am pleased to respond to your letter of February 20, 1976, concerning proposed mining in Glacier Bay National Monument. As you are aware, this issue has generated interest in Alaska since before the establishment of the Monument in 1925, and I welcome the opportunity to state my position.

As I understand the situation, the present legislation proposes to eliminate mining in several national park areas, including Glacier Bay National Monument, and an effort will be made to amend the provision as it affects this specific area, thus allowing mining to continue, possibly until the results of further resources studies are known and analyzed.

Given the present economic situation in Southeast Alaska, and the need for new and diversified economic activities in this region, this is an issue which is of great importance to me, and the Administration has spent considerable time studying the issue. My position is based on balance between the economic potential and needs in this area and the objective of insuring that minimum environmental conflicts be allowed to occur within units of the park and monument system.

Based on this policy, I would support an exclusion from the mining prohibition legislation which would cover the following described area:

"Beginning at the northwest corner of Taylor Bay at the terminus of Brady Glacier; thence north-northwesterly, along the easterly limits of the rock outcrops and nunataks on the west side of Brady Glacier, to the large rock outcrop at the divide between Brady Glacier and Reid Glacier; thence westerly along this divide to divide of the Fairweather Range; thence southerly along this divide to Mount La Perouse; thence southerly along the ridge at the head of Finger Glacier to a small lake at the head of Kaknau Creek; thence down Kaknau Creek to Palma Bay near Icy Point; thence following the coastline easterly, southeasterly, northeasterly, and northwesterly to the point of beginning."

This area, covering approximately 187,000 acres along the west flank of Brady Glacier, includes the large mineral potential location in that area which is seriously suggested for development. Although it is less than the total area proposed in the largest proposals this Administration has examined, it nonetheless offers development of the key potential in the area, and avoids conflicts in others. In view of the opposition in the Senate to an exclusion for mining activity, it is my belief that such a proposal may be more acceptable because it deals with the specific area of crucial concern and strategic mineral potential.

I am hopeful this will be of help and interest to you as you address this issue. It is important, and please let me know if we can be of further assistance.

Sincerely yours,

JAY S. HAMMOND,
Governor.

No shortage of any mineral is going to be caused by this bill if the Young amendment is defeated and no shortage if the amendment offered by the gentleman from California is defeated. Furthermore, if we ever need the minerals in a national emergency, then the best way to make sure of that is to keep them in the ground so that we can mine them when we need them, instead of ripping them off as fast as possible so that someone can make a profit right here today, and when a shortage comes there will be none left.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Chairman, I thank the gentleman for yielding.

How can the gentleman contend, from his extensive hearings, background information and exploration, that it takes 5 to 10 years to get on production with a

resource such as Glacier Bay? The war would be over by the time we got it out.

Mr. SEIBERLING. The Office of Technology Assessment says that the place to be mining minerals is in Minnesota, which is far closer to the centers of production in this country than Glacier Bay, where undoubtedly it will be shipped to Japan.

Mr. SANTINI. Does the gentleman know that it has 225 percent of our known reserves in this country at this time?

Mr. SEIBERLING. It is not even known whether there are any deposits in Glacier Bay that are classifiable as reserves, since to be so classified they must be economically exploitable.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 additional minute to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, there is one other thing I want to get in the RECORD.

The gentleman's amendment will not permit the building of roads or other facilities to exploit this particular mineral that he is so solicitous of. They will still have to get permission of the National Park Service, whether the amendment stays in the bill or whether it does not stay in the bill. However, we know what the next bill will be. They will come in and want to build not just a road or port, but they will want to build a smelter at Glacier National Monument.

Mr. YOUNG of Alaska. If the gentleman will yield, the gentleman knows that is not true. There is not a word of truth in it. They want a company to ship it out. They do not want a smelter plant.

Mr. SEIBERLING. Is it not true that they have been considering asking to build a smelter?

Mr. YOUNG of Alaska. That is not true.

Mr. SEIBERLING. That was my information.

In any event, they want to build a milling plant in one of the great pristine wildernesses in one of our national parks.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. I thank the gentleman for yielding.

On the matter of our relative resources in Minnesota and Glacier Bay, the information I have from the Department—and I speak to our friend, the gentleman from Nevada—is that the Glacier Bay Monument contains but a tiny fraction of our Nation's nickel. It is estimated at 200 million tons, compared to 6½ billion tons in Minnesota.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of S. 2371, which provides for the regulation of mining activities within the areas of the National Park System.

At present there are only six areas of the National Park System in which mineral development is permitted under the Mining Law of 1872. These are: Crater Lake and Mt. McKinley National Parks; Death Valley, Glacier Bay, and Organ Pipe Cactus National Monuments; and the Coronado National Memorial. These exceptions to the general rule—which closes all National Park System areas to mineral development—were created by congressional acts which were premised on conditions no longer relevant. The time has come to eliminate these anomalies by repealing the special laws which are now endangering the unique values of these national treasures.

The bill now before us would do three things. First, it would repeal the seven acts of Congress which extented the Mining Law of 1872 to these six units of the National Park System.

Second, it would provide express and broad authority for management by the Secretary of the Interior of mineral development on patented and unpatented mining claims which exist within the National Park System; and, finally, it would impose a 4-year moratorium on further surface disturbance within the Death Valley and Organ Pipe National Monuments and the Mt. McKinley National Park. This would give the Secretary of the Interior an opportunity to determine the validity of existing mining claims and give the Congress an opportunity to decide whether to acquire any valid mineral rights in order to prevent further damage to these areas.

This legislation is needed, and urgently needed, because even as we discuss the matter the spectacular scenic and natural values of these six areas—and particularly of the Death Valley National Monument—are being threatened by ongoing mineral development. These national park system lands were opened to mining because the Congress believed, years ago, that the exploration and mining techniques of that time would not have significant impact on the scenic and other values. Today, however, changes in technology and mining techniques have resulted in a very real threat to these values.

In particular, strip mining operations in Death Valley have attracted extensive national attention and mounting concern for the future of this irreplaceable national treasure. The extent of the present mining activities in each of the six areas under discussion has been reported to the Congress by the Department of the Interior. That report may be summarized as follows:

In Death Valley National Monument—a number of companies are presently mining borates and talc, and the stripping activities have been stepped up substantially since legislation such as the bill under debate was first introduced. In 1974, about 3 percent of the Nation's annual domestic production of boron minerals was carried out in Death Valley. In addition, about 100,000 tons of talc were mined from the National Monument—less than 1 percent of annual domestic production. At present there are an estimated 50,000 unpatented mining and milling locations, and 267 patented mining claims within the monument. The patented claims alone cover more than 7,000 acres.

Since legislation such as this bill was first introduced into this Congress, the mining companies actively producing in the Death Valley National Monument have stepped up their activities. According to the Department of the Interior, this substantial increase in strip mining means that the longer Congress delays the more likely it is that irreparable damage will be done to areas such as Gower Gulch and the view from Zabriskie Point. Among the talc producers, Pfizer has increased its stripping rate about 2.5 times over what it was between January 1972, and October 1975. The National Park Service reported late last year that Pfizer had gone from an on-and-off schedule to a 6-day workweek; the Cypress company at the same time had gone to a 7-day workweek. Johns Mansville was reported planning to open a new mining area; and other companies are also active.

In Mt. McKinley National Park, although there are no patented mining claims, the Interior Department estimates that there are some 300 unpatented claims. One surface mine produces antimony in the amount of some 100 tons of ore per year, with a gross value of about $60,000. Park Service reports indicate that there is a certain amount of exploratory activity being carried out, with sometimes very marked environmental impacts.

In the Glacier Bay National Monument, there are 20 patented claims and some 270 unpatented claims. There are estimates that claims within the monument contain resources of a 200 million tons of nickel and 600 million pounds of copper; but there has been little production of minerals from these properties in the past, and no mining is now taking place. The Newmont Mining Corp. has been exploring for mineral deposits in the area; and the U.S. Geological Survey and Bureau of Mines are making mineral surveys of the national monument.

In the Organ Pipe Cactus National Monument, there are some 3,000 unpatented mining and millsite locations, but no patented claims. There is some exploration apparently going on, but no production of minerals. One firm is reported to be drilling in a search for copper ore of sufficient value to justify an underground mine.

There are no claims, patented or unpatented claims or locations in either Coronado National Monument or Crater Lake National Park, and no mining activity in these areas—which, however, remain open to the operations of the mining law of 1872: A loophole which should be closed now.

Given this pattern of activity, what result will enactment of this bill have on the national economy and the supply of minerals? The answer is, very little, if any—certainly not enough of an impact to justify continued destruction of the priceless values of these park lands.

Most attention has, rightly, been focused upon the strip mining going on in the Death Valley National Monument. That mining is being done to produce borates and talc. In 1974, according to

the Department of the Interior, about 3 percent of our domestic production of borates was the result of mining in the area of the Death Valley National Monument. In particular, about 80 percent of domestic production of colemanite comes from the Death Valley area. Boron compounds are used in manufacturing glass, vitreous enamel, soaps, cleansers, detergents, and in fertilizers, weed killers, alloy steels, radio tubes and solar batteries, plaster products, including control elements for nuclear reactors. Colemanite is a less common grade of borate, containing calcium as well as boron, and is preferable for certain products, although other borates are largely interchangeable with it through modifications of the manufacturing processes.

According to the Bureau of Mines, the U.S. boron industry is well established and we have reserve adequate for 84 to 120 years, at established rates of growth in demand. Borates can be recovered from bedded deposits—as in the case of the Death Valley strip mining operations—or from underground brines or brine lakes. The latest figures available show that we imported some 21,214 short tons of colemanite from Turkey in 1974, at a cost of about $852,000; at the same time, we were exporting, in crude or refined form, over $70 million worth of borates, mostly to Western Europe and Japan.

As for talc, it is used in making ceramics, paint, paper, refractories, building materials, insecticides, rubber products, toilet applications, and in a few other ways. Over the years, our production has increased steadily, and by 1974 had doubled over 1955. At the same time, our exports have grown even more rapidly—the 1974 figure was about six times that for 1955.

According to the Department of the Interior, in 1974 there were over 30 producing companies, with Vermont, New York, Texas, and Montana all producing more talc than California. Talc is produced in nine other States as well.

Clearly, protecting Death Valley from further strip mining will not damage our economy, nor threaten the supply of critical materials.

Mr. Chairman, I believe Glacier Bay National Monument should be included in this bill, because unless the 1936 act which opened the monument to the mining laws is repealed, the Secretary of the Interior has no authority to withdraw any areas within the monument from entry under the mining law.

Similarly, under the law as it stands now, new claims within the monument can be located without restriction, creating the possibility of additional inholdings even in the most environmentally sensitive areas of the monument, and greatly impeding efforts to manage the monument in a manner befitting its status as part of the national parks system.

Finally, it should be noted that this bill will not affect the 20 patented claims located on the Brady Glacier nickel deposit, nor any other patented claims within the areas covered by the bill. Thus, there is no interference with rights which are now held by the owners of these patented claims.

In conclusion, Mr. Chairman, I urge adoption of this legislation, which in my view is vitally needed if we are to preserve for future generations the irreplaceable scenic, environmental, and recreational values of these six units of the national parks system.

Mr. SEBELIUS. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in support of S. 2371, the mining in the national parks bill.

I share the widespread concern over the future of our national parks and monuments that prompted the introduction of this legislation and the immediate consideration it received by the Subcommittee on National Parks and Recreation and the full House Interior and Insular Affairs Committee of which I am a member.

Hearings were held during which the key issues involved were discussed, debated, and clarified. I commend my colleagues, the gentleman from North Carolina (Mr. TAYLOR), chairman of the National Parks Subcommittee, and the gentleman from Kansas (Mr. SEBELIUS), the ranking minority member, for their willingness to understand and consider the concerns of everyone effected.

The first national park, the Yellowstone National Park, was created in 1872. The National Park Service was later established in 1916. Since that time approximately 300 national parks have been created to help preserve the scenic beauty of our land, natural and historic objects and the wildlife found in these parks for the enjoyment of everyone and for generations to come.

Most of these national parks and monuments are established by legislation which specifically forbids mining of any sort as this activity is not considered to be compatible with the reasons for establishing the parks. There are only six exemptions to this general rule.

These exemptions were made for two basic reasons. One, to allow the picturesque and historically significant prospector and burro type of mining to continue and; secondly, to insure the availability of valuable and essential mineral reserves found in these areas.

In my opinion, this legislation is a reasonable and responsible solution to the need to regulate the uses of lands within the National Park System.

The bill provides for the protection of all valid existing rights and allows mining currently going on to continue under Federal regulations. At the same time, the bill prevents any staking of new claims to insure that our parks are not threatened with expanded mining in the future.

The bill was reported out of the House Interior and Insular Affairs Committee by the overwhelming vote of 34 to 5 which clearly demonstrates the concern of the members of the committee for the effects of strip mining in our national parks.

I urge my colleagues to join us in supporting this legislation.

Mr. SEBELIUS. Mr. Chairman, I yield back the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Chairman, this is one of the more difficult decisions I have had to make in committee. I came down on the side of the majority, and I did so reluctantly, considering the views of the gentleman from Alaska (Mr. YOUNG) and my good friend, the gentleman from Nevada (Mr. SANTINI), whose States have problems so parallel to mine.

I think the problems are too complex and there are so many national parks in so many States, that we must set the rules right now regarding mining activities in the national park and national park areas.

I feel strongly about our overriding responsibility to the millions of our constituents and to future generations of Americans. I believe we must abide with the committee majority to preservation and protect our lands in national parks.

Mr. KETCHUM. Mr. Chairman, I include the following for the information of the membership:

DISSENTING VIEWS

S. 2371, as reported by the Committee, contains restrictions on future mineral exploration and mining in Death Valley National Mounment which can only be construed as an environmental overkill that will ultimately hurt the country. Many advocates of a mining ban in the Monument evidently do not appreciate the size of the area that would thus be withdrawn from further mineral productivity—an area larger than the total combined acreage of all five California National Parks: Yosemite, Sequoia, Kings Canyon, Lassen Volcanic, and Redwood. Minerals currently being removed from the Monument constitute a significant contribution to the American economy, and prohibition of their continued production will inevitably lead to increased costs to the consumer and to increased dependence on foreign mineral supplies. Data received from the U.S. Bureau of Mines reflects the seriousness of our dependence on imports of the mineral colemanite from Turkey. At the present time, we import approximately 35 per cent of our domestic consumption of colemanite from Turkey but as a result of the prohibition which will ultimately become effective in the Monument, the U.S. will be importing 100 percent of its colemanite in the reasonably near future. In addition, the other critical borate mineral, ulexite, which is also currently being produced solely from the Monument will be precluded from satisfying domestic consumptive demands. Where do we go from here?

The withdrawal of the opportunity to mine on public lands is an accelerating phenomenon that must be slowed or reversed if the United States is to continue to supply a significant proportion of its own mineral resources. It is a serious matter to carry out withdrawals of the public lands without adequate knowledge of the values being lost. It is an incomparably greater mistake to enact legislation which would sacrifice, not merely the possible existence, but indeed the known existence, of valuable mineral resources that are essential to maintaining the delicate balance between mineral supply and demand in this country.

We do not support this legislation and encourage our colleagues, should it reach the floor of the House, to reject it.

STEVE SYMMS,
DON YOUNG,
SAM STEIGER.

Mr. ANDERSON of California. Mr. Chairman, I rise in strong support of S. 2371, the mining in our national parks

legislation, including Death Valley in my own State of California.

Historically, Death Valley has been associated with prospecting for gold, silver, and later borax—"the white gold of the desert."

Today, the romantic image of the lone pick-and-shovel prospector has been replaced by the reality of massive strip mine operations in Death Valley.

Mr. Chairman, Death Valley is a fragile part of the desert, both beautiful and unique. It includes the lowest point in the Western Hemisphere, 282 feet below sea level.

Death Valley's stripmining troubles resumed in 1933 when Congress restored the rights to mining.

Of course, in 1933, the law reflected a concern for the pick-and-shovel operator—with his 20-mule-team wagon traveling the searing desert miles to Mojave, Calif. That may have been fine in 1933; present reality is quite different. Open-pit mining long ago replaced the lone prospector figure, and the damage modern stripmining technology has wreaked on this unique national monument is nothing short of amazing.

Death Valley has yielded two minerals—talc and borate. I understand that the 180,000 tons of borate previously taken out of Death Valley each year amounts to less than 10 percent of total domestic production of that mineral. Moreover, for each 10,000 tons of borons mined, an acre of the surface is destroyed. Talc mining is even more destructive, each 10,000 tons of that material means that six surface acres are eliminated.

Borates are used principally in making glass. To a lesser extent, borates are used in detergents, pharmaceuticals, and herbicides. Talc from Death Valley is used in paints and ceramics.

Already, permament damage has been inflicted on Death Valley less than 8 miles away from Zabriskie Point, one of the hauntingly beautiful parts of the monument. Waste dumps from this borax pit are over 150 feet high. In another scenic location, Galena Canyon, a talc mine high on the south side is visible for 35 miles.

Earlier, I cosponsored a bill (H.R. 9937) introduced by a distinguished member of the Committee on Interior and Insular Affairs, Mr. SEIBERLING. Our bill sought to prohibit mining in any national park area, including Death Valley National Monument. Thus, I am enthusiastically endorsing S. 2371. It is my feeling that this legislation balances the competing interests of mining and preservation.

I would, however, mention that the need to protect national lands from destructive mining does not end with this legislation, worthy as it may be. In California, mining claims have been made on Las Padres National Forest lands lying virtually next door to the two reserves in which the California condor has found its last refuge. Only 50 of the great birds still exist, and there is a strong possibility that open-pit mining so close to their homes may prove to be the final blow to their existence. Los Padres is under the administration of the National Forest Service, and I have been informed an amendment protecting the condor would not apply to this bill.

However, many of us remain keenly interested in protecting this endangered species. The legislation before us today is highly commendable, but the need to withdraw other parcels of land from mineral exploitation remains apparent.

I hope that need is reflected in future legislation. But, the bill before us today deserves strong support, and I urge my colleagues to join with me in giving S. 2371 an affirmative vote.

Mr. SKUBITZ. Mr. Chairman, I rise in support of S. 2371, a bill to regulate mining activity, in certain units of the national park system.

I was one of the first to react when I read a story in the Washington Evening Star that reported heavy strip mining going on in Death Valley National Monument.

Like many, I felt a strong irritation that one of our national resource treasures was being irreparably damaged.

My first action was to immediately introduce legislation banning all mining in our national parks.

This bill you have before you does not go that far.

It is a good bill in that it is tempered by the knowledge this committee has obtained from those who are actually mining within the parks.

The bill is a compromise.

It permits the mineral resource in Death Valley, for example, to continue to be mined at the rate it has been mined over the last 3 years.

Over the next few years we can determine the best way to preserve the park.

We have learned that Glacier Bay may contain a nickel deposit valued at $1.2 billion.

This bill attempts to preserve this beautiful area and yet allow a method for future recovery of this valuable ore.

It will not be surface mined.

It is a controversial bill.

Not all of those here would agree with the compromise.

But the bill was supported by large majorities in both subcommittee and full committee.

It is strongly supported by the administration.

Perhaps there will be amendments today offered by those who cannot agree with S. 2371.

I know there are Members who believe we have gone too far, and I know there are Members who believe we have not gone far enough.

I hope a majority will support the bill as reported to you by our committee.

We need to get this quickly resolved. It is a matter, I am afraid, which the longer we put off, the more damage could be done to our national parks and monuments.

The CHAIRMAN. All time has expired.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds and declares that—

(a) the level of technology of mineral exploration and development has changed radically in recent years and continued application of the mining laws of the United States to those areas of the National Park System to which it applies, conflicts with the purposes for which they were established; and

(b) all mining operations in areas of the National Park System should be conducted so as to prevent or minimize damage to the environment and other resource values, and, in certain areas of the National Park System, surface disturbance from mineral development should be temporarily halted while Congress determines whether or not to acquire any valid mineral rights which may exist in such areas.

SEC. 2. In order to preserve for the benefit of present and future generations the pristine beauty of areas of the National Park System, and to further the purposes of the Act of August 25, 1916, as amended (16 U.S.C. 1) and the individual organic Acts for the various areas of the National Park System, all activities resulting from the exercise of valid existing mineral rights on patented or unpatented mining claims within any area of the National Park System shall be subject to such regulations prescribed by the Secretary of the Interior as he deems necessary or desirable for the preservation and management of those areas.

SEC. 3. Subject to valid existing rights, the following Acts are amended or repealed as indicated in order to close these areas to entry and location under the Mining Law of 1872:

(a) the first proviso of section 3 of the Act of May 22, 1902 (32 Stat. 203; 16 U.S.C. 123), relating to Crater Lake National Park, is amended by deleting the words "and to the location of mining claims and the working of same";

(b) section 4 of the Act of February 26, 1917 (39 Stat. 938; 16 U.S.C. 350), relating to Mount McKinley National Park, is hereby repealed;

(c) section 2 of the Act of January 26, 1931 (46 Stat. 1043; 16 U.S.C. 350a), relating to Mount McKinley National Park, is hereby repealed;

(d) the Act of June 13, 1933 (48 Stat. 139; 16 U.S.C. 447), relating to Death Valley National Monument, is hereby repealed;

(e) the Act of June 22, 1936 (49 Stat. 1817), relating to Glacier Bay National Monument, is hereby repealed;

(f) section 3 of the Act of August 18, 1941 (55 Stat. 631; 16 U.S.C. 450y–2), relating to Coronado National Memorial, is amended by replacing the semicolon in subsection (a) with a period and deleting the prefix "(a)", the word "and" immediately preceding subsection (b), and subsection (b); and

(g) The Act of October 27, 1941 (55 Stat. 745; 16 U.S.C. 450z), relating to Organ Pipe Cactus National Monument, is hereby repealed.

SEC. 4. For a period of four years after the date of enactment of this Act, the surface of any land included within any patented or unpatented mining claim which is located within the boundaries of Death Valley National Monument, Mount McKinley National Park, and Organ Pipe Cactus National Monument shall not be disturbed for purposes of mineral exploration or development: *Provided, however,* That the provisions of this section shall not apply to surface disturbance caused by extraction of minerals from lands the surface of which had been significantly disturbed for the purpose of mineral extraction prior to September 18, 1975.

SEC. 5. The requirements for annual expenditures on mining claims imposed by Revised Statute 2324 (30 U.S.C. 28) shall not apply to any claim subject to section 4 of this Act during the time such claim is subject to such section.

SEC. 6. Within two years after the date of enactment of this Act, the Secretary of the Interior shall determine the validity of any unpatented mining claims within Death Valley and Organ Pipe Cactus National Monuments and Mount McKinley National Park and submit to the Congress recom-

mendations as to whether any valid or patented claims should be acquired by the United States.

SEC. 7. Within four years after the date of enactment of this Act, the Secretary of the Interior shall determine the validity of any unpatented mining claims within Crater Lake National Park, Coronado National Memorial, and Glacier Bay National Monument, and submit to the Congress recommendations as to whether any valid or patented claims should be acquired by the United States.

SEC. 8. All mining claims under the Mining Law of 1872, as amended and supplemented (30 U.S.C. chapters 2, 12A, and 16 and sections 161 and 162) which lie within the boundaries of units of the National Park System shall be recorded with the Secretary of the Interior within one year after the effective date of this Act. Any mining claim not so recorded shall be conclusively presumed to be abandoned and shall be void. Such recordation will not render valid any claim which was not valid on the effective date of this Act, or which becomes invalid thereafter. Within thirty days following the date of enactment of this Act, the Secretary shall publish notice of the requirement for such recordation in the Federal Register. He shall also publish similar notices in newspapers of general circulation in the areas adjacent to those units of the National Park System listed in section 3 of this Act.

SEC. 9. (a) Whenever the Secretary of the Interior finds on his own motion or upon being notified in writing by an appropriate scientific, historical, or archeological authority, that a district, site, building, structure, or object which has been found to be nationally significant in illustrating natural history or the history of the United States and which has been designated as a natural or historical landmark may be irreparably lost or destroyed in whole or in part by any surface mining activity, including exploration for or removal or production of minerals or materials, he shall notify the person conducting such activity and submit a report thereon, including the basis for his finding that such activity may cause irreparable loss or destruction of a national landmark, to the Advisory Council on Historic Preservation, with a request for advice of the Council as to alternative measures that may be taken by the United States to mitigate or abate such activity.

(b) The Council shall within two years from the effective date of this section submit to the Congress a report on the actual or potential effects of surface mining activities on natural and historical landmarks and shall include with its report its recommendations for such legislation as may be necessary and appropriate to protect natural and historical landmarks from activities, including surface mining activities, which may have an adverse impact on such landmarks.

SEC. 10. If any provision of this Act or the applicability thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provisions to other persons or circumstances shall not be affected thereby.

SEC. 11. The holder of any patented or unpatented mining claim subject to this Act who believes he has suffered a loss by operation of this Act, or by orders or regulations issued pursuant thereto, may bring an action in a United States district court to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution. The court shall expedite its consideration of any claim brought pursuant to this section.

Mr. TAYLOR of North Carolina (during the reading). Mr. Chairman, I ask unanimous consent that the Senate bill 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 North Carolina?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, line 14, strike out "repealed;" and insert in lieu thereof: "repealed except with respect to the following described area of such monument: the area which is between the following described line on the east and the Pacific Ocean on the west, comprising approximately five hundred and thirty-one thousand acres: the area bounded on the east by a line extending north-northwesterly from the west shoreline of Taylor Bay, along the easterly limits of the rock outcrops and nunataks on the west side of Brady Glacier, to the large rock outcrop (elevation 4148) at the divide between Brady Glacier and Reid Glacier; thence westerly to Mount Bertha; thence west northwesterly to Mount Orville; thence northwesterly and northerly along the divide of the Fairweather Range to Mount Wilbur, Lituya Mountain, Mount Salisbury, and Mount Quincy Adams;"

PARLIAMENTARY INQUIRY

Mr. SEIBERLING. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SEIBERLING. Mr. Chairman, in order to attempt to eliminate this amendment, it is only necessary to call for a vote, and then the Members may vote yes or no on the committee amendment; is that correct?

The CHAIRMAN. The gentleman is correct.

Mr. SEIBERLING. Mr. Chairman, I rise in opposition to the committee amendment.

Mr. Chairman, I believe we have had an ample discussion as to this committee amendment. This is the amendment which was adopted by a 2 vote margin in the committee. It is the amendment which was offered by the gentleman from Alaska (Mr. YOUNG). The amendment excludes 531,000 acres of the Glacier Bay National Monument from the operation of this bill.

Mr. Chairman, I will ask the Pages to bring the placard which is to my left around to the front of the well so that I may point out a couple of matters with respect to this amendment.

The committee amendment which I am opposing and on which I will ask for a vote would exclude the entire Pacific Coast Rim of the Glacier Bay National Monument. This is the entire rim of the Glacier Bay National Monument that fronts on the Pacific. Under the amendment this area would be excluded from the bills' ban on future mineral entry, which means that anyone who goes through the procedural requirements to stake out a claim can go in here and end up owning the land.

If we take a quick look at these pictures—and they are keyed to this map—we will see that this is a magnificent, wild coastline, with glaciers going right down into the Pacific Ocean and with huge mountains rising up from the very ocean shore which are starkly visible from the sea. On the coast in front of those mountains the Newmont Mining Company would like to place a port and a mill, as the gentleman from Alaska (Mr. YOUNG) has indicated.

This coast contains old gold mining claims, but they do not mine gold with a pan and a pick and shovel any more; they go in with huge machine dredges, and they suck up all the earth after having first cut down the trees. These machines spew out the earth and leave miles and miles of barren gravel. If any of the Members want to see what that looks like, I have some pictures in my office that I took in Alaska showing what a riverbed looks like after a mining dredge has gone through.

Mr. Chairman, I would ask the Members whether they believe the people of this country are going to go along with Congress in opening up the only de facto wilderness area on the entire Pacific Coast, one contained in a magnificent national park, and expose it to that kind of depredation.

All of us know full well that the answer to that question is "No." If it were clear that that is what is going to happen, then they would rise up in righteous indignation and denounce those who authorized that kind of monstrosity.

However, that is not the way the mining interests work. They creep along and get little wedges here and there through the kind of amendment that the gentleman has offered; and then after it is in the law, before we know it, they are already in and the place is messed up. That has already happened to parts of Death Valley National Park.

Mr. Chairman, now is the time to save Glacier Bay, a national park of unequaled splendor and unequaled wild character, before that sort of thing happens there.

That is all my amendment does. It does not prevent anyone who owns a mine, a valid mining claim, from exploiting that claim. It does not help him exploit the claim. It leaves him as the law leaves him now. But it does say that there will be no new claims opened up in this marvelous national park, and that is all it does.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding.

I rise in support of his position and in opposition to the amendment.

I would like to commend him for the care with which he has gone into these various problems connected with this legislation.

I think it should also be pointed out—and I am sure the gentleman would mention this—that the amendment we are talking about here was adopted in committee by a very close margin, 22 to 19.

On pages 18 to 20 of the committee report appear the supplemental views of those Members who opposed the committee position and support the gentleman's position.

Mr. Chairman, I suppose I am one of those who naively supposed that there

was no mining in national parks. I was astonished, as the gentleman from Ohio mentioned, when he first introduced this legislation to prohibit new mining in national parks. It seemed to me utterly incompatible with the whole concept of the national park system. Therefore, what we are talking about here today is stopping new mining, and I applaud the gentleman from Ohio (Mr. SEIBERLING) for his position.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 1 additional minute.)

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I find myself in somewhat of a dilemma at this point. As floor manager of the bill, I am obligated to present the committee position, but I voted against the amendment in the committee. I feel that I must do so again.

Mr. Chairman, the entire purpose of this bill is to insure that no more new claims will be filed for minerals on national park lands, and this amendment would do just the opposite.

The situation that worries me is this: The Department of the Interior is presently conducting a mineral survey of the western area of this monument. When the draft of this survey is made public, any mineralized areas identified by the study will almost certainly be quickly staked out by mining companies. Then we will be back in the position of having to buy out these private owners unless we insist, at some time in the future, upon stopping mining in this park.

Mr. Chairman, let us keep in mind this, that the Brady Glacier nickel deposit would not be protected from future development anyway, even if this amendment is defeated. The claims are already in place; and if it is economical to mine it, this bill does not in any way stop them from proceeding with their mining operations.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the committee bill as reported out of committee.

Mr. Chairman, there has been much said about this question already. I think those on the floor heard my previous presentation.

This is a decision that must be made by this body on whether we are going to have the use of a known nickel deposit, about 500,000 tons of nickel, based in a nugget about that size, located in 10,000 feet of stone and ice.

It is going to be a tunnel mine. It will disturb a total of 34 acres of land. That includes the road, the small town site, the mill site, and the tunnel itself, 34 acres.

Mr. Chairman, with respect to my amendment that was adopted by the majority in the committee, let me stress that again: The majority in the committee adopted it, and this has been discussed, discussed, and discussed, because, in its wisdom, the majority saw the validity of the amendment, the need of the United States for this resource, and the need to take and mine a known mineral deposit.

Mr. Chairman, the Department of the Interior, including Secretary Kleppe, supports this amendment. The land still stays in Secretary Kleppe's jurisdiction.

As far as new mining goes, the mineral deposits were known to be there before, but they were not identified.

There will be no rush of claims. I might mention that the filing of claims today is a very difficult process. It is also a known fact that the Department of the Interior, when the study is finished, and they think it will be finished in 1978, can return the amount of land that has been defined as non-mineral back to the park. Let me stress again that the monument contains 2,400,000 acres that are excluded from the amendment adopted by the committee. That is 17 times the size of the state of New Jersey, I believe, that the gentlewoman from New Jersey (Mrs. FENWICK) was speaking about, 17 times that size. So we are not destroying a great beautiful area; we are merely taking a very small pearl of needed resources.

So, Mr. Chairman, I believe that the amendment that was adopted in the committee should be retained and should remain in the bill.

I respect the fact that my good chairman, the gentleman from North Carolina (Mr. TAYLOR) was in an awkward position, but he recognized the will of a majority of the committee and he voted against my amendment. But I also recognize the will of the total committee, after having a markup session that lasted for a number of days, they saw fit to adopt my amendment for the betterment of this nation.

So I urge my good colleagues to support the bill as reported out of the committee with all due process.

Mr. SANTINI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman. I rise in support of the amendment of the gentleman from Alaska (Mr. YOUNG), because I think, in focus and in balance, it represents the best interests of the needs of this country.

I recognize sincerely, that have compelled and motivated both, the gentleman from Ohio and the gentleman from New York in advancing their views about the preservation of our natural and renewable resources, but I think the reason that the exceptions were engrafted by previous legislative bodies for Glacier Bay and Death Valley, was in recognition, first in the instance of Death Valley that the economic salvation and survival balance of this Nation are dependent upon the vital bauxite resource within the park. I will not advance the talc resource because I believe the balance weighs against the talc.

With regard to Glacier Bay, the nickel deposits in Glacier Bay were viewed by prior legislative bodies as worthy of their exemptions status because in the balance it was in the best interests of this Nation to recognize the vital importance of nickel to the future economic security of this Nation and its people.

It may be a personal exercise in futility to urge balanced reasoning and unemotional judgment when it comes to emotional fervor, appeal and rhetorical attraction such as the label National Parks, apple pie, motherhood and perhaps Chevrolet. But I do hope, and I repeat, I do hope that those Members who are not disposed to conclude automatically and in a reactionary fashion, that everybody who disturbs the land should not be permitted to either associate with young children or to marry their sisters will carefully weigh all the long-range implication involved in this issue. I further urge that for those Members who are not inclined to muse into the vagaries of the future about our mineral needs and resources: For those who are not disposed to rely upon hope and aspiration that in some way and somewhere in our future whenever critical mineral resources are needed in this Nation that the great mineral fairy will descend from Nirvana bringing the mineral requirements into the reach of whoever needs them and wherever they are needed.

There is a very serious national interest that is involved. We do not need a knee jerk emotional response to an emotional appeal to resolve this serious question and I urge my colleagues to evaluate this issue in that context.

Mrs. MINK. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the committee amendment.

Mr. Chairman, I oppose the committee amendment as it was offered to the committee by the gentleman from Alaska (Mr. YOUNG), noting as others have already noted, that it passed in the committee by a very narrow majority.

The implications of this amendment as it has been discussed have not explained the heart of this issue. Undoubtedly, the United States is dependent upon outside sources presently for its nickel requirements. It has been contended in the debate thus far that without this exemption for one-fifth of the Glacier Bay National Monument, somehow or other this legislation was going to preclude or lock out development of such nickel resources as are found in this monument. The truth of the matter is, as it was presented quite explicitly in the hearings, that the 20 patented claims and the 270 pending unpatented claims, to the extent that they are valid, comprise the total 200 million tons of nickel deposits which constitute the reserves that are under discussion here. Consequently the passage of this bill, because it does not cover all presently patented claims and other valid existing claims, could not possibly in any way interfere with, impede, restrict, or prohibit such mining activities in these areas. There is

no lockout provision whatsoever. To this extent, since I believe in preserving the integrity of national parks and national monuments and have always in this Chamber voted to prohibit mining activities altogether, I am disappointed that we have only gone this far and have not excluded all potential mining activities in this particular national monument.

I think that the committee amendment ought to be defeated. A national monument is a place which has been designated for preservation. It ought not to be opened up for new prospective mining claims. The committee has given due consideration to the existing valid claims—some 20 patented claims covering the 200 million tons of nickel deposits which might be minable in the future. I think that if this committee is going to retain the concept of preservation of these historic areas such as Glacier Bay, this amendment must be removed from the committee bill, else we will be defeating the whole purpose of this legislation. I would ask that this committee vote down this amendment.

Mr. BINGHAM. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentlewoman for yielding.

I must say that I think the gentlewoman has brought out a most important point. If the gentlewoman is correct—then the whole argument about nickel falls to the ground.

Mrs. MINK. Precisely. So I would hope in consideration of what the committee, I believe, had hoped to recommend to this House, that this amendment would be completely defeated.

Mr. SEIBERLING. Mr. Chairman, will gentlewoman yield?

Mrs. MINK. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentlewoman for yielding.

Of course, the gentlewoman is the chairman of the Mines and Mining Subcommittee of the House Committee on Interior and Insular Affairs, and if there is a mineral fairy in this world, she is probably about as close as anyone can come to it.

Mr. SANTINI. Mr. Chairman, will the gentlewoman yield to permit the gentleman from Alaska to respond to the contention with respect to nickel, because I think it only fair for the record.

The CHAIRMAN. The time of the gentlewoman has expired.

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word.

Mr. SEBELIUS. Mr. Chairman, I would like to state I was present when the vote was taken and heard the arguments, and the persuasive argument of the gentleman who represents Alaska, exhibiting his own personal ability to represent the people of Alaska by presenting this position.

I think the gentleman pointed out an error of majority. I once lost a race for Congress by an error of majority. I never got here, and I found out one is never paid a salary for being second.

The committee that has sat here and listened to this will vote by a majority. I am disappointed that none of us ever got to see this place to have an opportunity to evaluate the arguments heard here between the gentleman from Ohio (Mr. SEIBERLING) and the gentleman from Alaska (Mr. YOUNG). The gentleman from Alaska has been there, and I yield to him at this time.

Mr. YOUNG. I thank the gentleman for yielding.

I would like the gentlewoman from Hawaii to be very clear on this. It is true in this bill that none of the claims that are valid now will be damaged, but it is also true none of the mining will be economical because the access will be unavailable. That is a fact. One can stand here and say the Park Service will grant a road and the Park Service will grant a townsite and the Park Service will grant a millsite. But that is not true. They have not done it in the past and they will not in the future. They may tell someone that just to get a vote. But if this is adopted there will be no mining of nickel. True, the claims are valid, but they are valueless because there is no access to those claims.

Mr. SEBELIUS. Mr. Chairman, I would state I am very much concerned about the point the gentleman from Alaska raised about whether or not there is a problem after one has obtained a claim—whether one can build a road and build a dock to aid in the extraction of this resource.

I just think we need to look at this situation very carefully. The reason the gentleman from Alaska has brought this to our attention is that it is in an unknown and inconclusive state at this time, and if we lock it up and say this is an area which cannot be further explored, then we would foreclose the option of possible further use of this imported resource.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I thank the gentleman for yielding.

I would like to read a section of the committee hearing and this is on the question of access. This is a colloquy between the committee staff member who is sitting beside me, Mr. Pinnix, and Mr. Edwards and Mr. Reed, both from the Department of the Interior.

The hearing reads:

Mr. PINNIX. What about the right of access? For instance, in this case you obviously have a valid claim within the interior of a monument. Would the owner of that valid right have the ability to transport ore out of that valid claim across the closed lands?

Mr. EDWARDS. It has been my understanding that the holder of a mining claim or property right has always had the right of access to get the benefits from that property.

Mr. REED. In other words, we would be forced to give him the best alternative environmentally, but he would have to be given access?

Mr. PINNIX. In the event the Seiberling bill were to be enacted without amendment, the nickel deposit within Glacier Bay would still not be totally precluded from development?

Mr. REED. Correct, sir. It is a valid existing right.

Mr. YOUNG of Alaska. Mr. Chairman, it may be a valid existing right but there is no access. At Mount McKinley they told us the same thing as in this bill, that we would have access and we would be able to mine gold. But they did not grant those rights-of-way. It is in the discretion of the Park Service and the gentleman knows and I know we will have nothing to say about it.

Mr. TAYLOR of North Carolina. But according to this record and other information we have, the right of access is a legal right, and the owner has that right.

Mr. YOUNG of Alaska. It is at the discretion of the Park Service.

Mr. TAYLOR of North Carolina. The Park Service could make certain restrictions in regard to the route of access which the holder of a valid right could select. But they still have to give the holder a method of access to get his minerals out.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I would like to ask the gentleman from Alaska how his amendment changes in any way, shape, or form the right of the owner of the minerals in Glacier Bay to access or anything else. How does it change that?

Mr. YOUNG of Alaska. Mr. Chairman, if the gentleman will yield, the amendment is very simple. It deletes the 400,000 acres from the Monument, thus taking them out of the park system. It retains them within the Department of the Interior, and when the study is finished, if they find the minerals are unavailable, other than nickel, they could return it to the parks. It keeps the bill pure. All it does is take out that small area of the land. I am glad to hear the gentleman say he is going to support the amendment. I am happy with the amendment. My Governor is happy with the amendment. My legislature is happy with the amendment. The State joint mining people are happy with the amendment.

The Joint Federal Land Commission is happy with the amendment. The only people unhappy with the amendment are those with very special interest groups and that is all.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, the amendment does not affect access rights for existing claims, yet it keeps part of the Monument open to filing of new claims.

Mr. YOUNG of Alaska. It does not. It keeps them under the lands——

Mr. BINGHAM. Mr. Chairman, just a minute. It is my time and I am yielding to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, the

gentleman's amendment goes way beyond the question of access to existing claims and keeps the entire 531,000 acres open to new entry and new mining claims being staked. It does not in any way give the owner of existing claims any more rights than he would have in the absence of this amendment.

The CHAIRMAN. The question is on the committee amendment.

The question was taken; and on a division (demanded by Mr. SEIBERLING) there were—ayes 16, noes 7.

Mr. SEIBERLING. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee of the Whole appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to report their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 725]

Abzug
Addabbo
Andrews, N.C.
AuCoin
Badillo
Beard, R.I.
Bergland
Bevill
Biaggi
Blouin
Bolling
Bonker
Brademas
Breaux
Burke, Mass.
Burton, Phillip
Carney
Carter
Cederberg
Chisholm
Conlan
Conyers
Delaney
Derwinski
Diggs
Drinan
du Pont
Eckhardt
Edwards, Ala.
English
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fish
Ford, Mich.
Ford, Tenn.
Fraser
Giaimo
Gibbons
Green
Gude
Hanley
Hansen
Harrington
Harsha
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Holt
Holtzman
Howe
Jarman
Jones, Ala.
Jones, Okla.
Karth
Kemp
Koch
LaFalce
Landrum
Long, La.
McCollister
McKinney
Madigan
Matsunaga
Meeds
Melcher
Mikva
Milford
Mineta
Moakley
Murphy, N.Y.
Neal
Nowak
O'Brien
O'Hara
O'Neill
Passman
Patterson, Calif.
Pattison, N.Y.
Pepper
Peyser
Railsback
Randall
Rangel
Rhodes
Riegle
Risenhoover
Roberts
St Germain
Satterfield
Scheuer
Shuster
Skubitz
Smith, Iowa
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Stuckey
Studds
Symms
Traxler
Tsongas
Udall
Ullman
Waxman
Wiggins
Wilson, C. H.
Wright
Young, Ga.
Young, Tex.
Zeferetti

Accordingly the Committee rose; and the Speaker pro tempore, Mr. MCFALL, having assumed the chair, Mr. CORMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the Senate bill, S. 2371, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 314 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the journal.

The Committee resumed its sitting.

The CHAIRMAN. When the Committee rose there was pending the request of the gentleman from Ohio (Mr. SEIBERLING) for a recorded vote on the committee amendment.

RECORDED VOTE

Mr. SEIBERLING. Mr. Chairman, I renew my request for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 110, noes 251, not voting 69, as follows:

[Roll No. 726]

AYES—110

Abdnor
Andrews, N. Dak.
Armstrong
Ashbrook
Bauman
Beard, Tenn.
Bell
Boggs
Bowen
Brinkley
Brown, Mich.
Brown, Ohio
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Collins, Tex.
Crane
Daniel, Dan
Daniel, R. W.
Davis
Devine
Dickinson
Downing, Va.
Duncan, Oreg.
Erlenborn
Flynt
Forsythe
Frey
Ginn
Goldwater
Grassley
Hagedorn
Hall, Tex.
Hicks
Hutchinson
Hyde
Ichord
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Kazen
Kemp
Ketchum
Kindness
Lagomarsino
Levitas
Lloyd, Tenn.
Lott
Lujan
McClory
McCormack
McDonald
McKay
Mahon
Mann
Martin
Mathis
Michel
Milford
Mollohan
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
O'Brien
Paul
Pettis
Poage
Pritchard
Quillen
Rhodes
Roberts
Robinson
Rousselot
Runnels
Ruppe
Santini
Schneebeli
Schulze
Sebelius
Shipley
Shriver
Shuster
Sisk
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Stephens
Talcott
Taylor, Mo.
Teague
Treen
Ullman
Vander Jagt
Waggonner
Wampler
Whitehurst
Whitten
Wilson, Tex.
Winn
Young, Alaska
Young, Fla.

NOES—251

Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Ashley
Aspin
Bafalis
Baldus
Baucus
Bedell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Cederberg
Chappell
Clay
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
de la Garza
Dellums
Dent
Derrick
Derwinski
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Fountain
Fraser
Frenzel
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Gonzalez
Goodling
Gradison
Gude
Guyer
Haley
Hall, Ill.
Hamilton
Hammer-schmidt
Hannaford
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hightower
Hillis
Holland
Horton
Howard
Hubbard
Hughes
Hungate
Jacobs
Jarman
Jeffords
Jenrette
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kelly
Keys
Krebs
Krueger
LaFalce
Landrum
Latta
Leggett
Lehman
Lent
Lloyd, Calif.
Long, Md.
Lundine
McCloskey
McDade
McEwen
McFall
McHugh
Madigan
Maguire
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moffett
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Oberstar
Obey
O'Hara
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pickle
Pike
Pressler
Preyer
Price
Quie
Randall
Rangel
Rees
Regula
Reuss
Richmond
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
Sarasin
Sarbanes
Schroeder
Seiberling
Sharp
Sikes
Simon
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steiger, Wis.
Stokes
Stratton
Sullivan
Symington
Taylor, N.C.
Thompson
Thone
Thornton
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
White
Wiggins
Wilson, Bob
Wilson, C. H.
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Zablocki

NOT VOTING—69

Abzug
Addabbo
Archer
AuCoin
Badillo
Beard, R.I.
Biaggi
Breaux
Brown, Calif.
Burke, Mass.
Carter
Chisholm
Conlan
Delaney
Diggs
du Pont
English
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fish
Ford, Tenn.
Green
Hanley
Hansen
Harrington
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Holt
Holtzman
Howe
Jones, Okla.
Karth
Koch
Long, La.
McCollister
McKinney
Madden
Matsunaga
Melcher
Moakley
Murphy, N.Y.
Neal
Nowak
O'Neill
Passman
Peyser
Railsback
Riegle
Risenhoover
Satterfield
St Germain
Scheuer
Steed
Steelman
Steiger, Ariz.
Stuckey
Studds
Symms
Traxler
Tsongas
Udall
Young, Ga.
Young, Tex.
Zeferetti

Messrs. MAHON and KEMP changed their vote from "no" to "aye."

Messrs. QUIE, DODD, SMITH of Iowa, STEIGER of Wisconsin, and SARASIN changed their vote from "aye" to "no."

So the committee amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendments: Page 3, line 20, strike out "subsection (b), and subsection (b); and" and insert in lieu thereof: "subsection (b), and by repealing subsection (b); and."

Page 3, beginning on line 24, strike out all of Section 4 and insert a new Section 4 reading as follows:

"SEC. 4. For a period of four years after the date of enactment of this Act, holders of valid mineral rights located within the boundaries of Death Valley National Monument, Mount McKinley National Park, and Organ Pipe Cactus National Monument shall not disturb for purposes of mineral exploration or development the surface of any lands which had not been significantly disturbed for purposes of mineral extraction prior to February 29, 1976: *Provided*, That if the Secretary finds that enlargement of the existing excavation of an individual mining operation is necessary in order to make feasible continued production therefrom at an annual rate not to exceed the average annual production level of said operation for the three calendar years 1973, 1974, and 1975, the surface of lands contiguous to the existing excavation may be disturbed to the minimum extent necessary to effect such enlargement, subject to such regulations as may be issued by the Secretary under Section 2 of this Act. For purposes of this section, each separate mining excavation shall be treated as an individual mining operation."

Page 4, line 20, strike out "States." and insert in lieu thereof: "States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands. The Secretary shall also study and within two years submit to Congress his recommendations for modifications or adjustments to the existing boundaries of the Death Valley National Monument to exclude significant mineral deposits and to decrease possible acquisition costs."

Page 5, line 2, strike out "States." and insert in lieu thereof: "States, including, the estimated acquisition cost of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands."

Page 5, at the end of line 12, add the following: "Within 30 days following the date of enactment of this Act, the Secretary shall publish notice of the requirement for such recordation in the Federal Register. He shall also publish similar notices in newspapers of general circulation in the areas adjacent to those units of the National Park System listed in Section 3 of this Act."

Page 6, lines 14 through 18, strike out all of Sec. 10 and insert in lieu thereof the following:

"SEC. 10. If any provision of this Act is declared to be invalid, such declaration shall not affect the validity of any other provision hereof."

Page 7, following line 4, insert a new Sec. 12 as follows:

"SEC. 12. Nothing in this Act shall be construed to limit the authority of the Secretary to acquire lands and interests in lands within the boundaries of any unit of the National Park System. The Secretary is to give prompt and careful consideration to any offer made by the owner of any valid right or other property within the areas named in section 4 of this Act to sell such right or other property, if such owner notifies the Secretary that the continued ownership of such right or property is causing, or would result in, undue hardship."

Mr. TAYLOR of North Carolina (during the reading). Mr. Chairman, I ask unanimous consent that the remaining committee amendments be considered en bloc, and that they be considered as read and printed in the RECORD at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. YOUNG of Alaska. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. YOUNG of Alaska. Mr. Chairman, I have two amendments to the committee amendments. Are they to be offered at this time or after the committee amendments are adopted?

The CHAIRMAN. They should be offered before the committee amendments are voted upon.

Mr. YOUNG of Alaska. Mr. Chairman, I have two amendments. I have talked to the chairman about these amendments. To my knowledge, he has no objection to the amendments. I would like to have the gentleman from North Carolina respond.

The CHAIRMAN. It will be necessary for the Clerk to report the amendments.

AMENDMENTS OFFERED BY MR. YOUNG OF ALASKA TO THE COMMITTEE AMENDMENTS

Mr. YOUNG of Alaska. Mr. Chairman, I offer amendments to the committee amendments.

The Clerk read as follows:

Amendments offered by Mr. YOUNG of Alaska to the committee amendments: Page 6, line 11, after the word "within" insert the following: "Glacier Bay National Monument,"; line 11, after "the Monument" insert: "and the Glacier Bay National Monument".

Page 9, line 11, strike the number "4" and insert in lieu thereof number "6".

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that these two amendments be considered en bloc in consideration of the committee amendments that have been asked to be adopted, and that they be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman, actually, all these two amendments do is put the Glacier National Monument now in conformity with Death Valley Monument. They are both considered monuments. To my knowledge, there is no objection.

Mr. Chairman, I will yield to the gentleman from North Carolina (Mr. TAYLOR) and if there is an objection, I would like to hear it at this time. If not, I would request a vote on the amendments.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, we were studying the amendment and trying to fit it into the bill. It appears to me that the gentleman's amendment ought to be after the word "within" on page 6, line 1. We do not find the word "within" on line 3.

Mr. YOUNG of Alaska. That is agreeable to me.

Mr. Chairman, I do apologize. The amendment is poorly written. It has been done on a short notice.

It is perfectly agreeable to me if we can change that.

Mr. Chairman, I ask unanimous consent that I be permitted to modify the amendment so as to read "line 1" instead of "line 3."

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from North Carolina (Mr. TAYLOR).

Mr. TAYLOR of North Carolina. Mr. Chairman, the first amendment which the gentleman submitted would include Glacier Bay National Monument among the list of parks on which the study should be completed within 2 years.

I might state that the bill divided six parks into two groups, and the group in which active mining is taking place now, the study was limited to 2 years, and the parks in which active mining is not taking place now, the study is limited to 4 years.

But Glacier Bay National Monument, as far as mining is concerned now, is a very, very important area, and I have no objection to the gentleman's amendment.

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman from North Carolina.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Alaska (Mr. YOUNG) to the committee amendments.

The amendments to the committee amendments were agreed to.

The committee amendments, as amended, were agreed to.

AMENDMENT OFFERED BY MR. KETCHUM

Mr. KETCHUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KETCHUM: Page 3, line 11, Section 3(d), strike "repealed;" and insert in lieu "suspended until the expiration of the four year period referenced in Section 4 of this Act, whereupon it will become automatically reinstated unless otherwise modified by an Act of Congress;".

Mr. KETCHUM. Mr. Chairman, my amendment will suspend rather than repeal the valid existing mining rights in Death Valley National Monument subject to an environmental and economic statement to be reported by the appropriate agency at the end of the 4-year moratorium. At that time, Congress should be able to make an intelligent rational decision as to the future of Death Valley, 98 percent of which lies in the 18th District that I am proud and honored to represent.

I firmly believe this decision cannot be based on a sentimental reaction to the present widespread ecological concern in this country. Blind environmental interest groups have painted a picture of the mining industry as a sinister Black Baron digging holes, stripping vegetation, ruining scenery, polluting the air

and water while getting rich quick. Objectively, this is not the case. Current mining methods need not be environmentally offensive and they make it possible to take advantage of our mineral wealth with the least amount of disturbance to the pristine beauty of the land. Mining efforts are compatible with the recreational value of the Death Valley National Monument and also with its western epic "20-Mule Team Death Valley Day" lore.

The total land being used for mineral development incorporates less than 1 percent of the total area of the monument. Mining activity in Death Valley Monument is limited to nine open pits and two underground mines with one more being developed. A loss of production from the talc and borate minerals mined in Death Valley can only result in increased costs to the consumer with some products like fiber glass becoming prohibitive in cost, a loss of jobs, and a total dependence upon foreign mineral supplies. Twelve percent of the Nation's talc which is of a quality that cannot be matched industrially, as well as all of its critical borate minerals—colemanite and ulexite—come from the monument. Antimony, copper, gold, lead, silver, tungsten, zinc, asbestos, and uranium are also known to occur in Death Valley.

Colemanite and ulexite currently mined in Death Valley are relatively unknown to the public and their value is underestimated by many. Colemanite, a calcium borate, is used primarily in the manufacture of fiber-glass and insulating glass wool. Insulation is critical to our Nation's effort toward fuel conservation. The colemanite used in this country is approximately 16 percent of all boron minerals and compounds used in glass manufacturing. The loss of production from the monument would cut the known world supply by 10 percent, while the market demand for colemanite increases at a rate of 4 to 6 percent a year. As the United States and Turkey are No. 1 and 2 producers of this mineral, our dependence on Turkey for colemanite would be increased. The United States now supplies 71 percent of the world production, Turkey 18 percent, Russia 10 percent, and Argentina, Chile, and Italy 1 percent.

Other domestic boron compounds can be substituted for colemanite, but at a higher cost and a lesser quality. Other borate minerals mined in Death Valley are used in the production of glass, vitreous enamels, leather and paper, plant nutrients, and herbicides.

As well as being a national economic problem, the closure of Death Valley to mining would be an economic hardship on California's 18th District. If the assessed value presently placed on these mining operations were to be eliminated, the tax base of Death Valley would be reduced by 39 percent and that of Southern Inyo Hospital District by 7 percent. Present mining interests infuse Inyo County with over $200,000 in tax revenues while supporting a $4¼ million payroll. Needless to say, the loss of revenue and jobs for Inyo County would present serious economic consequences should Death Valley mining rights be repealed.

If mining is outlawed in Death Valley after the 4-year moratorium, it can be reasonably assumed that developers will explore public and private lands surrounding the known deposits, especially on the monument's east side. In which case, BLM would have little or no control over exploration as they would if these lands were under the National Park Service supervision. Should my amendment fail, the result would be unnecessary environmental overkill and economic neglect.

Mr. SEIBERLING. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the effect of this amendment would be to eliminate one of the main purposes of this bill. The purpose of this bill is to end the shocking fact—and it is shocking to the overwhelming majority of the American people—that anyone can go into a national park in this day and age and stake out a mining claim.

It is true that the bill, even with the gentleman's amendment, would suspend that right for 4 years as far as being able to make that claim valid, but people could still go in and prospect and dig up parts of Death Valley National Monument in order to eventually, hopefully, stake a claim. Then 4 years from now, if we decide that we do not want any more claims, they will come in and say, "But I have put in all this work, and I have spent thousands of dollars of my money. I found a big deposit of ore, and, therefore, you should make an exception for me." This is the way the mining industry operates.

I think that this Congress has a perfect opportunity now to make it absolutely clear that we are not going to permit further mineral entry into any units of our national park system unless the Congress of the United States at some future time should decide that it is in the national interest to allow new mining.

Mr. Chairman, for these reasons, I think we should oppose this amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I would like to call the gentleman's attention to one section in the bill, page 9, where it says: "The Secretary is to give prompt and careful consideration to any offer made by the owner of any valid right or other property within the areas named in section 4"—and that includes the area under discussion—"* * * to sell such right or other property, if such owner notifies the Secretary that the continued ownership of such right or property is causing, or would result in, undue hardship."

Mr. Chairman, that means that if any owner of a mining claim in Death Valley or in any other park contends that being unable to mine would create an undue hardship, the Secretary is to give prompt and careful consideration to any offer to purchase that property.

If the gentleman's amendment is adopted, this section will be of no value because his amendment would not stop the entry of any mining claims in Death Valley. It would merely suspend it for 4 years, so the owner of a mining claim who wants to claim hardship could get the Secretary to purchase his claim and then at the end of that 4 years, turn right around and reclaim it.

It appears to me that what we need to do in Death Valley—and I was the one who went out there and looked at it; and the amount of strip mining out there, mainly for talc, is amazing—it seems to me that what we need to do is to close this area to new claims during this 4-year study period, not just suspend the claims for 4 years.

Mr. SEIBERLING. To continue, Mr. Chairman, I would like to point out to the Members here that on the left side of the Speaker's platform are some photographs of the Death Valley area which I took myself when the subcommittee went out there in May. The Members will see some of the mines, which are talc mines, that result in a huge white scar on the landscape. Those are visible from as far as 40 miles away in the clear air of Death Valley.

Mr. Chairman, this is one of the most magnificent national parks in the whole system. It is an area of unsurpassed, spectacular scenic beauty; and even to contemplate allowing future mining claims to be filed in this area would be selling short the American people, it seems to me.

The interesting thing is, though, that as the law is presently written, without this bill, even if the Secretary should buy out a mining claim, someone else can go in and file a new claim. And this process can be repeated endlessly unless we pass this bill as it is presently written.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for taking this time and for yielding to me.

Mr. Chairman, we are talking about prospecting. The gentleman from Ohio (Mr. SEIBERLING) has indicated that this is really going to tear up the land to prospect. Prospecting is done by borings today. It is not done by moving in earth-moving equipment and tearing things apart.

The amendment simply suspends, rather than repeals, the mining law. If we repeal the mining law, not in a million years will we ever open it back up again, even if we need it.

AMENDMENT OFFERED BY MR. DUNCAN OF OREGON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. KETCHUM

Mr. DUNCAN of Oregon. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. DUNCAN of Oregon as a substitute for the amendment offered by Mr. KETCHUM: Page 3, line 11, section 3(d), strike "repealed;" and insert in lieu

"repealed with respect to talc and suspended until the expiration of the four year period referenced in Section 4 of this Act with respect to all other minerals, whereupon it will become automatically reinstated unless otherwise modified by an Act of Congress;".

Mr. DUNCAN of Oregon. Mr. Chairman and members of the committee, I am constrained to offer this amendment in the nature of a substitute because of the debate we have heard here on the floor this afternoon. And, because of a hearing which the Subcommittee on Interior and Related Agencies of the Committee on Appropriations held on this precise question on September 30, 1975. I am particularly constrained to offer the amendment because of the comments of the gentleman from Ohio (Mr. SEIBERLING) and the distinguished chairman of the subcommittee, the gentleman from North Carolina (Mr. TAYLOR), that the primary offenders in Death Valley National Monument are those who are mining for talc.

I am myself further constrained to support the amendment offered by the gentleman from California (Mr. KETCHUM) because I agree with the gentleman from Ohio and the chairman of the subcommittee that there may be overwhelming reasons of national interest why we might want to produce minerals from the national monument of Death Valley as they point to the powers the committee bill gives to the Secretary of the Interior. For this reason my amendment repeals the mining laws in Death Valley with regard to the mineral talc.

I am as outraged as anybody else that we would dispoil national parks and national monuments for the production of a mineral which by no stretch of the imagination can be related to national survival or national interest. The mineral is available in copious quantities at many, many other locations.

But with respect to these two particular varieties of borax that we have been talking about, or borate, I guess it is, particularly colemanite, I cannot help but recall, and I will read, for the benefit of the committee, the words of Assistant Secretary Reed, the man who is the head of the national parks and who bows to no one in his desire to protect the environment. I will read his testimony with respect to how essential this commodity is to the national interest, and I will paraphrase his testimony in part.

He stated that the closure of these mines, that is the colemanite mines, would put an estimated 150 employees out of work and eliminate an estimated $4 million of mineral production yearly.

I am not so concerned about that, although, of course, in times of unemployment we cannot disparage it. But Mr. Reed goes on and says that there are 400,000 tons of colemanite-bearing rock existing in this property. He says that the impact of the closure of these mines would be far greater than the current dollar value.

He states that Death Valley contains the only known significant domestic reserves of this specific high-grade borate mineral, colemanite.

Get that, the only known significant domestic reserve. It supplies 80 percent of our domestic colemanite used principally in the manufacture of filament-grade fiberglas, used for the production and conservation of energy, and there is a 100-year supply at this site.

The only other known source is right on the border of Lake Mead National Recreation Area. Who in this committee is going to support the opening of a mine on the border of Lake Mead? There is not a member who would.

The only other major supplier of colemanite is Turkey, but the grade shipped to the United States is inferior to that which we produce in Death Valley. We would become dependent, if these mines are closed, upon Turkey, and a grade and pricing situation could develop over which we would have no control.

One other purpose in producing this particular borate is that we are close to 85 percent dependent upon foreign sources of fluorspar which is used as a fluxing agent in the production of steel. In the event our steel mills have to switch to colemanite instead of fluorspar, we could become further dependent upon foreign sources.

Mr. Chairman, I recommend the adoption of the substitute amendment and the adoption of the Ketchum amendment as amended. It would eliminate talc as a principal offender.

If the Members will look at the pictures over here, they will see that the principal offender is talc. This will leave the national interest intact with respect to the production of other commodities.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I want to associate myself with the remarks of the gentleman from Oregon (Mr. DUNCAN). I think his remarks have been very well taken. I would urge the members of the committee to support the substitute offered by the gentleman from Oregon (Mr. DUNCAN) to the amendment offered by the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for yielding. I certainly have no objection to the amendment to the amendment. I also thank the gentleman from Oregon for presenting his comments regarding the distinguished Assistant Secretary of the Interior, Mr. Reed, in his discussion of the amendment.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, I rise in support of the substitute offered by the gentleman from Oregon (Mr. DUNCAN) and want to commend the gentleman for his recognition of the balance that is so inherent and so necessary here, if we are going to reach, as a legislative body in 1976, the balance that must be struck in recognition of our national interests.

It is my sincere hope that the gentleman from Ohio (Mr. SEIBERLING) will join in support of the substitute offered by the gentleman from Oregon (Mr. DUNCAN).

The CHAIRMAN. The time of the gentleman has expired.

Mr. SEIBERLING. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment one might call the Tenneco amendment because Tenneco is the principal owner of colemanite deposits in Death Valley National Monument. I happen to have been to the Tenneco mine and even have a sample of colemanite sitting on my desk in the Longworth Building. Colemanite is one form of borate. There is another form called ulexite, and there are other forms. Colemanite happens to be the cheapest kind of boron compound for use for certain purposes because one can dig it out of the ground and dump it right into the glass-making furnace without any further processing. So it is a lot cheaper than some of the others that have to be put through the mill or refined in some other way.

The fact is, and I am now reading from information furnished by the Department of the Interior, colemanite and ulexite are available in huge amounts at the U.S. Borax Mine in Ryan, Calif., which is outside of the monument. It is estimated the amounts are 2½ times the Death Valley reserves. If Turkey were shut off altogether, the United States could supply its own needs for 50 years through the substitution of borax alone, which is still another form and which may be used interchangeably as far as industrial uses are concerned, though not as cheaply as colemanite.

Another interesting fact is that the colemanite deposits are very limited in Death Valley National Monument. As a matter of fact, if we go on mining for another few years, they are going to be all gone, so then we will be back where we really would be dependent on other deposits. U.S. Borax owns 25 valid patented claims in Death Valley but has not found it necessary to open them for 25 years and has no plans to do so for the next 40 years because it is using its borate deposits outside of the valley.

The U.S. Bureau of Mines defines colemanite, ulexite, boron, borax, and talc as nonstrategic minerals, so that the alleged basis for this amendment just does not exist in the world of practicality, and I urge defeat of the amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. I thank the gentleman for yielding.

What we are trying to do here is to stop the filing of new claims. This amendment would violate the intention of the bill which, again, is to stop the filing of new claims. The bill as written does not stop the mining in Death Valley. This mining that is now going on would con-

tinue at the existing level, but every time a new claim is filed, it may mean that the Government one of these days is going to have to buy it out and the taxpayers will lose that extra amount of money.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Oregon

Mr. DUNCAN of Oregon. I thank the gentleman for yielding.

The gentleman suggested, I understand, that I was in the pocket of Tenneco.

Mr. SEIBERLING. No; I called it the Tenneco amendment because it is obviously in their interest.

Mr. DUNCAN of Oregon. I would like to disabuse both the gentleman from Ohio and the Members of this House that this is a Tenneco amendment. I do not know who Tenneco is; I hold no stock in Tenneco. I wrote the amendment in the front seat of that pew just a few minutes ago, and I wrote it not to give any advantage to Tenneco, U.S. Borax Twenty-Mule Team, or anybody else. The statistics I read were not figments of my imagination but were from the testimony of Nat Reed of the National Park Service that this is an essential commodity to the American survival, and I offered the amendment for that purpose and not for any purpose of protecting Tenneco.

Mr. SEIBERLING. I know the gentleman well, and I am sure he would not be under anybody's thumb. I certainly did not mean to suggest that. But whatever the reasons for this amendment, it is going to benefit one entity, and that is Tenneco, because they happen to be the ones who own the colemanite deposits in the Death Valley National Monument.

The interesting thing is that the Department of the Interior, of which Mr. Reed is Assistant Secretary, says that colemanite is not a strategic mineral, and they have supplied us with materials indicating that the deposits outside of Death Valley are much greater. Also Mr. Reed testified before the Committee on the Interior in support of the Death Valley features of this bill, so that was the Department's position.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, the Secretary, Mr. Reed, was presenting the departmental position on Death Valley mining on page 4 of the committee report. I read directly from his testimony. I do not know where the gentleman's figures come from, but this was Secretary Reed's position on September 30.

Mr. SEIBERLING. I will only say he presented the Department's position which was in support of this bill insofar as Death Valley was concerned.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. DUNCAN) as a substitute for the amendment offered by the gentleman from California (Mr. KETCHUM).

The question was taken; and on a division (demanded by Mr. SEIBERLING) there were—ayes 43, noes 29.

RECORDED VOTE

Mr. SEIBERLING. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 124, noes 240, not voting 66, as follows:

[Roll No. 727]

AYES—124

Abdnor
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Bennett
Bowen
Breaux
Brinkley
Brown, Mich.
Broyhill
Burleson, Tex.
Butler
Cederberg
Chappell
Clancy
Clawson, Del
Cochran
Collins, Tex.
Conable
Crane
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Dent
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Oreg.
Edwards, Ala.
Flynt
Forsythe
Fountain
Frenzel
Frey
Fuqua
Gaydos
Ginn
Goodling
Grassley
Hall, Tex.
Hammer-schmidt
Hicks
Hightower
Hungate
Ichord
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Landrum
Latta
Leggett
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Lott
McClory
McCloskey
McCormack
McDonald
McEwen
McKay
Mahon
Mathis
Michel
Milford
Miller, Ohio
Mollohan
Montgomery
Moore
Moorhead, Calif.
Morgan
Murtha
Myers, Ind.
Oberstar
Passman
Patten, N.J.
Paul
Poage
Pritchard
Quillen
Randall
Regula
Roberts
Robinson
Rousselot
Runnels
Santini
Schneebeli
Schulze
Shipley
Shuster
Sisk
Slack
Spence
Stanton, J. William
Stephens
Talcott
Taylor, Mo.
Treen
Ullman
Vander Jagt
Waggonner
Wampler
Whitehurst
Whitten
Wiggins
Wilson, Bob
Winn
Wright
Wylie
Yatron
Young, Alaska
Young, Fla.

NOES—240

Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Ashley
Aspin
Baldus
Baucus
Beard, Tenn.
Bedell
Bell
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Clausen, Don H.
Clay
Cleveland
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Dellums
Derrick
Dingell
Dodd
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Erlenborn
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Fraser
Giaimo
Gibbons
Gilman
Goldwater
Gonzalez
Gradison
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hamilton
Hannaford
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Hefner
Hillis
Holland
Horton
Howard
Hubbard
Hughes
Hutchinson
Hyde
Jacobs
Jarman
Jeffords
Jenrette
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Keys
Krebs
LaFalce
Lagomarsino
Lehman
Lent
Long, Md.
Lujan
Lundine
McDade
McFall
McHugh
Madigan
Maguire
Mann
Martin
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moffett
Moorhead, Pa.
Mosher
Moss
Mottl
Murphy, Ill.
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Obey
O'Brien
O'Hara
Ottinger
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Quie
Rangel
Rees
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Russo
Ryan
Sarasin
Sarbanes
Schroeder
Sebelius
Seiberling
Sharp
Shriver
Sikes
Simon
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Staggers
Stark
Steiger, Wis.
Stokes
Stratton
Sullivan
Symington
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
White
Wilson, Tex.
Wirth
Wolff
Wydler
Yates
Zablocki

NOT VOTING—66

Abzug
Addabbo
AuCoin
Badillo
Beard, R.I.
Biaggi
Burke, Mass.
Carter
Chisholm
Conlan
Delaney
Diggs
Downey, N.Y.
du Pont
English
Esch
Eshleman
Evans, Colo.
Fish
Ford, Tenn.
Green
Hanley
Hansen
Harrington
Hébert
Heckler, Mass.
Heinz
Helstoski
Henderson
Hinshaw
Holt
Holtzman
Howe
Jones, Okla.
Karth
Koch
Long, La.
McCollister
McKinney
Madden
Matsunaga
Moakley
Murphy, N.Y.
Neal
Nowak
O'Neill
Peyser
Railsback
Riegle
Risenhoover
St Germain
Satterfield
Scheuer
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stuckey
Studds
Symms
Tsongas
Udall
Wilson, C. H.
Young, Ga.
Young, Tex.
Zeferetti

Mr. HARSHA and Mr. FINDLEY changed their votes from "aye" to "no."

So the substitute amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. KETCHUM).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered 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 nonpolicymaking 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."

Mr. HECHLER of West Virginia (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. HECHLER of West Virginia. Mr. Chairman, this amendment is an amendment which does not prohibit or prevent or in any way penalize any official who has financial holdings. It merely provides that such financial holdings be published and publicized, such as similar amendments that have been offered and adopted on the floor of the House to 10 pieces of legislation which we have considered. This amendment is cosponsored by Representative GARY A. MYERS of Pennsylvania.

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to my colleague, the gentleman from Pennsylvania (Mr. MYERS) who is the cosponsor of this amendment.

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield ?

Mr. HECHLER of West Virginia. I yield to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from West Virginia (Mr. HECHLER) and I have offered this amendment to a number of other bills. It substantially requires a disclosure of financial interests or conflicts of interest.

Mr. Chairman, I rise in support of the amendment and ask for its adoption.

Mr. SEBELIUS. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Kansas.

Mr. SEBELIUS. Mr. Chairman, I only have one question I wish to ask.

Does the gentleman know of any interest at the present time where this amendment would be a help? In other words, does the gentleman know of any instance of any park employee or anybody else in a similar capacity who owns a mining interest of this sort at this time?

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding.

The purpose of the amendment is to reveal those instances that may exist. There is no requirement presently for disclosure of conflicts of interest. It is a simple amendment, and that is the only objective of the amendment.

Mr. SEBELIUS. Mr. Chairman, if the gentleman will yield further, I do not have any objection to the amendment. I will agree to it as far as my part in this is concerned, but I was wondering whether or not there has been anything that brought this about which would explain why the gentleman wanted to offer the amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, it is my understanding that an employee of the Government cannot now hold any mining claim; is that not right?

Mr. HECHLER of West Virginia. The gentleman is correct, I believe, insofar as certain employees of the Department of the Interior are concerned.

Mr. TAYLOR of North Carolina. I could conceive that a person might hold an indirect interest or he might hold stock in a company that does have a mining claim, and he might not even have knowledge of that fact.

I know that an amendment such as this has been added to other bills, and I know it is introduced here with good intentions. However, I cannot help but believe that it would be preferable to introduce it as a separate bill and let us hold hearings and determine the full effect of it.

Mr. HECHLER of West Virginia. Mr. Chairman, I will say to my friend, the gentleman from North Carolina, that this provides no prohibition against anyone holding such direct or indirect interests. It merely provides for publication. In this sense it is a "sunshine" amendment which has been attached to other legislation, and I believe it would be beneficial in this instance.

OTHER BILLS INCLUDING "SUNSHINE" AMENDMENTS

This is the same provision which the Congress adopted last December for the Federal Energy Administration and some of the employees of the Interior Department administering Public Law 94–163—the Energy Policy and Conservation Act. On May 20, 1976, the House adopted this provision for ERDA employees in H.R. 13350, which authorized appropriations for fiscal year 1977 for ERDA. On June 11, 1976 the House added it to H.R. 6218 for employees of Interior administering the Outer Continental Shelf leasing program and on June 3, 1976, to H.R. 9560 for EPA employees administering the water pollution program. On July 22, 1976, the House also added it to H.R. 13777, the public lands bill, for employees of Interior and on July 28, to H.R. 13555, the mine health and safety bill, for Interior, HEW, and Labor employees. On August 4, it was added to H.R. 8401, the Nuclear Assurance bill, for ERDA employees. On August 23, it was added to H.R. 14032, the Toxic Substances bill and on September 8, to H.R. 10498, the Clean Air Act, for EPA employees, and on September 2, to H.R. 13636, the LEAA bill.

In addition, it is included in H.R. 12112, as reported by three committees, for ERDA employees and in H.R. 14496 for EPA employees.

COVERAGE OF AMENDMENT

My amendment requires officers and employees of the Interior Department who perform any function under the bill to file annually statements of any known financial interest in the persons subject to this bill or who receive financial assistance under the bill. Such statements would be available to the public and would have to be reviewed by Interior. Positions within Interior and the National Park Service that are of a nonregulatory or nonpolicymaking nature could be exempted from this requirement by the Secretary.

My amendment does not prevent any employee from having such interests. It merely requires that they disclose such interests. It does not apply to consultants.

Currently, Interior and other Federal agencies require their employees who are at the GS–13 level or above and in a decisionmaking position to file financial interest statements which are not available to the public. This requirement is not based on any statutory provision but on a 1965 Executive Order No. 11222 and Civil Service Commission regulations. But the Executive order and regulations do not have any teeth. Our amendment does.

GENERAL ACCOUNTING OFFICE COMMENTS

The use of the GS–13 level as a classification for determining who must file is an administrative practice convenient to the Federal agencies, but is not relevant to the degree of responsibility of the position as the General Accounting Office has noted. This amendment, like the one in the above bills, seeks to abandon the practice and force a position-by-position review by the agency.

Moreover, in a series of reports on the effectiveness of the financial disclosure system for agency employees, the GAO has found deficiencies in the system at Interior and several agencies, including in the collection and timely review of such statements, and the resolution of

problems associated with the statements. In a March 3, 1975, report, the GAO said:

Many USGS employees have financial interests which appear to conflict with their Government duties. Many of these holdings violate the Organic Act of 1879. We believe that the ownership of these conflicting interests is due to deficiencies in the Department's financial disclosure system and that they will have to be corrected to prevent the situation that now exists from continuing.

To improve the effectiveness of the USGS financial disclosure system, we recommend that the Secretary of the Interior:

Review, and take remedial action on, the financial interests of USGS officials which raise conflict of interest possibilities or violate the Organic Act.

Prepare, keep current, and issue to USGS personnel specific guidelines, including a list of prohibited securities, concerning financial interests which may violate the Organic Act.

Require the Bureau counselor to strictly adhere to the restrictions imposed on USGS employees by the Organic Act.

Insure that adequately trained and experienced personnel, who are knowledgeable of employees' duties and potential conflicts of interest, are appointed to counsel employees and review financial disclosure statements.

Insure that officials responsible for reviewing financial disclosure statements are given specific guidelines and reference manuals to enable them to adequately evaluate the statements.

Require reviewing officers to sign and date the financial disclosure statements to indicate they have reviewed them and determined that the financial interests do not violate the Organic Act or raise conflict of interest possibilities.

Require the USGS counselor to report the results of the annual financial disclosure review to the Department and to note any financial interests questioned and any remedial action taken.

Establish procedures for periodically reviewing financial disclosure statements to insure that Bureau counselors adequately enforce conflict of interest regulations.

In a later report of December 1975, the GAO said that Interior was taking steps to improve the situation but the GAO said there were 1,435 additional employees who should file statements, of which 1,100 were below the GS-13 level.

The GAO made similar findings in eight other studies since late 1974.

DEFINITION OF "KNOWN FINANCIAL INTEREST"

My amendment makes it clear that the Secretary of the Interior must periodically look at the positions to determine who should file and not base his decision on the grade level of the employee. It also mandates annual filing by the affected employee and review by the agency and provides criminal penalties for knowing violation. Adequate provision is made for the Administrator to define what a "known financial interest" is. Indeed, an example of such a definition, Interior published proposed regulations defining this term on March 22, 1976, for the purposes of Public Law 94-163. That definition, which is not yet finalized, of course, is as follows:

Any pecuniary interest of which an officer or employee is cognizant or of which he can reasonably be expected to have knowledge. This includes pecuniary interest in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline or distributing (other than at the retail level) coal, natural gas, or petroleum products, or in property from which coal, natural gas, or crude oil is commercially produced. This further includes the right to occupy or use the aforesaid business or property, or to take any benefits therefrom based upon a lease or rental agreement, or upon any formal or informal contract with a person who has such an interest where the business arrangement from which the benefit is derived or expected to be derived has been entered into between the parties or their agents. With respect to officers or employees who are beneficiaries of "blind trust," the disclosure is required only of interests that are initially committed to the blind trust, not of interests thereafter acquired of which the employee or officer has no actual knowledge.

Finally, the regulations would be expected to make it clear that public disclosure of financial statements shall be only for lawful purposes. A violation of this requirement is subject to criminal prosecution.

Mr. Chairman, I urge adoption of my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCFALL) having assumed the chair, Mr. CORMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the Senate bill (S. 2371) to provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the National Park System, and for other purposes, pursuant to House Resolution 1520, he reported the Senate bill back to the House with sundry amendments adopted by the Committee on the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. SEBELIUS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 352, nays 9, not voting 69, as follows:

[Roll No. 728]

YEAS—352

Abdnor
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammer-schmidt
Hannaford
Harkin
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Hefner
Hicks
Hightower
Hillis
Holland
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Russo
Ryan
Sarasin
Sarbanes
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. Williams
Stark
Steiger, Wis.
Stephens
Stokes
Stratton
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler

Treen	Waxman	Wirth
Ullman	Weaver	Wolff
Van Deerlin	Whalen	Wright
Vander Jagt	White	Wydler
Vander Veen	Whitehurst	Wylie
Vanik	Whitten	Yates
Vigorito	Wiggins	Yatron
Waggonner	Wilson, Bob	Young, Fla.
Walsh	Wilson, Tex.	Zablocki
Wampler	Winn	

NAYS—9

Burleson, Tex.	McDonald	Rousselot
Crane	McKay	Santini
Ketchum	Paul	Young, Alaska

NOT VOTING—69

Abzug	Hawkins	Railsback
Addabbo	Hébert	Richmond
AuCoin	Heckler, Mass.	Riegle
Badillo	Heinz	Risenhoover
Beard, R.I.	Helstoski	St Germain
Biaggi	Henderson	Satterfield
Burke, Mass.	Hinshaw	Scheuer
Carter	Holt	Stanton, James V.
Chisholm	Holtzman	Steed
Conlan	Howe	Steelman
Delaney	Jones, Okla.	Steiger, Ariz.
Downey, N.Y.	Karth	Stuckey
du Pont	Koch	Studds
English	Long, La.	Symms
Esch	McCollister	Teague
Eshleman	McKinney	Tsongas
Evans, Colo.	Mathis	Udall
Fish	Matsunaga	Wilson, C. H.
Ford, Tenn.	Moakley	Young, Ga.
Giaimo	Murphy, N.Y.	Young, Tex.
Green	Neal	Zeferetti
Hanley	Nowak	
Hansen	O'Neill	
Harrington	Peyser	

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Railsback.
Mr. Addabbo with Mr. Carter.
Mr. Burke of Massachusetts with Mr. Symms.
Mr. Harrington with Mr. Heinz.
Mrs. Chisholm with Mrs. Holt.
Mr. Delaney with Mr. Conlan.
Mr. Hanley with Mr. Hansen.
Mr. Helstoski with Mr. Karth.
Mr. Young of Georgia with Mr. McCollister.
Mr. St Germain with Mr. du Pont.
Mr. Murphy of New York with Mr. Hébert.
Ms. Abzug with Mr. Howe.
Mr. Matsunaga with Mr. McKinney.
Ms. Holtzman with Mr. Esch.
Mr. Moakley with Mr. Peyser.
Mr. Biaggi with Mr. Steelman.
Mr. Beard of Rhode Island with Mr. Steiger of Arizona.
Mr. Jones of Oklahoma with Mr. Green.
Mr. Charles H. Wilson of California with Mr. Eshleman.
Mr. Tsongas with Mr. Hawkins.
Mr. Koch with Mrs. Heckler of Massachusetts.
Mr. Risenhoover with Mr. Giaimo.
Mr. Udall with Mr. Long of Louisiana.
Mr. Zeferetti with Mr. Stuckey.
Mr. Scheuer with Mr. Mathis.
Mr. AuCoin with Mr. Nowak.
Mr. Badillo with Mr. Studds.
Mr. Steed with Mr. Richmond.
Mr. Ford of Tennessee with Mr. Henderson.
Mr. Evans of Colorado with Mr. Satterfield.
Mr. Downey of New York with Mr. James V. Stanton.
Mr. Neal with Mr. Riegle.
Mr. English with Mr. Teague.

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 745. Concurrent resolution correcting the enrollment of S. 327.

The message also announced that the Senate had passed with amendment in which the concurrence of the House is requested a bill of the House of the following title:

H.R. 5071. An act to amend section 584 of the Internal Revenue Code of 1954 with respect to the treatment of affiliated banks for purposes of the common trust fund provisions of such code.

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 bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

AMENDING SECTION 584 OF INTERNAL REVENUE CODE OF 1954 WITH RESPECT TO TREATMENT OF AFFILIATED BANKS FOR PURPOSES OF COMMON TRUST FUND PROVISIONS OF SUCH CODE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5071) to amend section 584 of the Internal Revenue Code of 1954 with respect to the treatment of affiliated banks for purposes of the common trust fund provisions of such code, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2 after line 5, insert:

SEC. 3. WITHHOLDING; ESTIMATED TAX PAYMENTS.

(a) WITHHOLDING.—

(1) IN GENERAL.—Section 3402(a) of the Internal Revenue Code of 1954 (relating to income tax collected at source) is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".

(2) TECHNICAL AMENDMENT.—Section 209 (c) of the Tax Reduction Act of 1975 is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".

(b) ESTIMATED TAX PAYMENTS BY INDIVIDUALS.—Section 6153(g) of such Code (relating to installment payments of estimated income by individuals) is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".

(c) ESTIMATED TAX PAYMENTS BY CORPORATIONS.—Section 6154(h) of such Code (relating to installment payments of estimated income by corporations) is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. CONABLE. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I yield to the gentleman from Oregon (Mr. ULLMAN) so he may explain this to the House.

Mr. ULLMAN. Mr. Speaker, the House passed the bill H.R. 5071 on the unanimous-consent calendar. The Senate has agreed to that bill exactly as it was passed by the House with an amendment. That is a very simple amendment which extends through September 30 the existing withholding rates that are scheduled to expire at midnight tonight. They will expire tonight at midnight unless we act.

This provision will extend those withholding schedules through September 30.

This will give the Congress time to act on the comprehensive tax reform bill and also give the President time to act on that bill. It is coming up on Thursday. We expect to pass it in both the House and the Senate on that date, but there is a great a deal of work involved in enrolling a bill of this magnitude and we want to have time to do that and also give the President enough time in which to sign the bill. Therefore we are extending the withholding through September 30.

Mr. CONABLE. Mr. Speaker, I think the chairman has very well summarized the necessity for the extension of the withholding tables which otherwise expire today. In the absence of this legislation the withholding would increase tomorrow.

Mr. Speaker, the further extension is necessary, despite anticipated action on the tax reform conference report this Thursday, because, as the chairman has indicated, it will take some time to enroll the tax reform bill, get it to the White House and give the President an opportunity to review the thousand-page-plus bill that has resulted from the protracted conference held by the House and Senate conferees.

Now, let me say, Mr. Speaker, also, that this is an amendment to a bill of mine to permit the treatment of common trust funds for affiliated banks. There was no controversy about that particular measure, which applies to only a few States in which branching has not been permitted. There is, instead, holding company affiliation type bank proliferation, which under the present law has not permitted small banks to participate in common trust funds.

Mr. Speaker, the measure passed by a substantial margin and it is my belief that it should not be an issue or a matter of debate issue at this time. Rather, it is only a vehicle for the extension of the withholding tables.

Mr. Speaker, I have no further requests for time at this point and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

DISAPPROVING CERTAIN REGULATIONS PROPOSED BY THE GENERAL SERVICES ADMINISTRATION IMPLEMENTING SECTION 104 OF THE PRESIDENTIAL RECORDINGS AND MATERIALS PRESERVATION ACT

Mr. BRADEMAS. Mr. Speaker, pursuant to section 104(d)(5)(E) of Public Law 93-526, I move that the House proceed to the consideration of House Resolution 1505.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 1505

Resolved, That, pursuant to section 104 (b)(1) of the Presidential Recordings and Materials Preservation Act (44 U.S.C. 2107 note), the House of Representatives hereby disapproves section 105-63.104(b) of title 41 of the Code of Federal Regulations, section 105-63.401 of such title, section 105-63.401-2 (g) of such title, section 105-63.402-1(b) of such title, section 105-63.402-1(b) of such title, section 105-63.402-2(b) of such title, and section 105-63.404 of such title, as proposed by the Administrator of General Services in a report submitted to the House of Representatives on April 13, 1976.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BRADEMAS) to consider H. Res. 1505.

The motion was agreed to.

The SPEAKER pro tempore. The gentleman from Indiana (Mr. BRADEMAS) is recognized for 1 hour.

Mr. BRADEMAS. Mr. Speaker, House Resolution 1505 was approved by the Committee on House Administration by a voice vote on August 31, 1976.

The purpose of this resolution is to disapprove certain regulations proposed by the General Services Administrator providing for public access to Mr. Nixon's Presidential materials.

On October 15, 1975, the General Services Administration submitted revised regulations pursuant to the 1974 Presidential Recordings and Materials Preservation Act. Under the provisions of the statute, proposed regulations automatically become effective 90 legislative days after submission unless either House of Congress adopts a resolution of disapproval within that period.

However, on January 21, 1976, Congress was notified by the GSA Administrator, that at the request of the Justice Department, he was withdrawing the October 15 proposed regulations pending a review of their constitutionality. A letter dated February 5, 1976, from Chairman RIBICOFF and Ranking Minority Member PERCY of the Senate Government Operations Committee and me informed the GSA Administrator that under the statute he had no legal authority to withdraw the October 15 proposed regulations.

On April 8, 1976, the Senate adopted Senate Resolution 428, disapproving seven of the October 15 proposed regulations. Since the Senate decided by its action on April 8 that the GSA Administrator had no authority to withdraw regulations, all regulations which were submitted to Congress on October 15, 1975 which were not specifically disapproved by Senate Resolution 428 became effective, under the terms of the statute, upon the expiration of 90 legislative days after submission.

Notwithstanding the Senate action on April 8, 1976, disapproving only seven provisions of the October 15 regulations and ignoring the letter from Senators RIBICOFF and PERCY and me, the GSA Administrator submitted an entirely new set of regulations on April 13, 1976. Since, however, most of these regulations had already become effective upon the expiration of 90 legislative days following October 15, 1975, only those regulations submitted by the Administrator on April 13, 1976 covering the seven provisions that were disapproved by the Senate are properly before Congress for review.

Following a complete review of only those new regulations covering the seven previously disapproved sections, the Committee on House Administration has concluded that only the provision dealing with the procedure to be followed by the Administrator in considering petitions to protect certain legal and constitutional rights by limiting access to specified materials is acceptable.

House Resolution 1505 was reported by the Committee on House Administration to disapprove those new regulations covering the remaining six provisions that were disapproved by Senate Resolution 428. These provisions involve the definition of private or personal materials; the composition of the Presidential Materials Review Board, which is responsible for the final archival decisions regarding the disposition of the tapes and other materials; the adequacy of the provisions giving notice to affected individuals prior to the opening of these files to the public; the procedures for allowing reproduction of the Nixon tapes; and two provisions relating to the restrictions of the materials which are of a personal nature or which would result in defamation of character.

Mr. Speaker, I would anticipate that upon passage of this resolution, the Administrator of the General Services Administration will submit new regulations to cover the ones disapproved in House Resolution 1505.

At this point, Mr. Speaker, I would yield to the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Speaker, I thank the gentleman for yielding to me. As the gentleman from Indiana has said, this is a relatively noncontroversial matter which was unanimously agreed to by the Committee on House Administration. For the information of the Members, the new regulations from GSA will be considered by the committee, and we will have 90 legislative days to do that.

For the further information of the Members, I think perhaps the most interesting of the several issues involved with these regulations will be a notification to third parties who may be involved in Presidential papers or tapes. In fact, that has been one of the essential points of difference between some members of the House Administration Committee.

Mr. BRADEMAS. Mr. Speaker, I thank the gentleman, and I want to express my appreciation to the gentleman from New Hampshire for his cooperation on this matter.

Mr. Speaker, I yield to the gentleman from Georgia (Mr. LEVITAS) for an observation.

Mr. LEVITAS. Mr. Speaker, I thank the gentleman for yielding to me. I am very pleased that we have got the opportunity today to participate in this action, which is exercising a legislative veto over bureaucratic regulations by the adoption of a resolution of one House of the Congress, which is something many Members of this House have voted for in amendments to other legislation, over the last year and a half. Many Members on both sides have cosponsored with me bills similar to H.R. 12048 which provides for a congressional veto of regulations. Today we do an act of congressional veto that has great significance as a precedent for the future.

I would like to observe, if I might, that the authority under which we are acting was a bill that was signed into law in, I believe, December of 1974, by President Ford. However, and inconsistently, he has recently vetoed another bill that was passed by the Congress on FIFRA, and said that he vetoed that bill solely because it provided for a legislative veto.

The bill we are now operating under the authority of in exercising a legislative veto was signed by President Ford. He was right the first time. He was wrong on FIFRA.

I thank the gentleman for yielding to me.

Mr. CLEVELAND. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from New Hampshire.

Mr. CLEVELAND. Mr. Speaker, the only comment I would like to make is that I am not sure the gentleman from Georgia, in his remarks, distinguished between the legislative veto, which is exercised by two Houses—the House and Senate—and the legislative veto in this legislation, which can be exercised by one of the branches of Congress. I see that he is asking for recognition from the gentleman from Indiana.

Mr. BRADEMAS. I am happy to yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman. That is precisely the point I wish to make, that this resolution is a one-House veto; H.R. 12048, the legislation which has been pending before the Congress, out of Judiciary and in the Rules Committee, for a number of months also provides for a one-House veto. The FIFRA legislation, which was vetoed by President Ford, also provided for a one-House veto. I suggest that there is some inconsistency in this.

Mr. CLEVELAND. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from New Hampshire.

Mr. CLEVELAND. I thank the gentleman for yielding.

Mr. Speaker, is it the opinion of the gentleman from Georgia (Mr. LEVITAS) that the so-called one-House veto may be unconstitutional?

Mr. LEVITAS. Mr. Speaker, if the gentleman from Indiana will yield, I will say that I think it is very clearly constitutional.

There is a case now pending before the courts which will resolve the matter involving the one-House congressional veto under the Federal Election Commission law, which the President also signed. The only dicta that did come down was by Justice White, in Buckley against Valeo, which, as the gentleman knows, Mr. Jus-

tice White, in that case, said it is clearly within the lawful discretion of Congress to provide for and exercise a one-House veto, which we are about to do, and I think this is a very important and symbolic act of constitutional and historic significance. We are about to do the very thing President Ford said is unconstitutional in his FIFRA veto message and we are doing it under the provisions of a bill which he earlier signed. Nevertheless, we are doing it. That is good. I urge my colleagues to exercise their constitutional right of congressional veto at this time.

Mr. BRADEMAS. Mr. Speaker, I appreciate the remarks of the gentleman from Georgia (Mr. LEVITAS) and the response of the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. Speaker, I believe that this one-House veto is not a partisan matter. Members on both sides of the aisle have offered such amendments to bills before.

Unless the gentleman from New Hampshire has something further to say, Mr. Speaker, I will move the previous question on the resolution.

Mr. CLEVELAND. If the gentleman will yield, no, I have no further comments. I just wanted to clarify whether the gentleman from Georgia had referred specifically to the so-called one-House veto, as compared with a legislative veto by both branches. There is apparently some doubt in this area. As we who believe in a more active role by Congress in this area, I hope it is resolved soon.

Mr. BRADEMAS. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution (H. Res. 1505) just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON THE BUDGET

The SPEAKER pro tempore (Mr. MCFALL) laid before the House the following resignation as member of the Committee on the Budget:

WASHINGTON, D.C.,
September 14, 1976.

Hon. CARL ALBERT,
Speaker of the House,
Washington, D.C.

DEAR MR. SPEAKER: The House Budget Committee has completed its work for this Congress and the fiscal principles upon which it was created and under which it has functioned are relevant, correct and essential if the legislative process is to succeed in meeting the demand for budgetary control.

While disappointed in the final result this year and our apparent inability to cope with continuing deficit spending, I am totally and unequivocally committed to the concept of Congressional Budgetary responsibility and the process that makes it practicable. It has been a privilege to serve on the committee from its inception. The chairmen who have served have been dedicated, and I commend Chairman Brock Adams for his even-handed fairness in the administration of the committee operations. He has demonstrated a comprehensive grasp of the committee's purpose and objective, and the Minority has enjoyed a high standard of impartial treatment from Mr. Adams.

It is, therefore, with some personal reluctance that I find it necessary to resign from the Budget Committee effective immediately.

Very truly yours,

DEL CLAWSON,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation will be accepted.

There was no objection.

JACKSON STATE UNIVERSITY TO CELEBRATE ITS CENTENNIAL

The SPEAKER pro tempore (Mr. DANIELSON). Under a previous order of the House, the gentleman from Mississippi (Mr. COCHRAN) is recognized for 60 minutes.

Mr. COCHRAN. Mr. Speaker, between September 14, 1976, and October 23, 1977, Jackson State University in Jackson, Miss., will celebrate its centennial. It is highly appropriate, and I believe significant, that this celebration coincides with the celebration of our Nation's Bicentennial. As our State's largest predominately black educational institution, it is a university in which we can, with ample justification, take great pride.

Jackson State University had its origins in the wake of the most turbulent and troubled era in our history. The Civil War had left Mississippi, like most of its southern sister States, prostrate and devastated. Thousands of its young men lay dead on the field of battle, and its economy was shattered. Many obstacles, social, political, and economic, had to be overcome before Jackson State University could become a reality.

The institutoin was first organized and founded on October 23, 1877, as the Natchez Seminary, a private church school in Natchez, Miss. Earlier, in April 1876, the American Baptist Home Mission Society had petitioned the Congress to authorize the Secretary of the Treasury to confirm the purchase of the Marine-hospital building and grounds at Natchez for the establishment of the Natchez Seminary. In August of that same year, the 44th Congress approved a joint resolution which authorized and directed the Secretary of the Treasury, the Honorable Lott W. Merrill, to confirm the sale of this facility to the Baptist Home Mission Society for the sum of $5,000. This was done, and the Natchez Seminary was born. The young institution grew and prospered in Natchez until 1883.

In that year, the seminary was moved to Jackson, the State capital, for reasons of space and a more central location. Subsequently, the institution was transferred from the Baptist Home Mission Society to the State of Mississippi, and it is now supported by the State and controlled by the board of trustees, Institutions of Higher Learning for the State of Mississippi. Its name was changed to Jackson State College.

Since 1883, the growth of Jackson State has been steady and uninterrupted. Established for the purpose of educating free men, the institution has continued to provide educational opportunity for men and women, especially those persons from disadvantaged circumstances. While the university today is open to students of all races, it continues its identity as a predominately black institution concerned with developing new opportunities for the black citizens of Mississippi.

Jackson State University is the fourth largest university in the State of Mississippi. At a time when educational institutions all over the country are increasingly hard pressed for funds and support, Jackson State has prospered. It enjoys one of the highest rates of growth of any institution in the United States.

In the fall of 1972, Jackson State employed 688 faculty and staff with a student enrollment of 5,100. By the fall of 1975, there were 7,718 students and over 830 faculty and staff. The university has continued its dedication to providing quality education at a reasonable cost.

The campus is a beautiful 94-acre tract located in Jackson, Mississippi's capital city. Jackson, with a population of 310,-200 people, has been identified as a growth city in the deep South. This hand in hand growth of Jackson and Jackson State University is not coincidental. Thousands of the graduates of Jackson State are now living and working in our capital city and the surrounding area. They are contributing substantially to the economic development of Jackson and the State of Mississippi.

Mr. Speaker, there are far too many people who have contributed to this growth to name. There is one, however, who deserves specific recognition. He is Dr. John A. Peoples, Jr., the president of Jackson State University. Dr. Peoples has presided over the administration of Jackson State during one of the most difficult and trying periods in its existence. It has been a period in which the institution has been making the transition from college to university and from an all black enrollment to open admissions. Due in large part to his enlightened leadership, Jackson State has met and survived many crises. Dr. John A. Peoples, Jr. is truly a credit to Jackson State University and to the State of Mississippi.

The university has identified a number of centennial objectives, and I take pleasure in listing them here:

CENTENNIAL OBJECTIVES

1. To chronicle the first century of progress of the University.

2. To give prominence to those events which were pivotal with respect to the significant changes in the directions of the University.

3. To focus on those persons who played salient roles in advancing the Institution towards its destiny.

4. To involve the constituency of the Uni-

versity in commemorative activities which depict and dramatize the University's record of service.

5. To bring community, state, and national attention and support to the current thrust of the University.

6. To analyze past and present achievements as a foundation upon which philosophical and operational directions for the future may be built.

7. To determine new dimensions of teaching and learning on the basis of which the University may better carry out its mission.

8. To take definite and positive steps toward launching the University into its second century of service.

Mr. Speaker, it is a source of pride to me that I have the honor to represent the district in which Jackson State University is located. I have benefited from its presence in the community in which I grew up, and I am privileged to have the opportunity to work with its officials in insuring its continued growth and development.

A NEED FOR ADEQUATE DEFENSE SPENDING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 5 minutes.

Mr. DERWINSKI. Mr. Speaker, there is a direct correlation between the strength of our Armed Forces and our foreign policy. That is why we should not make any moves which would undermine the combat effectiveness of our fighting forces and their ability to halt aggression.

Investment in national defense is a solid investment in and commitment to world peace. If we fail to maintain vigilance against any threat to our security, we are inviting potential aggressors to dictate to us on foreign policy. In keeping our fighting forces strong, we blunt the potential for international blackmail.

Our defense policy must emphasize the proper utilization of all military resources. That entails a blend of land, air and sea power and strategic nuclear forces.

There is a continuing need for a combat-ready conventional ground force which can move swiftly to back up our military and political commitments to our allies. There also is an obvious need for maintaining freedom of movement in international sea lanes. That means our Navy must be the best in the world. Our Air Force must be able to support our sea and land forces and quickly gain the upper hand in any fight.

Similarly, we must have strategic nuclear forces capable of retaliating in the event of a nuclear attack. I am convinced such a force is an effective deterrent to nuclear aggression.

The Amerian public is ahead of some Members of Congress in recognizing the need for truly adequate defense spending. A Harris public opinion poll last April showed that 76 percent of the American people believed the President should give high priority to keeping our military defense strong. The Congress should concur in this policy.

LEGISLATION AMENDING MEAT IMPORT ACT OF 1964

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. SHRIVER) is recognized for 5 minutes.

Mr. SHRIVER. Mr. Speaker, I am today introducing legislation amending the Meat Import Act of 1964.

Currently, Australia and New Zealand are "dumping" their excess meat on U.S. markets by having it processed in the Free Trade Zone in Mayaguez, Puerto Rico. This year, over 28 million pounds of meat have been shipped through Mayaguez into the United States as of September 1.

When I became aware of this situation I cosigned a letter to President Ford, along with many of my fellow colleagues, asking that this practice be halted. I was subsequently informed that New Zealand had stopped their shipments, and that Australia was about to follow suit. However, within a few days of this I learned that lawyers for the Mayaguez meat packers had obtained a court order for the Secretary of Agriculture to "show cause" why Puerto Rico should not be granted a 50-million-pound meat quota of their own.

The Secretary flatly denied this request, and I sent him and President Ford a telegram of support for this stand.

It is now my understanding that the U.S. Department of Agriculture, after consultation with the Department of State, is about to backdown from its previous position. If this is true, I am very disappointed.

It is difficult to keep track of the number of times I have stood before this body and talked about how regulations alter or ignore the spirit or intent of legislation passed by Congress. In this case, an apparent loophole has been found allowing the intent of the Meat Import Act to be ignored. My legislation will close this loophole.

This is the second time this same situation has occured in the past 6 years, and both times it has involved Australia and New Zealand.

In 1972, these two countries were "dumping" their excess meat on U.S. markets, by first shipping it to Canada, and Canada would in-turn ship it to the United States. After the State Department finished negotiating with Canada and the other two countries, Canada decided to sell the imported meat on their domestic market, and ship their better grade of meat into the United States. This, to my knowledge, is still going on and is not exactly what I call an equitable settlement.

I am fully aware of the advantages of free trade to the U.S. taxpayer and to our economy, and I support these principles. However, I am not interested in establishing good will or assisting another country's economy to the detriment of our own.

Therefore, I am introducing the companion to a bill introduced by Senator CURTIS of Nebraska, putting an end to the activities in Mayaguez. I hope it will receive the support of the House, and that action can be taken on it before the House adjourns.

TIMBER HARVEST LEVELS IN NATIONAL FORESTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. MCKAY) is recognized for 20 minutes.

Mr. MCKAY. Mr. Speaker, one of the most controversial provisions of S. 3091 as passed by the Senate on August 25 is section 11 which deals with timber harvest levels on the national forests. This provision would require that sale of timber from each national forest be limited to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis.

Under this provision, allowable harvest today could be set no higher than the long-term sustained-yield level based on the projected growth rate of the forest when it is in a fully managed condition.

In effect, the ultimate sustained-yield level of the forest is set as a ceiling above which harvest levels cannot be permitted to rise. Opponents of section 11 note that it is inappropriate for the old-growth forests of the West. They pointed out that by requiring that the sustained-yield level be established as a ceiling the Forest Service will be prevented from effective utilization of timber volumes which are surplus to sustained-yield needs.

Proponents claim that the language of section 11 would only put into law what is current Forest Service policy. This claim has been brought into serious question in a recent study done by Dr. K. Norman Johnson, assistant professor in the Department of Forestry and Outdoor Recreation of Utah State University. Dr. Johnson has been analyzing timber harvest alternatives as part of a detailed Forest Service study of the issue due to be released soon.

Dr. Johnson's study showed that under the wording of section 11 of S. 3091 timber harvest levels on the Umpqua National Forest in Southwestern Oregon would be lower than presently planned under current Forest Service nondeclining yield policies. More importantly, the study showed that significant timber volumes will be needlessly foregone on the Umpqua under either present Forest Service nondeclining yield policies or the language of section 11.

Using the sustained-yield level as a floor below which harvests could not be permitted to go, rather than a "ceiling" as is required by section 11, Professor Johnson found that on the Umpqua up to an additional 1.3 billion board feet could be made available during the first decade and up to 6 billion board feet could be made available over the first 10 decades without jeopardizing future forest productivity or ever dropping below the sustained-yield floor. Six billion board feet is enough wood to house 18 million people. This is made possible by more rapid utilization of old-growth volume which would otherwise be lost to insects and disease and by replacing these old, slow-growing forests with young, faster-growing stands at a more rapid rate than would be possible under nondeclining yield constraints. It goes with-

out saying that this timber harvest would need to be done in a manner which protects or enhances all multiple use values of the forest, including wildlife, recreation, watershed and soils and other values.

I ask unanimous consent that this important study be made a part of the RECORD.

THE HUMPHREY BILL WORDING ON SUSTAINED YIELD: IMPLICATIONS FOR A NATIONAL FOREST IN THE DOUGLAS-FIR REGION

(By K. Norman Johnson)

ABSTRACT

Section 11 of the Humphrey Bill states that "The Secretary of Agriculture shall limit the sale of timber from each national forest to a quantity equal to or less than a quantity which can be removed from such a forest annually in perpetuity on a sustained-yield basis." The Umpqua National Forest in western Oregon was examined to determine what impact this wording would have on allowable cut in a Forest that contains a significant amount of old growth.

Under a low level of management intensity, it was found that (1) a 33 percent reduction in harvest would be immediately required, and (2) an allowable cut calculated under a "nondeclining yield policy" would not be permitted because it would allow a harvest level above the "sustained-yield" level. Reliance on intensified management to prevent a harvest decline was questioned because of wording in the Bill that may increase the difficulty of taking credit for gains from intensified management.

Additional harvest trajectories were developed for the Umpqua which allowed a more gradual decline to the "sustained-yield" level. Under these trajectories (1) up to an additional one billion board feet of timber would be available for harvest during the first 10 years, (2) up to an additional six billion board feet of timber would be available during the first 100 years, and (3) the disruptive impact on local economies of a sudden decline in harvest level, as could be caused by the Humphrey Bill, would be minimized.

In interpreting these results, it should be remembered that they reflect a case study on a single National Forest. For other National Forests to show similar results, they must have, at a minimum, stands heavily stocked with slow-growing old growth and an allowable cut above that permitted by Section 11. Many National Forests, especially those outside the Douglas-fir Region, may not meet these conditions. Even those that do may, for one reason or another, not show the same results. Analyses of more National Forests are needed before we can tell how pervasive these results are for the national Forest System.

In the amended version of S. 3091, the "Humphrey Bill," Section 11 states, "The Secretary of Agriculture shall limit the sale of timber from each national forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis" (Journal of Forestry, 1976). At least two questions have arisen about the implication of this definition of permitted harvest level for the National Forests: Does this wording reflect current Forest Service policy? Will it force the Forest Service to forego significant amounts of volume that it otherwise could have harvested? This paper addresses these two questions in a case study of the Umpqua National Forest, considered typical of the Douglas-fir Region.

The Umpqua National Forest, located in southwest Oregon has Douglas-fir as the predominant species and is characterized by an abundance of old growth. Its annual allowable cut is currently 357 million board feet or 71 million cubic feet; in recent years, harvests have been at or near this level. As the Umpqua was a sample forest in the recent Forest Service Harvest Issues Study, data on inventory and yields were readily available.

The Harvest Issues Study considered two levels of management intensity for the Umpqua: low investment and high investment. The low investment option involved planting cutover lands and the nonstocked backlog with normal stock, commercial thinning, and regeneration harvest. The high investment option involved planting cutover lands and the nonstocked backlog with genetically improved stock, stocking control, commercial thinning, and regeneration harvest. Current management intensity on the Umpqua is close to the low investment level. Personnel on the Umpqua are doing a limited amount of precommercial thinning, but increased funding would be necessary to carry out the management envisioned by the high investment option. Therefore, the low investment option will be emphasized in this paper.

CURRENT POLICY MAY NOT BE CONSISTENT WITH THE WORDING

To decide whether Forest Service policy is consistent with the Bill, we must first estimate "the quantity which can be removed annually in perpetuity on a sustained-yield basis." After the old growth is gone and the forest is regulated, the Umpqua can sustain a harvest of 47.4 million cubic feet under the low investment option (hereafter called the sustained-yield or S–Y level).[1] This is the point where growth equals harvest, after conversion of the old growth and was calculated by dividing total yield at culmination of mean annual increment by the number of years needed to reach culmination. Assuming this is the "quantity" referred to in the Humphrey Bill, the allowable cut on the Umpqua, under low investment, must immediately drop to this level from the current level of 71 million cubic feet; a 33 percent reduction in allowable cut.

The allowable cut level of 71 million cubic feet resulted from an allowable cut calculation completed a decade ago under different allowable cut guidelines, multiple use considerations and data bases than exist today. Using the data base and multiple use constraints from the Harvest Issues Study and current Forest Service allowable cut policy, a new allowable cut was calculated for the Umpqua.

The Pacific Northwest Region of the Forest Service interprets their mandate for "nondeclining yield" as follows: maximize first decade harvest subject to nondeclining yield for the conversion period and the average yield for the post-conversion period being at least as high as the yield for the last decade of the conversion period.[2] Harvest age for regenerated timber is set at culmination of mean annual increment. Calculation of timber harvest for the Umpqua under this interpretation of nondeclining yield, at the low investment level, results in an annual allowable cut of 51.4 million cubic feet for the forthcoming decade (Figure 1);[3] a 28 percent reduction from the current allowable cut. This reduction is in keeping with reductions calculated for nearby forests in the Douglas-fir Region. As an example, the Draft Environmental Impact Statement for the Willamette (USDA Forest Service, 1974) shows a decrease in allowable cut of nearly 35 percent under the low investment option. However, even with this substantial decrease, the policy is not consistent with the Bill's wording because it allows a harvest level for the Umpqua that, especially in the post-conversion period, is above the sustained-yield level.

Would a policy be permitted that required nondeclining yield for the entire 30-decade planing horizon? To find a feasible solution under these additional harvest flow constraints, we would have to allow regenerated timber to be harvested at a number of ages in addition to the age of culmination. We also must add constraints on the ending inventory to ensure that an adequate inventory is left at the end of the planning horizon. Using a model developed at Utah State University, this approach was applied to the Umpqua with a resulting allowable cut of 48.6 million cubic feet per year for all 30 decades (Figure 1).[4] As with current Forest Service policy, this policy is not consistent with Section 11 because it allows an allowable cut above the S-Y level.

That a policy requiring nondeclining yield for 30 decades can have an allowable cut level above the S-Y level is especially interesting. By metering out the old growth over 30 decades, we can keep the harvest above the S-Y level for the entire planning horizon. At the end of 30 decades the harvest will drop to about this S-Y level. Similar results can be expected on other Forests in the Douglas-fir Region that have heavily stocked old-growth stands and are managed at the low investment level.

In summary, the current allowable cut (71 million cubic feet), the new allowable cut under Forest Service guidelines (51.4 million cubic feet) and the nondeclining yield for 30 decades allowable cut (48.6 million cubic feet are all above the sustained yield level (47.4 million cubic feet) under low investment. Therefore, none would be permitted, at this investment level, under the wording of Section 11.

Reliance on management intensification to maintain the harvest may encounter difficulties

If the Humphrey Bill is passed with the current wording in Section 11, the argument over allowable cut levels for the Umpqua and similar Forests in the Douglas-fir Region will not go away. It will just shift from focusing on harvest policy to (1) what yields can be obtained from timber managed under any intensity and (2) what level of management intensity is economically justifiable and socially desirable. With the harvest controlled by the predicted S–Y level, the energies of people who want the cut higher or lower will be directed there.

With high investment, the S–Y level on the Umpqua is 85 million cubic feet, 20 percent higher than the current allowable cut of 71 million cubic feet and 80 percent higher than the S–Y level low investment of 47.4 million cubic feet. Implementing this high investment level would enable the allowable cut to be maintained or increased. However, in addition to some people decrying "turn-

[1] This sustained yield level is calculated on the basis that all land currently in the allowable cut base will remain there. Section 5 of the Humphrey Bill has a provision which requires the Forest Service to "assure that timber production is not a goal on lands where estimated costs of production will exceed estimated economic return." On the Umpqua, this could result in 1) some land being removed from the allowable cut base, and 2) "economic," i.e. shorter, rotations being used on the remaining land base. Both of these reactions to Section 5 would lower the sustained-yield level.

[2] Actually, a decline of one-tenth of one percent is allowed from decade to decade during the conversion period.

[3] All acres in the commercial forest base are used in the runs. The results have been multiplied by a Multiple Use Adjustment Factor of .88 to give the numbers reported here.

[4] No decline, not even one-tenth of one percent, was allowed from period to period.

ing our National Forests into tree farms," two problems arise from relying on intensified management to continue current harvest levels in the face of Section 11.

First, money must be obtained from Congress to implement the intensification. If past Congressional willingness to provide money for intensive management is any indication, this is no small problem.

Second, as stated in Section 5 of the Humphrey Bill, "increases in allowable harvests based on intensified management practices such as reforestation, thinnings, or tree improvement shall be made only upon demonstration that such practices justify increased allowable harvests, and that the outputs projected are being secured" (Journal of Forestry, 1976). If this clause remains in the Bill, the 80 percent increase in the S–Y level predicted for management intensification on the Umpqua must meet the test implied by it.

This 80 percent increase in the S–Y level can be partitioned into a 68 percent increase due to stocking control and a 12 percent increase due to tree improvement.[5] However, these projected increases appear to be based more on professional judgement than on "demonstrations that such practices justify increased allowable harvests." After consulting the published and unpublished literature, Beuter, Johnson, and Scheurman (1976) estimated increases from stocking control at less than 25 percent for sites similar to the Umpqua. Curtis et al. (1974) estimated these gains at less than 30 percent for Site III. While the foresters who made the estimates for stocking control on the Umpqua may be correct (after all they probably know more about the Umpqua's growth potential than anyone else), it is arguable whether the gains from such practices can be considered "demonstrated." The estimates for tree improvement are even more speculative.

In addition, literal interpretation of the last part of the clause, that it must be shown "that the outputs projected are being secured" before we can increase harvests on the basis of intensified management, could essentially wipe out any immediate allowable cut effect from management intensification. It could be interpreted to mean that the allowable cut cannot be raised until the fiber resulting from the intensified management is actually being harvested.

All in all, this clause, or similar ones, could considerably increase the difficulty of using management intensification to justify increased timber harvests.

HARVEST VOLUME MAY BE FOREGONE UNDER THE CURRENT WORDING

The harvest flow provisions of the Humphrey Bill will ensure we do not plan a harvest pattern on the Umpqua that allows such a high harvest in the immediate future that harvest must subsequently go below the S–Y level. However, this can be ensured in another manner which will make more timber available for harvest. Rather than a sustained-yield "ceiling" over harvests as is required by the current wording of the Bill, a sustained-yield "floor" could be placed under timber harvests. Harvests would be permitted above the S–Y level as long as they did not prevent maintenance of the S–Y level in the future.

Allowable cuts were calculated for the Umpqua under this latter approach at the low investment level (Figure 2). Declines during the planning horizon of 1, 2.5, and 5 percent per decade were allowed for the harvest from decade to decade subject to constraints 1) that the harvest would not drop below the sustained-yield level during the planning horizon and 2) that the inventory left at the end of 30 decades would enable production at the S–Y level from then on. By varying the rate of decline permitted in harvest, the Forest Service can come as close to the current harvest level as it wishes, and yet never drop below the sustained-yield floor. Under any permitted decline, extra volume is produced (Table 1) during the first decade, the first 10 decades, and over the entire planning horizon. Up to an additional 260 million cubic feet (1.3 billion board feet) could be made available during the first decade and up to 1.2 billion cubic feet (6 billion board feet) could be made available over the first 10 decades. This extra volume is made possible by replacing slow-growing old growth with faster-growing young growth at an increased rate.

Under the low investment option on the Umpqua, any harvest policy will result in an eventual decrease in harvest from the current level because the current allowable cut is above the S–Y level. Under the current provision of the Humphrey Bill, this drop will occur in the first period. Under other options, such as shown here, the decline can be spread over a longer period of time with the result that more volume will be produced, while reducing the disruptive influence of harvest declines on local employment and tax revenue.

With a good possibility that private harvests will sharply decline over the next 30 years, in the timbersheds adjacent to the Umpqua National Forest (Beuter, et al., 1976), Forest Service harvest policy for the Umpqua becomes a critical factor in determining the economic health of southwestern Oregon. The wording of the Humphrey Bill on this subject should be carefully examined to assess whether it gives the flexibility in harvest policy needed for the Forest Service to best respond to this issue and to the nation's demand for softwood timber.

TABLE 1.—*Total volume available for harvest, at the low investment level, under different harvest policies on the Umpqua National Forest. (Current allowable cut is 710 million cubic feet per decade)*

Harvest policy	Total volume available for harvest		
	1st decade	1st 10 decades	30 decades
	[Million cubic feet]		
Harvesting restricted to sustained yield level as specified in Section 11 of the Humphrey Bill	474	4740	14230
Harvesting permitted to decline 1 percent per decade but not go below sustained yield level	568	5424	15078
Harvesting permitted to decline 2.55 percent per decade but not go below sustained yield level	642	5749	15273
Harvesting permitted to decline 2.5 percent per decade but not go below sustained yield level	735	5906	15396

[5] This assumption for stocking control is not dissimilar to the assumptions made for the Gifford Pinchot National Forest where a 52 percent gain was assumed (Final Environmental Impact Statement, Timber Management Plan, Gifford Pinchot National Forest).

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STATEMENT IN SUPPORT OF BILL TO RESTORE FOREIGN BANK ACCOUNT QUESTION TO THE FORM 1040 AND OTHER TAX RETURNS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 15 minutes.

Mr. VANIK. Mr. Speaker, today, I am introducing a bill to require the Secretary of the Treasury and the Commissioner of Internal Revenue to restore an important weapon in the government's war against tax cheats who hide billions of taxable income in secret bank accounts. Such accounts have served as a financial underpinning of organized crime, have permitted Americans to evade taxes and securities regulations, and have served as an essential ingredient in frauds against the United States.

LEGISLATION TO RESTORE THE FOREIGN BANK ACCOUNT QUESTION TO THE BASIC RETURN

Under the bill I am presenting, the Internal Revenue Code of 1954 would be amended to require that any income tax return—individual, fiduciary, partnership, corporate, or other—contain on the first page a question with respect to whether the filer, during the taxable year—

* * * had any interest in, or signature or other authority over, any bank, securities, or other financial account in a foreign country (other than such an account in a United States military facility) which is operated by a financial institution which is a United States person.

This bill, in essence, would require every taxpayer to state on the first page of an income tax return whether he or she has a foreign bank account or authority over one. From 1970 through 1974, such a question was asked of every taxpayer filing a return. The question was aimed primarily at narcotics traffickers and other practitioners of organized and white-collar crime who, more and more, were making secret foreign bank accounts a haven for their illicit profits. The question was also seen to be useful to ferret out illegal income derived from stock market manipulation, corporate bribes and slush funds.

Without such legislation, it seems unlikely that either the present Secretary of the Treasury or the present Commissioner of Internal Revenue will act voluntarily to restore this important inves-

tigative tool. Without such legislation, those individuals and corporations who use foreign bank accounts to evade taxes will continue to get a free pass. They are less likely to be discovered and even less likely to get the punishment they deserve.

The bill would put teeth in the law to insure compliance. Not only would a civil penalty be imposed for failing to answer the question at all, but anyone giving a false answer could be sentenced to a fine up to $5,000 or imprisonment up to 3 years, or both.

In addition, the bill provides that the taxpayer's interest, if any, in a foreign account must appear on the first page of the return. Studies have shown that when the question appeared on the first page of the Form 1040, the individual return, almost 95 percent of persons filing individual tax returns answered the foreign bank account question. But when the question was placed on the back page of the return, not many more than one-third answered.

I had believed that the law and the regulations required that the foreign bank account question appear on the basic tax return. I was shocked and dismayed when the IRS removed the question. Certainly, this was not the intent of Congress.

When Congress first considered the foreign bank account question, we were led to believe that the administration would require, by regulation, that the question be asked on the basic return. Thus, during the course of House debate on Public Law 91–508, the Bank Secrecy Act, my distinguished colleague, Representative THOMAS L. ASHLEY of Ohio, commented:

> * * * [T]he Treasury Department has endorsed the idea behind this legislation. In addition, it was their proposal to add a question to our personal income tax forms, form 1040, asking whether the taxpayer maintains a foreign bank account. On May 11, the Internal Revenue Service announced its intention to include the question on next year's income tax forms.
>
> This new Treasury regulation coupled with the recordkeeping requirements imposed by title IV, will give Treasury important new tools in enforcing our tax laws.

The regulation that was issued as a result of this legislative history reads as follows:

> Each person subject to the jurisdiction of the United States (except a foreign subsidiary of a U.S. person) having a financial interest in, or signature or other authority over, a bank, securities or other financial account in a foreign country shall report such relationship as required on his Federal income tax return for each year in which such relationship exists, and shall provide such information concerning each such account as shall be specified in a special tax form to be filed by such persons.

It would appear that this Treasury regulation requires that the question be placed on the basic return. Unfortunately, the Treasury Department has construed the language otherwise. They have removed this valuable investigative tool from the return. Thus, the only course to take in order to assure that the foreign bank account question be restored to the first page of the Form 1040 and other basic tax returns is the bill I am presenting here today.

THE IMPORTANCE OF THE FOREIGN BANK ACCOUNT QUESTION

The Commissioner of Internal Revenue has minimized the importance of the foreign bank account question in his public statements. But it is the actions of the IRS which have led to the squandering of this important investigative tool.

IRS officials have noted that the number of taxpayers failing to answer the question rose from a low of about 3 million in 1971 and 1972 to an astonishing 38 million in 1974. In a classic case of illogic, they then figuratively throw up their hands and say, in effect, that with so many people not bothering to answer the question, we might as well take it off the return.

What the IRS management is not telling us is why they allowed non-compliance with respect to the foreign bank account question to shoot up at the rate it did between 1972 and 1974. Nor are they telling us why the IRS did not try to find out how many of those 38 million taxpayers failing to answer the question did have secret foreign bank accounts and how much taxable income these accounts represented. When the question was moved to the second page in 1973, the number of those not responding shot up. No effort was made to correct the problem on the 1974 return. In that year, the non-compliance figure was about the same as in 1973.

In addition to failing to vigorously enforce compliance with the foreign bank account reporting requirement, the IRS failed to use the information it obtained. For example, after a successful 1968 mail watch of individuals doing business with Swiss banks, nothing was done to match a 1971 mail watch with responses to the foreign bank account question. Recommendations to include the foreign bank account information as a factor in DIF scoring—a system for computer selection of returns—and to distribute printouts containing foreign bank account responses to IRS field offices were not carried out. The IRS has done nothing, systematic or otherwise, to follow up on the mass of foreign bank account data collected during the years the question appeared on tax returns.

I am fearful that the Commissioner's comments minimizing the value of the question may be misconstrued by the courts. Evidence so far developed in history's biggest tax evasion investigation, Project Haven, indicates that some wealthy Americans suspected of hiding taxable income in offshore accounts failed to acknowledge such accounts or lied about ownership on their tax returns of recent years. They include known criminals as well as so-called "pillars of society." Some of these people will be prosecuted for making a material misstatement on their tax returns. Their lawyers will point to the Commissioner's statements as evidence that the IRS does not consider the question important.

In my opinion, Congress considers the failure to answer or a negative answer to the foreign bank account question a very material misstatement. Without a truthful answer to this question, it becomes administratively difficult, if not impossible, for the Government to determine whether the amount of tax reported is accurate.

In the course of the 1970 debate on the Bank Secrecy Act, my colleagues expressed fear that our unique system of voluntary compliance with the tax laws was seriously threatened by the general knowledge that criminals as well as seemingly respectable businessmen use foreign accounts to evade taxes. The foreign bank account question was considered to be an important investigative tool by Congress. For example, the gentleman from Illinois, Representative FRANK ANNUNZIO, spoke of the frustration that IRS agents and other law enforcement officers experience when they—

> * * *can't even begin to find out about a crooked business deal because it is hidden behind an iron curtain of foreign secrecy laws.
>
> This bill will not put a guaranteed stop to these so-called white-collar crimes. It will, however, pierce the secrecy laws to the extent that it requires Americans to keep records of their dealings and relationships with foreign secret financial institutions.
>
> * * * * *
>
> To me, it is an outrage against our honest and law-abiding American citizens for this Government to permit wealthy Americans, businessmen and otherwise, who can afford the $50,000 or $100,000 it takes to do business in these so-called secrecy jurisdictions, to so easily avoid payment of their just taxes and our American securities laws.
>
> This bill goes after the big businessman, the big stock market manipulator, the embezzler, and other white collar criminals who deal in amounts of money which stagger the imagination.

And Mr. ASHLEY, in continuing his statement quoted above, stated:

> As far back as 1968, the Internal Revenue Service has been concerned about the ever-growing number of Americans who dodge their income taxes by using secret foreign bank accounts. * * *
>
> * * * * *
>
> Financial manipulators and petty criminals have found secret accounts an easy and safe way to cover up wrong doing or avoid taxes.
>
> It is high time the Congress acted. This bill may not be the perfect remedy. But it will be a giant first step in serving notice of lawbreakers that the secret account is no longer a shelter from law enforcement.

I think that these statements of my colleagues accurately reflect the tenor of Congress. The high level of voluntary compliance with our tax laws that this Nation enjoys is seriously threatened by the general knowledge that certain criminally oriented individuals and seemingly respectable businessmen use foreign accounts to evade their taxes. The foreign bank account question is an important investigative tool needed to deter this practice.

THERE IS ROOM FOR THE FOREIGN BANK ACCOUNT QUESTION ON THE FORM 1040

The IRS management would have us believe that recent congressional enactments forced a host of new items onto the Form 1040, leaving no space for the foreign bank account question. In congressional testimony on October 6, 1975, Commissioner Alexander said the question was being dropped because of what he called "some of the ornaments in the Tax Reduction Act of 1975" and the Cen-

sus Bureau's requirement for revenue-sharing information. A "fact sheet" issued by the IRS last February cited these same two elements. It said the 1975 space limitations were brought on not only by the revenue-sharing item but also by adding eight new lines to reflect the changes brought about by the Tax Reduction Act of 1975.

While the law does require the revenue sharing item to appear on the tax return, the IRS statements concerning the Tax Reduction Act are misleading. I am advised by the Comptroller General that the Tax Reduction Act of 1975 contains only one provision directing an addition to the 1040. This provision relates to the credit for the purchase of a new home. But, as the Comptroller General points out, this part of the act does not mandate that the information be on the face of the return itself. All it requires is that a certificate be attached to the 1040 if the housing credit is claimed.

As for the other new items on the 1975 form 1040, my research indicates that they were put there at the discretion of the IRS, not because of any requirement in the Tax Reduction Act or any other law, for that matter. There is no legal requirement that the 1040 be the place where the taxpayer reports such information as:

Item 40b: "Payments to an individual retirement arrangement," or

Item 41: "Forfeited interest penalty for premature withdrawal," or

Item 58: "Tax on premature distributions," or

Item 62: "Excess contribution tax."

Most if not all of the items added to the 1975 Form 1040 fall into the category of tax breaks: adjustments to income, credits, and the like. The issue is not whether these items are worthwhile. The issue is whether the IRS and the Treasury Department, given their broad discretion in devising forms, possess the ingenuity to devise a 1040 or other forms that accommodate these tax breaks without scrapping so important an item as the foreign bank account question.

THE REMOVAL OF THE FOREIGN BANK ACCOUNT QUESTION FROM THE FORM 1040 AND OTHER BASIC RETURNS WILL MAKE CONVICTIONS MORE DIFFICULT FOR TAX YEARS COMMENCING AFTER 1974

Prosecutions for the failure to disclose a secret foreign account would ordinarily be brought pursuant to 26 Unites States Code 7206(1). This statute makes it a felony to make a false statement on a tax return as to a material matter. The statute reads in pertinent part:

§ 7206. Fraud and false statements.

Any person who—

(1) Declaration under penalties of perjury.—Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter;

* * * * *

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than 3 years, or both, together with the costs of prosecution.

Among the elements which must be proved by the Government is that the misstatement or omission is both willful and material. Since 1974, taxpayers have only been required to file a supplemental document, Form 4683, concerning possible secret accounts. It will be more difficult for the government to establish, in prosecutions of taxable years subsequent to 1974, that the failure to disclose a secret account was willful. The taxpayer might argue that he or she failed to read the instruction booklet and, consequently, was unaware of the requirement to file the additional form. Some courts and juries may be sympathetic to this argument. It may also be more difficult for the Government to establish that the failure to file an obscure supplemental schedule is material false statement on a tax return.

CONCLUSION

It is my hope that the Secretary of the Treasury and the Commissioner of Internal Revenue will return the foreign bank account question to the basic tax return by administrative ruling. However, an administrative action will not be sufficient. A regulation thought to require the question was administratively interpreted to the contrary. Only the force of statute can insure that this important investigative tool will be returned to the basic tax return which each taxpayer files.

THE NATIONAL FOREST MANAGEMENT ACT OF 1976

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STOKES) is recognized for 10 minutes.

Mr. STOKES. Mr. Speaker, my remarks will be brief and to the point.

I am concerned about the Nation's supply of wood and the price that the consumer, particularly minorities and all persons with low incomes, must pay for paper and wood products, as well as other basic commodities.

I am concerned about the cost of housing, which is basically a product of trees. I am concerned about the availability of paper and wood products as it affects the black mother trying to feed her family on an inadequate income. I am concerned about the impact on her children who are trying to get an education and need school notebooks, writing papers and workbooks, which are also products of trees.

This week the House will be asked to vote on a measure that will determine whether the national forests are left largely in their natural state or whether they will be brought under modern scientific management.

The national forests supply about 27 percent of all the softwood sawtimber harvested annually in the United States for the manufacture of lumber and plywood used in homebuilding and other construction. A sharp drop in the supply of such construction materials, which could result from amendments to limit timber supply, would not only deny housing to the Nation's poor people, but it would hit them doubly hard on employment. Many of the lower income breadwinners, when they do find work, find it now in construction labor—and that employment would certainly be hurt. Once again the people at the bottom would get kicked twice as hard as the more fortunate. And it takes them longer to recover from such blows because they have no cushion, few options, and little recourse.

Much discussion of H.R. 15069, the proposed National Forest Management Act of 1976, may concentrate on the impact of timber cutting on natural beauty and on the traumatic effect this has on those people who are fortunate enough to be able, frequently, to camp, backpack, birdwatch and otherwise enjoy the wonders of nature in our great national forests.

But H.R. 15069 is also of concern to the black community, as it is to all consumers. In discussing H.R. 15069, little is likely to be said about the needs of the urban dwellers, especially lower-income families, and their dependence on the timber supply from these forests. The needs of our urban population—the thousands who are ill-housed everywhere in this Nation and who carry their meager purchases home from the neighborhood grocery store in a paper bag—must also be recognized.

Houses and paper bags, and books and school tablets, and food packages, pencils and bathroom tissue, and thousands of things every city dweller and consumer has to have every day—whether rich or poor—come out of these Federal forests.

Therefore, I rise to point out that H.R. 15069 is a bill for people, as well as a bill for the forests. It is a bill that protects the interests of all the people, including consumers and outdoorsmen.

Low-income families, whether they live in urban centers or in rural areas, have to be concerned about how much there is of any basic commodity. If there is not enough of anything, it is bound to cost them more.

If it costs more to build a house, because lumber and plywood cost more when there are too few trees harvested to make those products, then the people at the bottom end of the economic ladder suffer the most.

As I indicated, the price of basic commodities, whether it is for corn, wheat, sugar, salt, wood, coal or any other item which moves in bulk, is of vital concern to those who can least afford to pay. We tend to be most familiar with the budget impact of food prices and their fluctuations. But a rise in wood prices hits us in urban areas precisely the same way.

Eighty to 90 percent of all single family homes in the United States are of wood frame construction using lumber and plywood.

Most foods are packaged in wood fiber-based containers.

It is almost impossible to count the ways in which every citizen throughout every day depends upon paper in its infinite forms.

The threat of higher prices for such daily necessities has come from court interpretations of the archaic 1897 organic act for management of the na-

tional forests. These suits were brought by individuals and organizations who saw in the outdated language of the Act, which became law before there was a single forestry school in the United States, a means to limit forest management on Federal timberlands, a way of curtailing timber harvesting and a means to insure their own recreational use of these forests in perpetuity.

As this legislation evolved, all parties were afforded a complete hearing of the issues, including those who urged restrictive limitations on the forests. Restrictive and limiting bills were considered and rejected by the Forests Subcommittee of the Agriculture Committee. Prescriptive amendments to the pending bill, H.R. 15069, were thoroughly debated and rejected by the full committee as detailed in the committee report on pages 33 to 38. The committee reported the bill by a vote of 37 to 1. Now I understand some of these same amendments will be offered on the floor during debate this week. They should be rejected again. Prescriptive amendments serve only the few at the expense of the many and violate the very concept of Gifford Pinchot's dream for the national forests—the greatest good for the greatest number over the long run.

I make no pretense to be an authority on resource management. I do, however, know the relationship between those resources which are renewable and those which are not. Our Nation's forests, so long as the land is retained in public ownership, can be harvested and replanted and harvested again in an endless cycle. To do this requires dedication and care by people qualified to apply science to assist nature. This opportunity is provided in H.R. 15069, indeed the opportunity is mandated in the act through its reforestation requirements.

There is another resource in America which needs the same kind of loving care. It is renewable too. That resource is our urban and rural working families, our lower income families, our poor people. They deserve a break—a job, a decent home, education in a trade or profession, enough food, a suit of clothes, and a few bucks in their pocket. Maybe a yard with some grass and a tree. But the tree comes last—the people come first. And we shouldn't forget it when we act on H.R. 15069.

It is the duty of Congress, as I see it, to use public resources to serve the needs of all the people in an even-handed and responsible way. The Forests Subcommittee and the House Agriculture Committee, in my view, have done a remarkable job of assessing all of the evidence with respect to the role of the national forests in our economic and social system. They have developed a bill that deserves the support of both urban and rural interests in the Congress. I propose to support H.R. 15069, as reported, and urge all my colleagues who have constituents with low and middle incomes to join me.

"BRAINWASHING" OF MEMBERS OF RELIGIOUS CULTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. GIAIMO) is recognized for 10 minutes.

Mr. GIAIMO. Mr. Speaker, a number of my constituents have children who are members of one of the various seemingly religious cults which have emerged in this country in recent years. Recently I met with several of these parents who insisted that "brainwashing" techniques are being employed to keep many of these young people in these cults.

At their request, I wrote to Attorney General Levi and asked him to meet with two experts who understand "brainwashing." In addition, 23 of my colleagues expressed their support for this meeting in communications with the Justice Department.

On September 9, I received a reply from the Justice Department. Before such a meeting could take place, Assistant Attorney General Thornburgh informed me, the Department would want to review the information which would be offered. After this review, the Department would advise me as to its views on the "appropriateness of such a meeting."

For the present time, I will comply with the request of the Justice Department. I also want to emphasize that, unlike the Assistant Attorney General, I am convinced of the appropriateness of such a meeting, and I will insist on its taking place.

Since my initial letter was sent to the Attorney General, I have received many inquiries about the purpose and scope of the proposed meeting. I am now including copies of my correspondence with the Justice Department on this subject. I hope that my colleagues will find them helpful in answering communications from their own constituents:

AUGUST 11, 1976.

Hon. EDWARD H. LEVI,
Attorney General,
Department of Justice,
Washington, D.C.

DEAR MR. ATTORNEY GENERAL: For quite some time I have been interested in and most concerned about complaints which I have received from constituents regarding the involvement of young Americans in pseudo-religious cults. I am particularly concerned about the allegations of "brainwashing" which have been advanced by several people who have left these cults.

There is a general reluctance on behalf of officials at the Justice Department to investigate these charges. Perhaps this reluctance occurs in part because officials have not had the benefit of the assessment of "brainwashing" by leading authorities on the subject.

Two qualified experts in this field are willing to discuss this matter with you or your principal deputy. Professor Robert J. Lifton of Yale University is recognized as one of the world's authorities on brainwashing. Professor Richard Delgado of the University of Washington School of Law has concentrated his activities in the legal aspects of brainwashing. I believe that their comments would provide invaluable information on this problem. Professors Lifton and Delgado have indicated that they would be able to discuss "brainwashing" and these cults with you sometime in the first three weeks of September. I would appreciate your advising me promptly as to when you or your principal deputy would be able to meet with them.

In a related matter, I have yet to receive a reply to my April 13 letter to you on this matter. I yield to nobody in my support for those freedoms protected by the First Amendment. But, what am I to say to the parents of young people who are convinced that their children are unwilling members of these cults? Is there any way, short of "kidnapping" their own children, that these parents can talk to these young people? Am I to tell them that their government can or will do nothing?

I eagerly await your reply to this letter.

Sincerely yours,

ROBERT N. GIAIMO,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 30, 1976.

Hon. EDWARD H. LEVI,
Attorney General, Department of Justice,
Constitution Avenue, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: On August 11, Congressman Robert N. Giaimo sent you a letter requesting that an appointment be arranged between you or your principal deputy and Professors Robert J. Lifton and Richard Delgado. The purpose of this meeting would be a discussion of "brainwashing" and its possible application by the various pseudo-religious cults which have emerged in this country in recent years.

We are concerned about the activities of these cults. While we recognize that their actions are protected by the Bill of Rights, we cannot overlook the allegations of brainwashing which have been advanced by people who have left the cults.

We hope that you will meet with Professors Lifton and Delgado. Following this meeting, we would hope that you would advise us of what you intend to do in response to the allegations of "brainwashing."

We beseech you to honor this request.

Sincerely yours,

Gary A. Myers, M.C., 25th District, Pennsylvania; Robert A. Roe, M.C., 8th District, New Jersey; Robert N. Giaimo, M.C., 3rd District, Connecticut; Ken Hechler, M.C., 4th District, West Virginia; Matthew J. Rinaldo, M.C., 12th District, New Jersey; G. Wm. Whitehurst, M.C., 2nd District, Virginia; George Miller, M.C., 7th District, California; Richard Bolling, M.C., 5th District, Missouri; Joshua Eilberg, M.C., 4th District, Pennsylvania; Richardson Preyer, M.C., 6th District, North Carolina; Thomas J. Downey, M.C., 2nd District, New York; H. John Heinz, III, M.C., 18th District, Pennsylvania; George E. Brown, Jr., M.C., 36th District, California; Max Baucus, M.C., 1st District, Montana; Richard L. Ottinger, M.C., 24th District, New York; Norman F. Lent, M.C., 4th District, New York; Gerry E. Studds, M.C., 12th District, Massachusetts.

SEPTEMBER 3, 1976.

Hon. EDWARD H. LEVI,
Attorney General, Department of Justice,
Washington, D.C.

The following Members of Congress have advised me that they would like to be added to the list of co-signers of my letter to you of August 30:

Representative James L. Oberstar, 8th District—Minnesota.

Representative William R. Cotter, 1st District—Connecticut.

Representative Bill Frenzel, 3rd District—Minnesota.

Representative Leo J. Ryan, 11th District—California.

Representative Leo C. Zeferetti, 15th District—New York.

Representative Martha Keys, 2nd District—Kansas.

Representative Clarence J. Brown, 7th District—Ohio.

We would appreciate a prompt and favorable response to our request.

Representative ROBERT N. GIAIMO.

DEPARTMENT OF JUSTICE,
Washington, D.C., September 7, 1976.

Hon. ROBERT N. GIAIMO,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN GIAIMO: Your letter to the Attorney General dated August 11, 1976 and your letter to Assistant Attorney General Uhlmann dated August 23, 1976, have been referred to the Criminal Division. A search of Criminal Division files failed to disclose receipt of your letter of April 13, 1976.

Your letter of August 11, 1976 expresses concern about allegations of "brainwashing" of members of religious cults and notes a reluctance on the part of the Department of Justice to investigate these allegations. You further suggest in both letters a meeting between certain experts in the field of "brainwashing" and a representative of the Department of Justice.

The Department of Justice, of course, cannot conduct a general inquiry into the activities of a religious organization. There first must be an allegation of a violation of Federal law.

As you know, we have received numerous letters from the parents of cult members alleging that their adult children are the victims of "brainwashing". Consideration has been given to the possibility that the imposition of mental restraints upon the freedom of movement of a cult member might constitute a violation of the Federal kidnaping statute, 18 U.S.C. § 1201. In *Chatwin* v. *United States*, 326 U.S. 455, the Supreme Court recognized that an unlawful restraint could be achieved by mental as well as by physical means. However, the restraint must be against the person's will and with a willful intent to confine the victim. It seems clear that the court will not construe the statutory language of § 1201 so as to punish one individual who induces another individual to leave his surroundings to do some innocent or illegal act of benefit to the former, state lines subsequently being crossed, 326 U.S. at 464.

We have also considered the possibility that these allegations amount to violations of other Federal criminal statutes pertaining to peonage and slavery. 18 U.S.C. § 1581 prohibits holding or returning any person to a condition of peonage. The gravamen of this offense is the holding of another to labor in satisfaction of a debt. *United States* v. *Gaskin*, 320 U.S. 527. This clearly does not apply to the situation in which a cult member is induced to work for a religious group. With regard to 18 U.S.C. §§ 1583, 1584, which prohibit slavery and involuntary servitude the victim must have or believe that he has no way to avoid continued service or confinement. If the victim has a choice between freedom and confinement, even if the choice of freedom entails what he believes to be serious consequences, then there is no violation. See *United States* v. *Shackney*, 333 F.2d 475 (1964) (2nd Cir.).

In order to initiate a Federal criminal investigation under the kidnaping statute or under 18 U.S.C. §§ 1583, 1584, of individuals alleged to have subjected cult members to "brainwashing", there must be information or an allegation that the victim was actually deprived of his liberty against his will by physical or mental restraints. Allegations that the victim was induced, persuaded, proselytized, or brainwashed to continue his association with the cult would be insufficient. In the case of a kidnaping investigation, there also would have to be information or an allegation that the victim was being held for ransom, reward, or otherwise and that the jurisdictional element of interstate travel was present.

I am informed that some parents of cult members have had success in pursuing civil remedies involving court appointments as conservators or guardians for their adult children. Additionally, in a case entitled *Helander* v. *Unification Church, et al.*, Case No. HC7-75, Superior Court for the District of Columbia—Family Division, the parents of a cult member petitioned for a writ of Habeas Corpus. Although the court held that there was insufficient evidence to establish that the cult member had been restrained from her lawful liberty by the Unification Church, it seems clear that with a sufficient showing, Habeas Corpus is yet another remedy in these situations. In view of the more stringent burden of proof required in criminal prosecutions, it seems clear that aggrieved parents would have a greater likelihood of success in pursuing civil remedies rather than requesting criminal prosecutions.

With regard to your proposal for a meeting with Professors Lifton and Delgado, I believe that before such a meeting took place, we should have the benefit of reviewing their publications or other works in the field of "brainwashing". If you wish to submit any such publications to the Department, we would be happy to review them and advise you as to our views of the appropriateness of such a meeting.

Thank you for your interest in this matter.

Sincerely,

RICHARD L. THORNBURGH,
Assistant Attorney General,
Criminal Division.

NATIONAL ACADEMY OF SCIENCES REPORT ENDORSES CONGRESSIONAL ACTION ON OZONE PROTECTION LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 10 minutes.

Mr. BROWN of California. Mr. Speaker, the headlines in the morning papers dealt with a subject that has been of much interest to the Congress, and to the Subcommittee on Environment and the Atmosphere of the Committee on Science and Technology in particular. Now that I and my staff have had an opportunity to review the published reports by the National Academy of Sciences, I can say that the legislation that was reported by the Committee on Science and Technology, H.R. 3118, as amended, and included in section 107 of the Clean Air Act amendments, H.R. 10498, is totally consistent with the recommendations of the Academy scientists.

The two reports, "Halocarbons: Environmental Effects of Chlorofluoromethane Release" and "Halocarbons: Effects on Stratospheric Ozone" are excellent examples of the type of careful work that can be done in considering controversial subjects. While I believe the Congress acted as carefully and deliberately as the Academy did in the development of its reports, it is always encouraging to see two independent groups, operating under different circumstances and pressures, and with different backgrounds, come to the same conclusions regarding public policy.

The main findings of the Academy study are that the early reports of ozone depletion from the use of certain aerosol propellants were accurate, and the danger to the world ecosystem is sufficient to recommend regulation within the next 2 years. H.R. 3118, and section 107 of H.R. 10498 do just this. In addition the Academy recommended an extensive research program similar to that authorized in the legislation mentioned above.

In order to share with my colleagues the major recommendations of the Academy report, I wish to insert in the RECORD some excerpts from the just published report.

The material follows:

NATIONAL ACADEMY OF SCIENCES,
Washington, D.C., September 10, 1976.

Hon. GEORGE BROWN,
Chairman, Subcommittee on Environment and the Atmosphere of the Committee on Science and Technology, House of Representatives, Washington, D.C.

DEAR MR. BROWN: Knowing of your concerns about the release of halocarbons into the environment, I am pleased to transmit for your information a copy of the National Research Council's report entitled "Halocarbons: Environmental Effects of Chlorofluoromethane Release."

This report was prepared by the Committee on Impacts of Stratospheric Change, a committee of the Assembly of Mathematical and Physical Sciences of the National Research Council. The committee and study projects were chaired by Professor John W. Tukey of Princeton University and Bell Laboratories; the report is based in considerable measure on the findings presented to the committee in a report, also attached, of the Panel on Atmospheric Chemistry, chaired by Professor H. S. Kutowsky of the University of Illinois. The study was sponsored jointly by the National Science Foundation, National Oceanic and Atmospheric Administration, National Aeronautics and Space Administration and Environmental Protection Agency.

Sincerely yours,

PHILIP HANDLER,
President.

NATIONAL ACADEMY OF SCIENCES,
Washington, D.C., September 10, 1976.

Hon. H. GUYFORD STEVER,
Director, Office of Science and Technology Policy, Executive Office of the President, Washington, D.C.

DEAR DR. STEVER: I am pleased to present the report "Halocarbons: Environmental Effects of Cholorfluoromethane Release." This report was prepared by the Committee on Impacts of Stratospheric Change, a committee of the Assembly of Mathematical and Physical Sciences of the National Research Council. The committee and study projects were chaired by Professor John W. Tukey of Princeton University and Bell Laboratories; the report is based in considerable measure on the findings presented to the committee in a report, also attached, of the Panel on Atmospheric Chemistry, chaired by Professor H. S. Gutowsky of the University of Illinois. The study was sponsored jointly by the National Science Foundation, National Oceanic and Atmospheric Administration, National Aeronautics and Space Administration and Environmental Protection Agency.

The report sets out what is known and, as best it can be judged, with what amount of uncertainty it is known. The report concludes that the selective regulation of chlorofluoromethane uses and releases is almost certain to be necessary at some time and to some degree. Neither the needed timing nor the needed degree can reasonably be specified today because of remaining uncertainties. However, measurement programs now underway promise to reduce these uncertainties quite considerably in the near future. The prospect for narrowing uncertainty and the finding that the rate of ozone reduction is relatively small engender in the committee the conclusion that a one- or two-year delay in actual implementation of a ban on regulation would not be unreasonable. Meanwhile, so that the government may be positioned to function in these regards, it seems highly

desirable that the appropriate statutory basis for regulation be enacted at this time.

The uncertainties yet remaining suggest that a reexamination of these circumstances take place at periodic intervals. The National Research Council would be pleased to continue their cooperation in following these developments.

Finally, may I utilize this opportunity publicly to express to Dr. Tukey, Dr. Gutowsky and their colleagues our deep appreciation for their tireless and devoted efforts.

Sincerely yours,

PHILIP HANDLER,
President.

EXCERPTS FROM HALOCARBONS, ENVIRONMENTAL EFFECTS OF CHLOROFLUORMETHANE RELEASE—COMMITTEE ON IMPACTS OF STRATOSPHERIC CHANGE, ASSEMBLY OF MATHEMATICAL AND PHYSICAL SCIENCES NATIONAL RESEARCH COUNCIL; NATIONAL ACADEMY OF SCIENCES, WASHINGTON, D.C., 1976.

CONCLUSIONS

Selective regulation of CFM uses and releases is almost certain to be necessary at some time and to some degree of completeness. Neither the needed timing nor the needed severity can be reasonably specified today. Costs of delay in decision are small, not more than a fraction of a percent change in ozone depletion for a couple of years' delay. Measurement programs now under way promise to reduce our uncertainties quite considerably in the near future.

RECOMMENDATIONS

Accordingly

1. As soon as the inadequacies in the bases of present calculations are significantly reduced, for which no more than 2 years need be allowed, and provided that ultimate ozone reductions of more than a few percent then remain a major possibility, we recommend undertaking selective regulation of the uses and releases of CFMs on the basis of ozone reduction.

2. We recommend that, as soon as appropriate legislative authority is in place, as well as every three to five years thereafter, our current knowledge of the importance and the certainty or uncertainty of the direct climate effect be reviewed, so that appropriate decisions can be taken about regulation of CFM uses and releases on the basis of this effect. In so doing, the effects of CFM increases should be considered in the light of the effects of CO_2 increases with which they are inevitably combined.

3. Whenever regulation is undertaken, we recommend that it should be selective, treating one use differently from another, both as to whether a particular use is to be excepted from regulation or not and as to the time allowed for compliance with regulation. (See also Chapter 4 and especially Appendix A.)

4. Legislative authority may not now be adequate among other things to (a) regulate the uses of CFMs selectively, (b) regulate the handling of CFMs (as in repairing auto-air conditioners, for example), and (c) regulate CFMs on the basis of threats to plants and animals important to human life (either through DUV increase or climate changes) rather than on the basis of threats to human health. We recommend that immediate steps be taken, first to determine what inadequacies in legislative authority exist and then to eliminate, through additional legislation, those that exist.

5. Since carefully informative labeling would allow consumers an opportunity to distinguish, for example, CFM-propelled aerosols from aerosols using other propellants, we recommend that legislation be enacted requiring labeling of all products containing the CFMs F-11 and F-12 and not intended to remain under seal during use. (Aerosol cans and refill containers for air conditioners and refrigerators would then require labels; automobiles and refrigerators themselves would not.) Labeling should in no sense be regarded as a substitute for regulation but rather as an aid to consumer self-restraint in the use of CFMs and to consumer preparation for possible later regulation.

6. In view of the present inadequacies in the bases of our calculations, in view of the reduction in these inadequacies promised by ongoing measurement programs, and in view of the small changes in ozone reductions following from a year or two delay, we wish to recommend against decision to regulate at this time. (See also The Problem of Regulation, below.)

7. When and if regulation is decided upon by the United States, similar action by other countries should be encouraged by whatever appropriate means are most likely to be effective.

We also make the following recommendations:

8. Since both further laboratory studies and especially, well-enough planned measurements in the atmosphere, can do much over the next few years to improve the basis for well-chosen regulation, we recommend that laboratory studies and atmospheric measurements should be given an appropriately high priority. (See also Chapter 2.)

9. Since there are at least two important areas: 9(a) The mechanisms of climate determination and climatic change; 9(b) The effects of increased (or decreased) biologically active ultraviolet radiation on plants and animals; where we still lack an adequate scientific foundation, and since adequate foundations cannot be constructed by short-term "crash" programs, longer-term research programs, extending over several years and guided by the consensus of the best scientific minds available, should be established and adequately funded in each such area as a matter of urgency. (See also Chapter 2.)

10. Since learning to identify population groups with drastically higher susceptibility to melanoma (and to other skin cancers) will greatly increase the efficiency and effectiveness with which individuals can be taught to protect themselves, it is urgent to undertake a program of learning better to identify such susceptible groups. (See also Chapter 2 and Appendix E.)

11. Information about the relative releases of CFMs from different uses would be so essential, if and when control of CFM release becomes appropriate, that vigorous efforts should be made to provide such information on a continuing basis.

12. Since ultraviolet-induced skin cancer will continue to present a serious health hazard, we need to study possible preventive medicine actions carefully, without regard to the effectiveness of CFMs in reducing ozone or decisions about their regulation. (See also chapter 2 and Appendix E.)

THE PROBLEM OF REGULATION

This report makes two things clear. The impact on the world of waiting a couple of years before deciding whether or not to regulate the uses and releases of F-11 and F-12 is small although we are uncertain just how small. The impact on industry of a ban on uses of F-11 or F-12 in most types of spray cans would be appreciable. Against a background of a possible, although very small, change in world climate, however, the industrial impact does not loom large.

This Committee in meeting its responsibilities to assess what is scientifically known has focused on uncertainty about the adequacy of the bases of our calculation and recommended a brief delay before decision. Some scientists, emphasizing the possible critical importance of even small effects on climate and the relative unimportance of many spray-can uses, might well urge immediate decision to regulate, although authority to regulate on the basis of climate effects seems still to be lacking.

The report sets out what is known and, as best as this can be judged, with what amount of uncertainty it is known. The choice of when to make decisions about regulation is a political one in the highest sense of that word. The ultimate balance—between increased impact on industry and on spray-can uses, on the one hand, and possibly climatic impacts and more certain skin cancer increases, both very small for a short delay, on the other—has inevitably to be made by those who decide for the whole of each country concerned, in the United States by its Congress and President.

The report stresses the fundamental importance, clearly illustrated in this case but much more widely applicable, of conducting such regulation use by use. It is not sufficient to label a substance "good" or "bad." We often need, as we do here, to look use by use to see how important each is to human living—often, as here, to human health—and compare this with the size of the unfavorable impacts from that use. To begin to do this is not easy, but our world is complex enough to force us to face such difficulties more and more frequently.

Having laid open the facts as best it can and stressed the fundamental importance of regulation use by use, the scientific community as represented through the National Academies of Sciences and Engineering and the National Research Council, can, we believe, properly leave decisions about timing, in this country, to the Congress of the United States. (Individual scientists and engineers will no doubt wish to participate in the debate from a variety of points of view.)

U.S. FOOD POLICY AND THE THREAT OF EXPORT EMBARGOES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 60 minutes.

Mr. ALEXANDER. Mr. Speaker, the scheduled convocation of the International Soybean Fair of 1976 on Tuesday, September 21, in the Caucus Room of the Cannon House Office Building gives us an opportunity to reflect on the value of food, the contribution of the American farmer, and the present shortcomings of American food policies.

The American farmer has long earned and deserved the respect and appreciation of the American people for his ability to produce the food and fiber the Nation needs. Now, people around the world look to his productivity to supply the balance of their food needs as well.

However, our farmers have not received fair and equitable treatment by Government policies under the Ford and Nixon administrations. When they have produced to their full capacity in response to Government encouragement, they have run up against administration policies that have prevented them from earning a fair return on their investments of time, money, and effort. An example is the moratorium on grain sales to Russia and Poland that the Ford administration imposed last summer and fall. It was unnecessary and very costly to our farmers.

The Government cannot continue to adopt disruptive measures that work against the efforts of our farmers such as the grain embargoes and export re-

strictions of the past few years and expect to be able to meet the world's food needs. Those needs are critical and ever increasing. Export embargoes and other such measures threaten our farmers as well as food consumers worldwide.

Today it is estimated that there are 4 billion people on the earth. There will likely be between 6.5 and 7 billion by the year 2000. At present, more than 440 million malnourished human beings are seeking food. The need is evident—we must achieve a policy of full food production.

The future offers the opportunity for expansion of food production and the establishment of markets abroad. In the September issue of the highly respected publication, Scientific American, the entire copy is devoted to the problems of food and agriculture. The lead article by Sterling Wortman, president of the International Agricultural Development Service, and recipient of last year's award for international service in agronomy from the American Society of Agronomy, makes clear that nothing less than full and increasing agricultural production in both the rich and poor countries will prevent future famine.

Worldwide demand for food is increasing at a rate of between 2 and 3 percent yearly—but food production and supplies are not keeping pace. Food production worldwide must increase 75 percent during the next 25 years just to maintain present food/population ratios.

World food reserves have declined from over 150 million metric tons of grain in 1972 to just over 80 million tons at the beginning of 1976. There is presently less than a 60-day supply of grain available and this year's grain crop will be no larger than the 1973 crop by all predictions I have seen. Our farmers can and will produce more, but only if they are assured that the markets they have and the risks they have taken are not undermined by Government actions such as embargoes.

Despite new recognition of the importance of American agriculture in the context of a continuing world food crisis, we as a nation still do not have a policy of full food production that serves the interests of both farmers and consumers and will be workable in the long run.

Rather, the record of the Ford and Nixon administrations in the past 7½ years has been one of shortsighted and clumsy reaction to shortages and pressures with no vision of where the country as a whole or its farmers are going. With the present stop-and-go policy and the record of relying on grain embargoes at regular intervals, the goal of a workable food production policy cannot be achieved or maintained.

The prospect of full food production interrupted by Presidential embargoes is a breach of faith with the American farmers.

I want to recommend that Congress and the executive branch begin immediately to create a comprehensive and workable full food production policy capable of providing the guarantees of adequate price, market, and credit that will allow our farmers to produce at a maximum and ever increasing volume. This is the most important step that can be taken in meeting the world food crisis.

A full production policy can only be accomplished by assuring our farmers that they will not be forced to assume the entire burden of investment, risk, and loss if the conditions that led to past embargoes arise again. Make no mistake about it, nothing has been more destructive to the plans and performance of the American farmer in the recent past than export embargoes.

We all know that, in one form or another, the Ford and Nixon administrations placed restrictions on grain exports in 1973, 1974, and 1975. In each case, the market price for the embargoed commodities was shattered and our farmers lost millions of dollars. They alone absorbed the loss. The consumers did not lose and the grain companies maintained their profit margins. None of them offered to share the loss with the farmers—nor did the Government.

We cannot establish and maintain a policy of full food production under these conditions. The American farmer is willing to compete and take his risks in the marketplace, but not under conditions and rules that continually put all the risks, costs, and losses on him. The continued use of embargoes and moratoriums is the single most destructive action affecting full food production and threatens farmers with economic disaster.

Therefore, we as a nation must squarely confront the issue of embargoes. Both President Ford and Governor Carter have recently gone on record as, in principle, against grain embargoes. Both also say that, of course, they would act to preserve our food supply in times of national disaster and would use embargoes in extreme emergencies or crop failures at home.

Farmers understand this. There may be times when Presidents have no choice. But, if we are to adopt such measures, they must be infrequent, not yearly as President Ford and President Nixon have done.

Furthermore, and most important, our farmers must not be forced to shoulder the burden and losses alone at such times. A national policy and appropriate mechanisms must be created that will distribute the costs in a way that will achieve fairness for farmers and will not harm the overall goal of full agricultural production. Under the present rules, this cannot be done.

There are two possible and alternative solutions that could provide immediate relief to farmers fearing the reimposition of embargoes. I would strongly recommend that each of these be given thorough consideration by all persons concerned with maximizing the ability of our farmers to produce and with increasing the world's available food supplies.

One promising change would be the automatic imposition of a price-freeze on commodities at preembargo levels. This would prevent the drastic decline that past embargos have caused in market prices. All commercial and governmental buyers would be required to pay the preembargo price when the embargo was lifted. If it is in the national interest for the President to impose an embargo, then the burden of the embargo should be shouldered by the nation-at-large rather than just by the farmers.

An alternative that would not require the use of price controls would be for the Government to pay the difference between the preembargo price and any postembargo price declines, based on some formula that takes into consideration the shock effect of the embargo and projected prices, had the embargo not occurred.

Each of these measures would require that Congress change the present law. If we had more decisive national leadership on these or similar measures involving future food policy, I am certain that there would be a strong and enthusiastic response from our farmers that would carry over into Congress.

An additional aspect of present agricultural policy must be considerably modified if we are to insure the long-term financial security of our farmers and assure their ability to produce the food the world needs. We must have a means of controlling or compensating for cost inflation in agriculture.

Both the general public and public officials should have impressed upon them the fact that appearances of present farm prosperity are false and illusory. Financial risks have never been greater and costs continue to escalate. Beef and dairy farmers continue into the fifth year of their depression with no end in sight. Grain farmers face ruin if there is any interruption of export markets. The historical pattern of low returns on large investments continues for most farmers.

Inflation in costs of production must be taken into consideration in the writing of a new farm bill and in the establishment of loan levels. Price increases for seed, fertilizer, services, labor, taxes, and other fixed costs must be taken into account.

Agricultural programs must be refined to more accurately reflect the costs the farmer faces and will expect to face in the future. A crop loan program that can maintain the incentive to produce while providing greater assurances against crop losses during intervals of slack demand will do more to stabilize and expand agricultural production than all the speeches by Secretary Butz about full production and planting from fence post to fence post.

I want to conclude by saying that I do not think this country will be faced by any set of decisions that will be more important than food policy for our long-term security and for the long-term well being of the people on this planet.

Food is America's most valuable product and the farmer is the linch-pin of human survival. The farmer's success can no longer be taken for granted and his security can no longer remain at the bottom of Government priorities. This will be both the challenge and the opportunity of the new era that is upon us.

SOLARZ URGES PRESIDENT NOT TO EXTEND DIPLOMATIC RECOGNITION TO THE TRANSKEI

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, on October 26, 1976, the Republic of South Africa intends to declare the territory of the Transkei independent. This step is the first part of a plan to create 10 separate homelands or bantustans in South Africa to which all blacks in the country would be assigned.

The homelands policy, which is the major prop in the whole foundation of the repressive apartheid policy, is designed to safeguard the supremacy and survival of the white regime by enabling the Government of South Africa to deprive the blacks of the rights to which they otherwise would be entitled on the grounds that they are visitors in, rather than citizens of, South Africa. This policy would affect all blacks, even those who have lived and worked in South Africa all their lives.

Under the homelands policy, the blacks of South Africa, who constitute over 70 percent of the total population, would be assigned to citizenship in areas which comprise only 13 percent of the land area of the country—and, I might add, land which is generally far from the major areas of industrial or mineral wealth. What is more, there has never been a referendum to determine if the blacks want citizenship in the homelands to which they would be assigned, let alone whether they favor the homelands policy itself.

A recent newspaper report has suggested that Secretary of State Kissinger, as part of his current round of negotiations concerning southern Africa, might be prepared to offer U.S. recognition to the Transkei as part of a package of incentives for South African Prime Minister Vorster to encourage him to aid in a peaceful transition to majority rule in Namibia and Rhodesia. I believe that such a policy would be a disastrous mistake, both diplomatically and morally.

A more detailed discussion of the issue is contained in a report filed by the International Relations Committee to accompany a resolution I introduced to urge the President not to extend diplomatic recognition to the Transkei territory.

Mr. Speaker, I include the report in the RECORD followed by a New York Times article of September 8, 1976 discussing the Transkei situation:

URGING THE PRESIDENT NOT TO EXTEND DIPLOMATIC OR OTHER RECOGNITION TO THE TRANSKEI TERRITORY

PURPOSE

The principal purpose of the resolution is to encourage the President not to extend diplomatic recognition to the Transkei territory, the first of the bantustans or homelands in South Africa slated for independence, when the Republic of South Africa declares the territory independent on October 26, 1976.

COMMITTEE ACTION

On August 31, 1976, Stephen J. Solarz introduced House Resolution 1509 to urge the President not to extend diplomatic or other recognition to the Transkei territory. The resolution was also sponsored by 13 other members of the International Relations Committee, including Mr. Biester, Mr. Bingham, Mr. Buchanan, Mr. Diggs, Mr. Fascell, Mr. Findley, Mr. Fraser, Mr. Harrington, Mrs. Meyner, Mr. Nix, Mr. Riegle, Mr. Ryan, and Mr. Studds. The resolution was referred to the Committee on International Relations.

The Committee on International Relations considered House Resolution 1509 in an open markup session on September 1, 1976, and by voice vote ordered it reported favorably to the House.

The House International Relations Subcommittee on International Resources, Food, and Energy under Chairman Charles C. Diggs previously had held hearings May 25, June 8 and 9 on "Resource Development in South Africa and U.S. Policy."

BACKGROUND

On October 26, 1976, the Republic of South Africa intends to declare the territory of the Transkei independent. This move would be the first part of the South African plan to create 10 separate homelands or bantustans in South Africa to which all blacks within the country would be assigned on the basis of ethnic origin. The homelands policy, which is the major prop in the whole foundation of apartheid, is intended by the South Africa Government to "solve" its simmering black-white confrontations over the apartheid policy which has brought virtually total condemnation from the rest of the world.

Under the apartheid system, blacks within South Africa have no representation in Parliament, cannot leave their own community for more than 72 hours, and cannot live with their own families unless they have resided in the area in which they work all their lives or have worked there continuously for at least 15 years. For millions of black contract laborers in South Africa, this means they can only see their families for several weeks a year. There is little doubt that the black South Africans are among the most repressed people in the world. Yet the economy of South Africa, which has achieved a high degree of wealth in the country as a whole, has been built with the vital ingredient of black labor.

The policy of apartheid has not only brought down upon the South African Government virtually universal disapproval from other countries but has also caused widespread bitterness among South African blacks. The growing sense of rage and frustration was openly exhibited in the riots that recently swept Soweto and other black townships within South Africa.

To compound the problems of the Government of South Africa, the buffer of white-ruled states that helped to insulate the country from the black nationalism which has swept the African continent has begun to disappear with the fall of the colonial regimes in Angola and Mozambique, the likely collapse of the Smith government in Rhodesia, and the future independence of Namibia, or South-West Africa.

The South African Government's response to the pressure building against its social and political system has been to reaffirm its commitment to the homelands policy. In theory, the independence of black-ruled areas might be welcomed as a victory for self-determination. In reality, however, the establishment of the homelands is designed to safeguard the supremacy and survival of the white regime by enabling the Government to deprive the blacks of the rights to which they otherwise would be entitled on the grounds that they are visitors in, rather than citizens of, South Africa—even though they may have lived and worked in South Africa all their lives.

There are, in this regard, several reasons why the implementation of the homelands policy is a step backward rather than forward:

(1) The black population of South Africa, which constitutes over 70 percent of the total population, would be assigned citizenship in areas which constitute only 13 percent of the land area of the country.

(2) The land assigned to the bantustans is far removed from the major areas of industrial or mineral wealth within South Africa.

(3) The South African Government intends to deprive blacks living in white areas of South Africa, even if they continue to work and live thereof, of their South African citizenship once their tribal homelands are declared independent. Even the approximately 6 million urban blacks who constitute the backbone of the industrial labor force will lose their South African citizenship, thus becoming foreigners in their own native country.

(4) The South African Government has never conducted a referendum to determine if the blacks want citizenship in the homelands to which they are assigned rather than in South Africa, let alone whether they favor the homelands policy itself.

THE TRANSKEI

The Transkei territory would be the first territory made independent under the South African policy. The territory stretches westward from the Kai River to Natal and northward from the Indian Ocean to Lesotho and the Orange River. The three parts to the territory cover nearly 17,000 square miles, or an area roughly the size of Denmark. The freed area would provide citizenship for about 3 to 4 million people, and will include the Xhosa-speaking people. The Transkeian authorities have reported that in 1973 there were 64,700 people employed within the Transkei.

Chief Minister Kaiser Matanzima of the Transkei and his political party are supporting the South African policy for independence in the territory. However, Matanzima maintains his control in the territory with the help of an emergency proclamation issued in 1960 which gives him authority to ban meetings, to detain people indefinitely without trial, and to deny free speech or movement. Matanzima used his extraordinary powers recently to arrest the leading members of the opposition party in the Transkei who oppose independence. The urban Xhosas who live and work in areas of South Africa far removed from the Transkei have not been asked if they favor independence for the territory "assigned" to them, nor has there been any attempt to determine if the rural Xhosas within the Transkei desire independence.

After the South African Government announced its policy to set October 26, 1976 as the date of independence, the United Nations General Assembly special political committee in November of 1975 adopted by 100 to 0, with 8 abstentions, a resolution condemning "the establishment of bantustans as designed to consolidate the inhuman policies of apartheid, to perpetuate white minority domination and to dispossess the African people of South Africa of their inalienable rights in their country." The resolution further calls on "all Governments and organizations not to deal with any institutions or authorities of the bantustans or to accord any form of recognition to them."

The complete text of the resolution follows:

"BANTUSTANS

"Text of resolution 3411 D (XXX) adopted by the United National General Assembly on 29 November 1975

"The General Assembly,

"Recalling its resolution 2775 E (XXVI) of 29 November 1971 and subsequent resolutions by which it condemned the establish-

ment of bantustans by the racist régime of South Africa,

"*Taking note* of the manoeuvers of the racist régime of South Africa to proceed with the establishment of bantustans in the Transkei and other regions,

"*Reaffirming* the legitimacy of the struggle of the South African people, under the leadership of their national liberation movements, by all means possible, for the total eradication of *apartheid* and for the exercise of their right to self-determination,

"1. *Again condemns* the establishment of bantustans as designed to consolidate the inhuman policies of *apartheid*, to perpetuate white minority domination and to dispossess the African people of South Africa of their inalienable rights in their country;

"2. *Reaffirms* that the establishment of bantustans is a measure essentially designed to destroy the territorial integrity of the country in violation of the principles enshrined in the Charter of the United Nations;

"3. *Calls upon* all Governments and organizations not to deal with any institutions or authorities of the bantustans or to accord any form of recognition to them."

The Organization of African Unity has likewise declared its firm opposition to the independence of the Transkei. The Council of Ministers of the Organization of African Unity meeting in late June and early July of 1976 rearmed this policy and urged all governments "not to accord recognition to any Bantustan, in particular, the Transkei whose so-called independence is scheduled for the 26 October 1976."

The complete text of this resolution follows:

"CM/RES. 493(XXVII)

"RESOLUTION ON NON-RECOGNITION OF SOUTH AFRICAN BANTUSTANS

"The Council of Ministers of the Organization of African Unity meeting in its Twenty-Seventh Ordinary Session in Port Louis, Mauritius, from 25 June to 3 July 1976,

"*Considering* that the Pretoria régime is accelerating its policy of Bantustanization, the cornerstone of *Apartheid* designed to ensure the balkanization, tribal fragmentation and fratricidal conflict in South Africa to the benefit of white supremacy.

"*Reaffirming* the OAU's sacred commitment to the principles of territorial and national integrity of all territories under foreign domination and fighting for liberation and self-determination.

"*Recalling* previous resolutions of the OAU the non-aligned movement and the United Nations against the Bantustan policy,

"1. Rearms the OAU's condemnation and rejection of the Bantustan policy and urges all Member States to refrain from establishing contact with the emmissaries of the so-called Bantu Homelands;

"2. Invites all States and in particular Member States of the OAU in their totality not to accord recognition to any Bantustan, in particular, the Transkei whose so-called independence is scheduled for the 26 October 1976;

"3. Declares that violation of this collective commitment by any Member State will be seen as a betrayal of not only the fighting people of South Africa but the entire continent;

"4. Commits the OAU through the General Secretariat the African Group to the United Nations and African diplomatic representatives throughout the world to wage a concerted campaign to dissuade all UN Member States from recognizing this fraudulent pseudo-independence."

The fate of the Transkei is a test case for the whole Bantustan policy. If the Transkei fails to gain international recognition after October 26, 1976, there is a possibility that the South African Government will not proceed to the establishment of the other nine homelands.

The United States has so far refrained from formally endorsing or opposing the granting of independence to the Transkei. However, Secretary of State Henry Kissinger recently enunciated a new American policy toward Southern Africa in which he called for the elimination of apartheid and is presently engaged in a series of delicate negotiations to find a peaceful resolution to the conflicts over Rhodesia and Namibia. Since U.S. recognition of the Transkei would objectively serve to legitimize the very policy which Secretary Kissinger has said "is incompatible with any concept of human dignity," it seems fair to say that the establishment of diplomatic relations with the Transkei would undermine our own policy objectives in the area.

United States recognition of the independence of the Transkei after October 26 would also cause severe damage to America's standing in black Africa and potentially could endanger our current efforts to secure the support of the black African governments for a negotiated transition from minority to majority rule in Rhodesia. It would, in short, be a moral miscalculation and diplomatic disaster of incalculable proportions.

House Resolution 1509 attempts to avoid the pitfalls of such a policy by expressing the sense of the House of Representatives that the President should refrain from according diplomatic or any other kind of recognition to the Transkei. It also makes it clear to the people of Africa, as well as the rest of the world, that the House of Representatives is firmly opposed to the discredited policy of apartheid and this transparent effort, through the independence of the Transkei, to prop it up.

[From the New York Times, Sept. 8, 1976]

TRANSKEI, AS IT PREPARES FOR INDEPENDENCE, FINDS ITSELF TO BE OUTCAST AMONG NATIONS

(By John F. Burns)

UMTATA, SOUTH AFRICA, Sept. 6.—When the bull-crested banner of the Transkei is raised here on Oct. 26, signifying the independence of Africa's newest country, the band will strike up "Nkosi Sikeleli Afrika," or "God Bless Africa." But Africa, and most of the world, will be looking the other way.

The new country, carved out of South Africa, will cover 14,300 square miles, making it nearly as big as Denmark. It will have a population of three million, comparable to that of Israel. Its terrain, as beautiful and fertile as any in Africa, will be enhanced by a 155-mile coastline on the Indian Ocean. Compared with many countries of the third world, its economic potential will be strong.

The Transkei, however, will be a pariah. Already, its black leaders are diplomatic lepers, shunned in Europe and North America, ridiculed in debate at the United Nations. By present indications, the only foreign dignitaries who will attend the independence celebrations in Umtata, the market town that is hastening to make itself into a capital, are the ones at the heart of the territory's diplomatic problems, the white rulers of South Africa.

For Prime Minister John Vorster, the fluttering of the blue, white and orange flag above the bunga, or seat of the government, will represent the fulfillment of a political ideal. With the territory independent, he will have a showcase for his policy of separate development, which hinges on the creation of a series of ethnic ministates like the Transkei.

In its old guise, apartheid, South African policy was largely a matter of subordinating blacks. When this became indefensible, the Government added a compensatory dimension by offering blacks emancipation in areas called homelands, or bantustans, carved out of the old tribal domains.

When the Government carried the policy to its logical extension in 1973, offering the homelands independence, the Transkei accepted. Of the eight other territories only one, Bophutatswana, agreed to follow suit. The remainder have rejected nationhood, demanding equal rights for their citizens in South Africa as a whole.

The Organization of African Unity has demanded that the world shun the Transkei, on the ground that recognition would constitute acceptance of apartheid. The territory's leaders have countered by arguing that for three million of South Africa's 18 million blacks, at least, independence signifies escape from racial humiliation.

The Transkeians have also made much of historical argument. They point out that the Transkei existed as loosely organized tribal community as early as the 16th century, and that this territorial integrity was acknowledged by special political arrangements from the time that the British annexed the territory in 1879.

TOO RICH A PRIZE

Chief Kaiser Matanzima, scheduled to become prime minister at independence, notes that similar historical antecedents led the British to set aside three territories as protectorates when the Union of South Africa came into being in 1910. These protectorates subsequently gained independence in their own right as Lesotho, Swaziland and Botswana, all members of the United Nations.

The failure of the British to give the Transkei protectorate status—and thus set it on the road to uncontested independence—was, Chief Matanzima argues, a matter of political expediency. The Transkei, large, lovely, and encompassing some of the most coveted land in the country, was too rich a prize to deny the South Africans, he says.

The arguments have won some favor among Western diplomats, including some in the State Department. But United States officials conceded early on that recognition of the Transkei was out of the question so long as black Africa stood solidly against it, and whatever chance there was of a break in the African front died when antiapartheid fervor erupted this summer in Soweto.

The status of blacks living outside the homelands is a major factor in the diplomatic equation, for the theory of separate development holds that each of them—10 million in all—belongs to the homeland assigned to his ethnic or language group. To hammer this policy home, the Government insists that they will all eventually become citizens of their respective homelands, whether they have ever been there or not.

TO LOSE CITIZENSHIP

In the case of the Transkei, the law authorizing its independence specifies that all blacks with language ties to the territory will lose their South African citizenship on independence day. In theory, the provision strips 1.3 million blacks who speak Xhosa—the "click" language made famous by the singer Miriam Makeba—of any claim to rights as South Africans.

"We're in a real bind, aren't we?", says Mhlaleni Njisane, who is scheduled to be the Transkei's first ambassador to South Africa, probably the only diplomatic post the country will have. "For us, independence is a chance to break the shackles of apartheid. If we reject it, to show that we reject apartheid, the shackles could last forever."

Mr. Njisane, who became a United States citizen during a 16-year teaching stint at American colleges, makes another argument for international recognition of the territory: that an independent Transkei will be a beachhead for the antiapartheid forces. "I can see people saying to Vorster, 'What

kind of Frankenstein monster have you created,' he says. "Well, if we have to be a Frankenstein monster in that sense, we'll have to be."

Mr. Njisane is quick to add that the anti-apartheid measures he envisages will be restricted, at least initially, to verbal assaults. "We'll have to go all out to make South Africa understand where we stand," he says. "We may have to pay a price for it, but if South Africa begins to understand that her nearest neighbor stands four-square against apartheid, it may very well assist the process of change."

THE RULE TO BE REQUESTED FOR CONSIDERATION OF TITLE II OF H.R. 9067

(Mr. ULLMAN asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ULLMAN. Mr. Speaker, title II of H.R. 9067 amends the Internal Revenue Code to extend the present 11 percent excise tax on firearms and prefabricated ammunition so as to apply to ammunition component parts.

I take this occasion to advise my Democratic colleagues in the House as to the type of rule which I will request for consideration of title II of H.R. 9067 on the floor of the House. On September 14, 1976, the Committee on Ways and Means instructed me to request the Committee on Rules to grant a closed rule for consideration of title II of H.R. 9067 which would provide for committee amendments which would not be subject to amendment, and which would provide for 30 minutes of general debate, to be equally divided. No waiver of points of order on title II is requested.

It is our intention to request a hearing before the Committee on Rules concurrently with the Committee on Merchant Marine and Fisheries.

OUTER CONTINENTAL SHELF LEGISLATION

(Mr. MURPHY of New York asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MURPHY of New York. Mr. Speaker, in the little time which remains during this session of the 94th Congress, a number of important bills still require our serious consideration. One of the most critical pieces of legislation still pending is S. 521, a bill which would establish a modern regime for the management of the oil and gas resources on our Outer Continental Shelf. Soon, at the request of the Senate, we will convene a conference committee to reconcile the differences between the House and Senate versions of the bill.

As my colleagues know, the House bill, H.R. 6218, was fashioned by a special committee created by this body to cut through potential conflicts among a number of committees with jurisdiction over the OCS. The Ad Hoc Select Committee on Outer Continental Shelf has established an extremely strong record over the last 18 months, during its careful deliberations on this complex issue.

During the many phases of the committee's work, the members and staff have made concerted efforts to cooperate in good faith with the administration and, in particular, the Department of the Interior. We have worked diligently with representatives of the Department to find as much common ground as possible so that the Congress and the administration together could revise OCS oil and gas leasing policies for the good of the American people. The extent to which the Congress has fulfilled its responsibility can be seen from the strong support given to this legislation in the Senate—67 to 19 vote—and in the House—247 to 140 vote.

Unfortunately, the administration continues to make every effort possible to obstruct the progress of the OCS legislation—while superficially indicating its willingness to cooperate with Congress.

In this regard, there are a number of interesting similarities between S. 521 and S. 391, the Federal Coal Leasing Amendments Act of 1975, which the Congress recently enacted overriding a Presidential veto. A detailed comparison of the coal leasing and OCS bills, with an enumeration of the negotiations with the administration on both pieces of legislation, can be found in the CONGRESSIONAL RECORD of August 9, 1976.

The strong congressional override of the coal leasing amendments veto, with a 316 to 85 vote in the House and a 76 to 17 margin in the Senate, is a clear manifestation of the intent of this Congress to update and rationalize the management of our Nation's critical energy resources. Unfortunately, as the August 9 issue of the RECORD points out, and the veto override makes clear, the Congress must frequently establish new statutory regimes for the efficient and equitable management of our energy resources despite—not with the assistance of—the administration.

During the development of the OCS bill, for example, a number of letters were received by the committee from Secretary of the Interior Thomas S. Kleppe on this matter. A February 19, 1976. correspondence listed 14 changes in H.R. 6218 which "might make the bill acceptable." In our effort to operate in good faith, nine of his recommendations were accepted in full and five others were accepted in part.

This was followed by an April 22, 1976, letter in which the Secretary stated his concern about provisions on which I did not comment in my earlier letter. At a subsequent meeting with representatives of the Interior Department, 10 additional demands were made and this was followed by the submission of 39 more amendments by the administration.

I proposed, as amendments on the floor, 15 of these changes in total and six more in part. Additionally, I opposed attempts to incorporate other provisions that Secretary Kleppe had earlier indicated were unacceptable.

But the Interior Department was not finished yet. After passage of the House bill on July 21, the staff requested further comments. It was not until August 26, 1976, in a letter to Senator JACKSON that we heard from the Department—and 13 "must" and other "noncritical" changes were listed.

It appears, therefore, that for every stage in the legislative process through which the OCS bill passes, the administration has a new package of amendments to submit. Obviously this could go on ad infinitum so that Congress is forced to adjourn before considering this important legislation. The net result would be a continuation of the Interior Department's antiquated method of leasing and managing this Nation's OCS oil and gas resources—a result which appears to be what the administration really desires.

To document the series of efforts made by the committee to reach an equitable resolution of this issue, I am inserting in the RECORD a copy of Secretary Kleppe's letter of August 26 to Senator JACKSON and my response to it. Supporting evidence, including an item-by-item discussion of each issue in question, is also included.

After reviewing these documents, I know that the Members of this body will agree that the Congress has made every conceivable effort to accommodate the major conecrns of the Interior Department. If the administration continues to oppose the bill both during and after the conference committee, its "good faith" in negotiating with us will be highly suspect. As with the coal leasing amendments, Congress has the power to respond to such obstructionism.

The material follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., August 26, 1976.

Senator HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: The Congress is now considering final action on S. 521, amendments to the Outer Continental Shelf Lands Act, which was passed by the Senate and amended by the House of Representatives. I wish again to emphasize the Administration's strong opposition to provisions of these bills. We have objected consistently to these provisions in our formal reports and testimony, in repeated letters, and in many staff conversations. In addition, we have supplied detailed amendments with an indication of which ones we considered to be essential. Unfortunately, most essential amendments have not been adopted, and as a result I must again register the Administration's strong opposition to passage of the bills as now written.

The Senate version is objectionable to the Administration in almost every section. Its deficiencies are so many and so serious that only complete revision would make it acceptable. The House amendment, while omitting certain provisions of the Senate version, contains a number of provisions which would be wasteful, unwise and disruptive of orderly and balanced development of the nation's offshore oil and gas resources. These provisions would extend the period of time from initial leasing until production thereby delaying the availability of oil and natural gas as well as significantly reducing the value of revenues to the Federal Government.

These House provisions include the following:

1. *Development plan disapproval and lease cancellation* provisions which rule out any consideration of the advantages of continued operation.

2. *Bidding system experimentation* requirements rigidly set at excessive and costly levels and including a one-house approval procedure which would infringe on the Con-

stitutional responsibilities of the Executive Branch.

3. *State information requirements* which ignore considerations of availability, relevance, and damage to competitive position.

4. *Joint leasing with States* of Federal lands, thereby overturning the basic jurisdictional tenets of the OCS Lands Act.

5. *Alterations in health and safety regulation* which fragment responsibility and require uneconomical over-regulation of industry.

6. *Recommendations of Governors and Regional Advisory Board* are required to be accepted except when in conflict with national security or overriding national interest.

7. *Baseline and monitoring studies* are shifted from Interior, where they are now managed to serve the priorities of the OCS leasing program, to the Department of Commerce.

8. *Coast Guard marking of obstructions* is made mandatory rather than discretionary as it is under present law.

9. *Due diligence* is required on *all* leases held by an applicant for award or extension of any single lease.

10. *Citizen's suit provisions* could offer opportunities for nuisance suits not possible under similar provisions in other Acts.

11. *Mandatory on-structure stratigraphic testing* before leasing in each frontier area.

12. *Congressional review of rules and regulations* which would permit a veto by either House—an unconstitutional infringement.

I will elaborate briefly on each of these provisions whose change is essential to achieving an acceptable bill.

1. The provisions for disapproval of development or cancellation of a lease permit consideration only of the advantages of such action, not of the disadvantages. This failure to permit the balancing of the gains and losses from cancellation or disapproval may force cancellation of leases even though countervailing advantages of continued operation make it clearly in the public interest not to do so. Furthermore, the provisions do not require that the hazards which justify disapproval of development or lease cancellation must have been unanticipated by the Secretary at the time the lease was issued.

2. The bill requires that one-third of all frontier acreage be devoted to new untested bidding systems unless one House of Congress approves a waiver. The Department of Justice has consistently found that such a procedure is an unconstitutional infringement of the responsibilities of the Executive Branch. Our analysis indicates that experimentation with new bidding systems can be extremely costly both to the government and to the energy-consuming public. We have no objections to being directed to conduct experiments as we have done in the past, but it would be irresponsible to devote more acreage to them than necessary to test the effectiveness of new systems. The requirement now in the bill goes far beyond what is necessary and makes approval of a waiver by Congressional action very unlikely. The result could well be the needless loss of a substantial amount of public revenue and a substantial volume of oil and gas, and waste in the form of delays, inefficient exploration and development methods, and added administrative expense.

3. The bill sets up an impractical and unlimited requirement for provision to States of information which may be proprietary, regardless of consequences to companies which may be injured thereby. The Secretary must provide a State with "all information" concerning lands within three miles of the State, regardless of whether the information is relevant, whether the Secretary possesses it, or whether its provisions would be barred under confidentiality rules elsewhere in the bill. Furthermore, a State must be given access to privileged information gathered by companies regardless of the effects which the access would have on the competitive positions of these companies. Maintenance of proper incentives to explore adequately the OCS is totally dependent on proper protection of the legitimate proprietary interest of the companies doing and paying for the exploration. These provisions would seriously undermine those incentives, reduce competition, and hamper our learning about the presence and value of significant OCS oil and gas resources.

4. The bill permits States to become "joint lessor" with the Federal Government of the first three miles of Federal waters. The joint lease concept results in the States acquiring control over the leasing of those lands when it becomes joint lessor of them. This raises major problems in that it potentially upsets the basic division of Federal-State jurisdiction which was enacted in the original passage of the OCS Lands Act. The Administration has offered fully adequate substitute language which protects States from loss of revenue due to drainage of their lands by developments on adjacent Federal lands, but does not involve the troublesome concept of joint leasing.

5. The bill totally confuses the assignment of responsibility for regulation of safety and health by giving the same duties to two and sometimes three separate agencies. Further, it includes restrictive, unnecessary and unwise requirements on the degree of safety that must be included in new regulations and on use of the best available and safest technology.

6. The bill requires that recommendations made by Governors and Advisory Boards be accepted except when in conflict with national security or overriding national interest. This would place a burden upon the admtistration of the OCS leasing program which is inconsistent with the balanced objectives of the Act and could seriously hamper the achievement of the national benefits of developing this federally owned resource by making its management subservient to regional and local interests.

7. The transfer of responsibility for baseline and monitoring studies from Interior to Commerce (NOAA) would not significantly improve the scientific validity of these studies because NOAA currently provides advice concerning their design and helps in their conduct. It would, however, isolate control of the studies from decisions that must be made during the course of leasing and development.

8. Requiring marking of all obstructions to navigation on the OCS would result in an excessive deployment of navigational aids and marks which is costly and confusing to the navigator. The requirement would also expose the government to damage claims whereas the discretionary authority under present law does not.

9. The bill would condition the issuance or extension of a lease upon the applicant's due diligence on other leases. This provision will not add substantially to the requirements for due diligence on individual leases though it may create legal problems regarding the status of joint leases.

10. The citizen suits provisions, unlike those included in other Acts, grant standing to persons whose interests "can be" affected by administration of a government program. This could increase the number of nuisance suits which would unproductively burden both the courts and the Department.

11. By requiring that permits for constructure stratigraphic drilling be offered before sale of leases, the bill would increase pressures for government exploration to be conducted before the sale in those cases in which oil was found. Such a program would be unnecessarily costly and disruptive and would unnecessarily inject the federal government into a basic industrial role.

12. The congressional review of rules and regulations would effectively permit either House of Congress to veto regulations issued under the Act. This is similar to provisions in other legislation which the executive branch has opposed because the Department of Justice has consistently found that they infringe on the Constitutional responsibilities of the executive branch. Such provisions are contrary to the concept of separation of powers embodied in Article I, section 7 of the Constittuion.

The specific elements of our objections to the bills are well known to the Congress, and have been provided in detail in writing. In particular the Administration's position on H.R. 6218 as reported by the Ad Hoc Committee on the Outer Continental Shelf was indicated on May 11, 1976, in a package of 39 suggested amendments, 19 of which were listed as critical. The objections raised above cover individually or in groups those 14 of the 19 critical amendments which were not adopted by the House, plus our concern with the added provisions for Congressional review of regulations. I am enclosing an update of our May 11th package of proposed amendments which further details our concerns with an recommended improvements to S. 521 as passed by the House and also includes 8 of the 20 non-critical amendments that have not been accepted. Our position has been and remains that the bills are unacceptable without substantial change along the lines we have urged.

In addition to the OCS Lands Act amendments discussed above, the Administration is still concerned about the oil spill liability provisions of Title III and has expressed its views both in connection with this OCS legislation and separate liability measures, including H.R. 9294 and S. 2162, the Administration proposals. As passed by the House, S. 521 requires unlimited liability for the clean-up costs incurred when oil is spilled from an off-shore facility or vessel. This places an undue burden and an uninsurable risk on the facility or vessel owner. This burden is especially heavy on smaller companies and is therefore anti-competitive. As an alternative, the Administration would support a limitation on liability for clean-up costs and damages similar to that provided by H.R. 14862, the "Comprehensive Oil Pollution Liability and Compensation Act of 1976," which has been reported by the House Merchant Marine and Fisheries Committee.

I would like to emphasize, as I have done repeatedly on earlier occasions, that the law under which OCS leasing now takes place is a fundamentally sound one and the program is operating effectively, efficiently and in the public interest. Some changes were made prior to current Congessional consideration and in addition some suggestions which have been made during the Congressional consideration of this subject have also been adopted by the Department and the Administration. We are willing to support acceptable legislation on these. The Administration remains open to suggestion for improvement but we cannot responsibly accept the serious disruptions to the leasing program which would further defer domestic energy sufficiency and which would occur if these bills as now written become law.

The Office of Management and Budget has advised that there is no objection to the submission of this report and that enactment of either bill in its present form would not be in accord with the program of the President.

Sincerely,

THOMAS S. KLEPPE,
Secretary of the Interior.

(Identical letter sent to Senator Fannin, Congressman Murphy, Congressman Fish).

ADMINISTRATION AMENDMENTS TO S. 521 AS AMENDED BY THE HOUSE*

(*Page and line numbers refer to the Committee Print comparing the Senate version of S. 521 with the House amendments. Amendment numbers correspond to those used in

the May 11, 1976 set of Administration Amendments to H.R. 6218.)

*AMENDMENT 1: SUSPENSION, CANCELLATION OF LEASE, DISAPPROVAL OF DEVELOPMENT PLAN, AND COMPENSATION

In Section 5(a)(2), strike page 150 line 21 through the first comma in line 4, page 151, and substitute therefor the following:

(2) for the cancellation of any lease by the Secretary in his discretion, if (because of a high probability of severe harm or damage unanticipated in kind or degree by the Secretary at the time such lease was issued, arising from exceptional geologic conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances) the Secretary determines that operations under the lease would cause harm or damage sufficiently severe to be unacceptable after taking into consideration the advantages of continuing such operations,

In Section 25(g)(1)(C), strike lines 1–5 on page 139, and substitute therefor the following:

(C) if (because of a high probability of severe harm or damage unanticipated in kind or degree by the Secretary at the time such lease was issued, arising from exceptional geologic conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances) the Secretary determines that the plan cannot be modified to reduce the potential for harm or damage sufficiently to make it acceptable after taking into consideration the advantages of development and production from the lease.

Rationale

This amendment makes two key changes in the provisions now in the bill for lease cancellation, development plan disapproval, and compensation. (1) The test for cancellation or disapproval allows a comparison of the hazard with the advantages of continued operations. (2) The hazards must have been unanticipated by the Secretary at the time the permit or lease was issued.

First, no lease should be cancelled, or development plan disapproved, without full consideration of *both* the advantages and disadvantages of doing so. The provisions now in the bill would permit consideration of only the advantages.

Second, a lease should not be in jeopardy of cancellation because of a hazard which was anticipated at the time the lease was issued. Under the provisions now in the bill, a lease could be cancelled even though no new information had appeared, and even though a decision had been made to issue the lease in full anticipation of the hazard.

*AMENDMENT 2: CONGRESSIONAL ACTION ON WAIVER OF LIMITATION ON BONUS BIDDING

Section 205 (Section 8(a)(6)(C)(ii)) line 15, page 110: After the word "limitation" strike the words "if either the Senate and House of Representatives passes a resolution of approval of the Secretary's finding" and insert in lieu thereof the words "unless the Secretary's finding is disapproved by joint resolution of Congress."

On page 113, after line 16, add a new subparagraph (xii) as follows: "(xii) The Secretary shall experimentally offer tracts for lease under the systems authorized in subparagraphs (B), (C), (D), (E), (F), (G) or (H) of paragraph (1) of this section as necessary to gain information on the merits of these systems, provided that in the case of each experimental offering he determines that the value of the information expected to be gained is sufficient to warrant any likelihood of inefficient exploration or production, delay of development, reduction of return to the treasury, or addition to administrative cost."

Rationale

This amendment would permit the Secretary to exceed the 66-2/3 percent limit on use of the bonus-bid, fixed-royalty system unless, by joint resolution, Congress disapproved. At the same time, it would direct the Secretary to experiment with other authorized bidding systems, provided he determined that the value of the information to be gained was sufficient to warrant the risks involved.

Interior has no objection to being directed to experiment with new bidding systems, provided it is not forced to do so when the risks are excessive in comparison to the information to be gained. However, the present language of the bill would compel the offer of 1.5 million acres or more per year under novel systems whose effectiveness is unproven, and it would offer no reasonable chance that the Secretary could obtain Congressional waiver of the requirement if later evidence made it appear unwise. The outcome of experiments is always uncertain, otherwise they would not be experiments. The costs of leasing a tract worth $100 million or more under an experimental system that turns out badly could be very high, and it is a serious mistake to take risks of this kind in the absence of a case-by-case finding that they are warranted.

The defect in the bill is especially serious in light of the likelihood that in Conference the 66-2/3 percent limitation could be reduced in compromise with the Senate provision, which is 50 percent.

*AMENDMENT 3: INFORMATION CONCERNING LANDS WITHIN THREE MILES OF THE SEAWARD BOUNDARY OF A STATE

Section 205(f)(1)(B), lines 14 and 15, page 121: Strike subparagraph (B) and substitute therefor the following:

"(B) all relevant information in his possession concerning the geographical and geological characteristics of such lands, subject to the provisions of Section 26 of this Act."

Rationale

The purpose of subsection 205(f) is to resolve problems created by possible drainage of oil and gas from under State lands. This amendment restricts the provision of information to the Governor under this subsection to data relevant to that purpose, and it conforms the section to the confidentiality requirement of Section 26. As presently written, the subsection requires that "all information" be provided, regardless of its relevance, whether the Secretary has it in his possession, or whether its provision is barred under the confidentiality rules of Section 26.

*AMENDMENT 5: STATE INSPECTION OF PRIVILEGED INFORMATION

Section 26(d)(2), page 29, lines 1–9: Strike all but the final sentence of paragraph (2) and substitute the following:

"(2) The Secretary shall permit inspection by an appropriate State official designated by the Governor of any adjacent coastal State, at a regional location which the Secretary shall designate, of any privileged information received by the Secretary about leased lands and regarding any activity adjacent to such State, provided the Secretary determines that such inspection would not unduly damage the competitive position of a lessee."

Rationale

This amendment applies the test of undue damage to the competitive position of a lessee to the inspection of privileged information by States. This test was originally in Committee Print No. 2 of H.R. 6218. The current language of the bill would provide no discretion to the Secretary concerning such inspection. This is particularly undesirable in the case of geological interpretations which the Secretary may have received from lessees, the confidentiality of which is of great importance, since they reveal information not merely about the lease tract, but in particular about the interpretive techniques practiced by the lessee. These interpretive techniques are trade secrets of extreme value, and the Secretary should be granted discretion to withhold them from inspection if he feels such inspection would be unduly injurious to the lessee's competitive position.

*AMENDMENT 6: FEDERAL LEASES POTENTIALLY DRAINING STATE LANDS

Section 205(f), page 121, line 4 through page 122 line 25: Strike paragraphs (2), (3) and (4) of subsection (f), and insert in lieu thereof the following:

(2) In the case of any lease issued after the date of enactment of this Section on which production may in the Secretary's judgment drain oil or gas from State lands, the Secretary shall either

(A) seek to establish an agreement for unitary development and production of the Federal and State properties, whenever such State properties have been or are about to be leased or otherwise committed to development and production by the affected State; or,

(B) whenever the State has not or is not about to so commit such properties to development and production, (i) include a term in the lease making the lessee a party to any suit for equitable division of proceeds from the lease among the lessee, the State, and the Federal government, and (ii) initiate such suit whenever he finds that drainage from State lands is occurring, except that no such term shall be included, or suit initiated, unless the State agrees to insert a similar term and to initiate similar suits concerning its own properties, where oil or gas operations on State lands may drain Federal lands.

Rationale

This amendment fully protects States from loss of revenue by drainage, and at the same time, avoids the serious difficulties inherent in the "joint lease" concept now in the bill. For a State to become "lessor" of OCS lands, it would have to acquire rights over those lands, rights which it does not now possess under the Act. The joint lease concept therefore is tantamount to extending State jurisdiction beyond three miles.

*AMENDMENT 7: RECOMMENDATIONS OF GOVERNORS AND ADVISORY BOARDS

Section 10(d), page : Strike lines 5–18 of page 91, and substitute therefor the following: "the Secretary shall fully consider such recommendations in light of national security, the desirability of obtaining oil and gas supplies in a balanced manner, and the policies, findings, and purposes of this Act. If the Secretary finds that he cannot accept such recommendations, he shall communicate, in writing, to such Board or such Governor the reasons therefor."

Rationale

The present language of the bill assumes that except in case of conflicts with national security or overriding national interest, wherever there is a disagreement between a Governor and the Secretary over the size, timing or location of a lease sale or over a development plan, the Governor is always right and the Secretary is always wrong. This is a fundamentally dangerous assumption for development decisions regarding a federally owned resource whose benefits are nationally distributed and which does not lie within the territorial boundaries of any State. It is the Secretary, responsible to the President, who has a National, not a regional viewpoint which enables him to balance the benefits and costs of one region against those of others. No Governor or regional group of Governors can be expected to judge such issues in a National perspective. Therefore, there should be no presumption that, after giving them full consideration in light of Federal policy as embodied in the Act, the

secretary must accept Governors' recommendations.

Given the protections available to coastal States under the Coastal Zone Management Act, which are reaffirmed and strengthened in this bill, and given Governors' full opportunity at important points to comment on OCS decisions, there is no need for the language this amendment removes.

*AMENDMENT 8: BASELINE AND MONITORING STUDIES

Section 20, page 85: Strike the following: Page 85, (a)(1), line 9 and 10, "of Commerce, in cooperation with the Secretary".

Page 85, (a)(2), lines 22 and 23, "of Commerce".

Page 86, (a)(3) in its entirety.

Page 86, (b), line 13, "of Commerce".

Page 87, (c), line 1, "of Commerce"; line 7, "of Commerce".

Page 87, line 9, "of Commerce"; line 13, "of Commerce".

Page 88, (d), lines 4 and 5, "of Commerce, and "to the Secretary and"

At the end of Section 20, add the following new subsection:

"(f) In executing his responsibilities under this section the Secretary is authorized and directed, to the maximum extent practicable, to enter into appropriate arrangements to utilize on a reimbursable basis the capabilities of the Department of Commerce. In carrying out such arrangements the Secretary of Commerce is authorized to enter into contracts or grants with any person, organization or entity with funds appropriated to the Secretary of the Interior pursuant to this act."

Rationale

This amendment provides that responsibility for design and direction of baseline and monitoring studies would remain where it is now, in the Department of the Interior. However, it also directs the Secretary where practicable to execute such studies through the Department of Commerce.

The Committee's intent in this Section appears to be to utilize the scientific expertise of NOAA for baseline and monitoring studies. However, the present language of the bill does so at the cost of depriving the Secretary of the Interior of control over the content, timing, and coordination of those studies. Since the purpose of the studies is primarily to provide information for Interior's decision-making needs, it would be a serious mistake to remove them from Interior's control. This amendment would provide both for utilizing NOAA's scientific expertise and for control of content, coordination and timing by Interior.

The amendment would also make clear that the Secretary of Commerce would utilize the expertise of its contractors in carrying out the studies if appropriate, and would clarify the Department of Commerce's authorization to do so under the Economy Act.

*AMENDMENT 9: SAFETY AND HEALTH

Section 208 should be amended so as to delete the proposed new Section 21 of the Outer Continental Shelf Lands Act and to substitute the following:

"Section 21 safety regulations

"(a) Upon the date of enactment of this section, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall, in consultation with each other and other agency heads as appropriate, promptly commence a study of the adequacy of existing safety regulations, and of the technology, equipment, and techniques available for the exploration, production and development of natural resources, with respect to the Outer Continental Shelf. The results of this study shall be submitted to the Congress, together with a plan of action which each Secretary proposes to take, working alone and in consultation with the other, under their respective authorities under this or other Acts, to promote safety and health in the exploration, production and development of natural resources of the Outer Continental Shelf.

"(b) In exercising their respective responsibilities for floating, temporarily fixed or permanently fixed structures for the exploration, production and development of the natural resources of the Outer Continental Shelf, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require the use of the best available and safest technology which the respective Secretary determines to be economically achievable, taking into account the incremental costs and benefits of utilizing such technology, wherever failure of equipment would have a significant effect on safety, health, or the environment, on all new drilling and production operations and, wherever practicable, on existing operations.

"(c) Nothing in this section shall affect the authority provided by law to the Secretary of Labor for the protection of occupational safety and health, the authority provided by law to the Administrator of the Environmental Protection Agency for the protection of the environment, or the authority provided by law to the Secretary of Transportation with respect to pipeline safety."

Section 208 should be further amended so as to delete the proposed new Section 22 of the Outer Continental Shelf Lands Act and to substitute the following:

"Section 22 enforcement of environmental and safety regulations

"(a) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall consult with each other regarding the enforcement of environmental and safety regulations promulgated pursuant to this Act, and each may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal agency, for the enforcement of their respective regulations.

"(b) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for—

"(1) scheduled onsite inspection at least once a year of each facility on the Outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this Act, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

"(2) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations.

"(c) The Secretary, the Secretary of the Department in which the Coast Guard is operating or their authorized representatives, upon presenting appropriate credentials to the owner or operator of a facility subject to Subsection (b), shall be authorized—

"(1) to enter without delay any part of the facility; and

"(2) to examine such documents and records as are pertinent to such an inspection.

"(d)(1) The Secretary or the Secretary of the Department in which the Coast Guard is operating, as applicable, shall make an investigation and public report on each major fire and major oil spillage occurring as a result of operations conducted pursuant to this Act. For the purpose of this subsection, the term 'major oil spillage' means any discharge from a single source of more than two hundred barrels of oil over a period of thirty days or of more than fifty barrels over a single twenty-four hour period. In addition, such Secretary may make an investigation and report of any lesser oil spillage.

"(2) In any investigation conducted pursuant to this subsection, the Secretary of the Department in which the Coast Guard is operating shall have the power to subpoena witnesses and to require the production of books, papers, documents, and any other evidence relating to such investigation."

Section 208 should be further amended, in conformity with the above amendments, as follows: Page 78, lines 13 and 14 in Section 23(a)(1), strike the present text and insert "his own behalf against any person, including the United".

Page 79, lines 1–4, delete Section 23(a)(1)(B).

Page 79, lines 5 and 6—delete the present text and insert:

"(2) No action may be commenced under subsection (a)(1) of this section—"

Page 80, lines 1–9, delete Section 23(a)(2)(B).

Page 83, line 3 in Section 24(a), strike the words "Secretary of Labor".

Page 83, line 18 in Section 24(c), strike the words "Secretary of Labor".

Page 84, line 4 in Section 24(c), delete the words "occupational or public".

Rationale

Section 21 and 22 of the reported bill contain a number of provisions which are objectionable and the proposed amendment includes the changes necessary to make these sections acceptable.

First, the present allocation of agency responsibility for safety and health on the OCS has been developed over time and is fundamentally satisfactory. This bill would alter in either undesirable or uncertain manner the present jurisdictional pattern. The amendment makes clear that present Labor, Coast Guard, Environmental Protection Agency and Interior responsibilities would continue.

Second, section 21(c)(1) of the bill provides that no new safety regulation shall reduce the degree of safety or protection to the environment afforded by safety regulations previously in effect. Environmental regulations frequently must be promulgated on the basis of incomplete information. This provision as written would not allow revision based on better information, if the revision would reduce the degree of protection. If applied to new regulations, such a provision might discourage promulgation of desirably strong regulations based on incomplete information. In any event, the fact that the increment of protection provided by existing regulations was extremely costly to the Nation, if that were the case, could not be considered. The proposed amendment permits the Secretary to consider whether the incremental costs incurred are buying enough additional protection to make them worthwhile.

The amendment also makes clear that the appropriate Secretary's judgment is to be determinative on the question of economic achievability of technology required by section 21(a)(2) (which has been included in the proposed amendment as section 21(b)). The Administration is of the view the appropriate Secretary should consider the cost to the lessee and indirectly to others of requiring the technology, in relation to the advantage of the increased safety resulting from its use. The legislative history should clearly reflect that this is intended.

Several serious problems occur in the section 22 enforcement provisions. Section 22 (g) contains detailed requirements which are both extremely burdensome and inconsistent with section 15, which requires an annual report calling for only a summary of enforcement activities. Traditional oversight procedures can provide sufficient check on enforcement activities, if the summary in the annual report is insufficient. There is no need for reporting the number of violations alleged by a particular person. The meaning of "proven violations" is unclear.

Section 22(c)(1) requires physical observations at least twice a year on all installa-

tions. The proposed amendment changes this to once a year, which is adequate for regular visits in view of the provision for periodic inspections in section 22(c)(3) of the bill (section 22(c)(2) of the proposed amendment) and of current and planned Coast Guard regulations for facilities.

The Administration opposes compensation to lessees whose leases are cancelled after repeated violations of safety regulations. Section 22(h) of the bill is unclear in this regard. In deleting section 22(h), it is intended that cancellation be in accordance with revised section 5(c) and (d) of the OCS Lands Act (which would be added by section 204 of the bill) which do not provide for compensation.

If this amendment is adopted, amendments 10, 11, 12, and 13 are unnecessary.

*AMENDMENT 10: NO REDUCTION IN SAFETY OR PROTECTION TO THE ENVIRONMENT

Section 21(c)(1): Page 33, on line 19: Delete the period at the end of the sentence and add ", unless the Secretary shall compare the two regulations and find that the difference between them in costs to the Nation is sufficient to justify the difference between them in the degree of safety or protection to the environment."

Rationale

The current language of the bill says that no new safety regulation shall reduce the degree of safety or protection to the environment afforded by safety regulations previously in effect. Environmental regulations frequently must be promulgated on the basis of incomplete information. This provision as written would not allow revision based on better information if the revision would reduce the degree of protection. The fact that the increment of protection provided by the existing regulations was extremely costly to the Nation, if that were the case, could not be considered. The proposed amendment permits the Secretary to consider whether the incremental costs incurred by the Nation are buying enough additional protection to make them worthwhile.

If amendment #9 is adopted, this amendment is unnecessary.

*AMENDMENT 11: BEST AVAILABLE TECHNOLOGY

Section 21(a)(2), on page 34, line 14, before the words "economically achievable" insert the words "which the Secretary determines to be".

Rationale

This amendment will make it clear that the Secretary's judgment is to be determinative on the question of economic achievability. The Administration has a further concern, however, that conflicting interpretations of that term may exist. It is therefore the Administration's position that it will oppose enactment of this provision unless Conference Committee report language clearly indicates that the Secretary may consider the cost to the lessee and indirectly to others of requiring the technology, in relation to the advantage of the increased safety resulting from its use.

If amendment #9 is adopted, this amendment is unnecessary.

AMENDMENT 12: REPORT OF SAFETY VIOLATIONS

Strike subsection 22(g), pages 40 and 41.

Rationale

The annual report required by Section 15 calls for only a summary of enforcement activities. The detailed requirements of Section 22(g) are inconsistent with Section 15, and in addition would be extremely burdensome. The traditional oversight procedure can provide sufficient check on enforcement activities, if the summary in the annual report is insufficient. There is no need for reporting the number of violations alleged by a particular person. The meaning of "Proven violations" is unclear. Proven by whom, an agency finding or by successful collection of a penalty?

If amendment #9 is adopted, this amendment is unnecessary.

AMENDMENT 13: ENFORCEMENT OF REGULATIONS

Section 22(6), page 38, lines 8–10; Strike existing paragraph (1) and insert in lieu thereof:

(1) physical observation, at least once each year, of all fixed installations

Rationale

Mobile drilling rigs are currently regulated by the Coast Guard and are subject to periodic inspection as vessels. The Coast Guard is currently preparing regulations for other types of semi-permanent drilling rigs, such as jack-up rigs. With the provision for periodic, unannounced inspection in clause (3), once a year is adequate for regular visits.

If amendment #9 is adopted, this amendment is unnecessary.

AMENDMENT 17: COAST GUARD AUTHORITY TO MARK OBSTRUCTIONS

Section 203(f): page 166, line 18: strike "shall" and insert in lieu thereof, "may".

Rationale

This will restore the status quo, leaving the Coast Guard with discretionary authority to mark obstructions to navigation. This is consistent with existing Coast Guard authority for all other aids to navigation. In many cases, due to the close proximity of OCS structures, not all such structures need be marked. In fact, marking them all can confuse the navigator. In addition, a mandatory duty to mark will expose the government to damage claims under the FTCA.

AMENDMENT 24: ATTORNEY GENERAL AND FTC REVIEW

Section 205(c), page 120, line 3: After the word "information" insert the words "available to the Secretary".

Rationale

This section of the bill requires thirty-day notice to the Attorney General and FTC of proposed lease issuance or extension, along with transmission of such information as they may require. If this requirement is to delay leasing for no more than 30 days in the normal case, the information should be limited to that information available to the Secretary.

*AMENDMENT 25: ISSUANCE OR EXTENSION OF LEASES UNDER DUE DILIGENCE REQUIREMENT

Strike Section 205(d), page 120, line 22 through page 121 line 3 and reletter succeeding subparagraphs accordingly.

Rationale

Section 205(d) bars issuance or extension of a lease if the applicant has not been duly diligent on *other* leases. This provision is unnecessary, since other provisions require diligence on each lease individually. In addition, it is unworkable, since it may lead to cancellation of a lease held jointly by several parties, one of whom was not duly diligent on a different lease held by himself or with entirely different partners. This presents constitutionality problems with respect to those part-owners of the cancelled lease who have been guilty of no lack of diligence elsewhere.

Diligence requirements should be applied only lease-by-lease, not lessee-by-lessee.

AMENDMENT 27: LIMITATIONS ON EXPORT

Section 28, pages 97–98: Pages 97, 98. Delete subsections (b), (c) and (d) and strike "(a)" from line 2.

Rationale

While it may be desirable to apply the Export Administration Act of 1969 to exports of oil and gas, additional requirements such as the requirement of findings by the President described in subsection (b) and Congressional review thereof as allowed by subsection (c) constitute an undesirable restriction on the exercise of executive powers and normal operation of the Export Administration Act of 1969.

*AMENDMENT 28: CITIZENS SUIT PROVISION

Section 23(a)(1), page 78:

1. lines 11–12, Delete the words "or can be"

2. line 16, Between the words "agency" and "for", insert "(to the extent permitted by the Eleventh Amendment to the Constitution)".

3. lines 17–19, Strike the comma at the end of line 17 and change the remainder of this phrase to read "the issuance of which by the Secretary under this Act is not discretionary; and".

Rationale

This section is apparently modeled after similar provisions in the Clean Air Act, the Safe Drinking Water Act and the Federal Water Pollution Control Act.

Point 1. None of the citizen's suit provisions in the three aforementioned acts contains the phrase "or can be". Its inclusion here may raise questions on the issues of standing and ripeness which could lead to nuisance suits.

Point 2. All three of the aforementioned acts contain the suggested parenthetical phrase. Its omission here could support an inference which is presumably not intended.

Point 3. The effect of this change is to omit the reference to permits and leases and limit the reference to regulations to those which are not discretionary. Inclusion of permits and leases could be read to suggest that third parties have a private cause of action as a result of an alleged violation in some provision in a permit or lease. While it may be desirable to allow private citizens to sue on the basis of, or to prevent a violation of, the Act or regulations required by the Act, it appears unwise and unnecessary to treat leases and permits in the same fashion. An adversely affected plaintiff can presumably sue on the basis of the facts creating that situation whether or not the action causing such harm is also a violation of a permit, lease or discretionary regulation.

*AMENDMENT 29: ON-STRUCTURE STRATIGRAPHIC TESTING

Section 206, Section 11(g): Strike subsection 11(g), page 23.

Rationale

This amendment would strike the subsection directing the Secretary to offer permits for on-structure stratigraphic tests in frontier areas. The Administration strongly opposes this requirement. Such tests, whenever allowed, should be carried out in the locations which, all things considered, best serve the purposes of the oil and gas leasing program. Requiring them to be placed on-structure would increase unacceptably the pressure for follow-on government exploration in the event of a discovery, which would not be in the public interest. It also ignores the success of the past program of off-structure drilling, which has attracted industry applicants and has served the interests of all parties in enhancing the level of pre-sale geologic knowledge.

AMENDMENT 34 (REVISED): REIMBURSEMENT FOR DATA REPRODUCTION

Strike Sec. 26(a)(1)(C), on p. 26, lines 14–24, and substitute:

(C) Whenever any data are provided to the Secretary, pursuant to subparagraph (A) of this paragraph, the Secretary shall pay the Government's share of the reasonable cost of processing such data, and the reasonable cost of reproducing such data for provision to the Secretary, pursuant to such regulations as he may prescribe.

Rationale

Permittees and lessees are compensated differently for data provided to the Secretary, as the bill is now worded. This amendment would make compensation the same for both.

AMENDMENT 35: PRICE AT WHICH LEASES UNDER SO-CALLED "PHILLIPS SYSTEM" ARE AWARDED

Section 205(a) Section 8(a): Page 101, lines 18 through 21, and page 102, lines 3

through 6, delete the words "at a price which is equal to the average price per share of the highest responsible qualified bids tendered for not more than 100 per centum of the lease area" in each case where they occur and insert in their place "on the basis of the value of the bid per share."

Delete all from line 6, page 114 through line 26, page 115 and insert in lieu thereof: "(5)(A) In the event bids are accepted for less than 100 per centum of the lease area offered under such subparagraph (G) or (H), the Secretary may re-offer the unleased portion for such period of time as he determines to be reasonable."

Page 116, line 1, change (C) to (B).

Page 105, line 14, change (D) to (C).

Rationale

Requiring bidders to pay more than they bid, if they bid less than the average, could cause serious administrative problems for this bidding system. Many such bidders would drop out. Re-offer of the remaining shares at the average price might or might not result in sale of 100 percent of the working interest. While this problem could also arise under the Phillips plan as originally conceived, it is far less likely to do so.

The Committee apparently felt, in adopting the average-price language, that it was somehow unfair to lessees to sell a one percent interest to different people at different prices. However, this is a business phenomenon that occurs regularly, and is a generally accepted practice wherever auctions or bargaining take place. No unfairness, either actual or apparent, exists as long as participants are aware of the rules by which the sale will be conducted, and can adjust their bidding strategies accordingly.

The Phillips plan, as originally conceived, is promising enough to warrant experimentation. However, the bill as now written would handicap it seriously.

AMENDMENT 37: DEFINITION OF "AFFECTED STATE"

Section 201(f)(5): Page 158, line 5: Insert "which was extracted from the outer Continental Shelf" following "oil or gas"

Rationale

This amendment is intended to make it clear that the risk of serious damage from an oilspill has to be associated with OCS development, similar to the limitations in the previous clauses. As written it could include risk of damage from oil from other sources.

*AMENDMENT 40: RULE AND REGULATION REVIEW

Strike Section 406, page 171 in its entirety.

Rationale

Section 406 provides that any rule or regulation issued under the OCS Lands Act can be disapproved by a resolution of either House. This provision encroaches upon the powers of the Executive Branch under separation of powers and is probably unconstitutional.

WASHINGTON, D.C.,
September 2, 1976.

Hon. THOMAS S. KLEPPE,
Secretary, Department of the Interior, Washington, D.C.

DEAR MR. SECRETARY: It was with great concern and disappointment that I received a copy of your August 26, 1976, letter to Senator Jackson concerning the Outer Continental Shelf Lands Act Amendments of 1976 (S. 521). This letter confirms my fears that, despite the Ad Hoc Committee's efforts at good faith cooperation, the Interior Department never really intended to work with Congress but rather only feigned cooperation in order to delay or stop passage of necessary reforms to our present offshore leasing system.

Your letter is particularly troubling in light of the history of the Ad Hoc Committee's continuous consultation with the Interior Department and full consideration of the Administration's views. Representatives from the Interior Department were invited to attend, and did attend, most of our nationwide hearings. In addition, representatives of the Interior Department presented its views to the Committee on *five* different occasions.

Prior to the preparation of the first staff working draft of then H.R. 6218, members of Committee staff met with your staff to work out possible provisions. In a letter dated February 19, 1976, you recommended 14 changes in H.R. 6218 which "might make the bill acceptable." As a result of meetings and negotiations on these proposals, nine of your recommendations were accepted in full, and five others were accepted in part. These changes were then incorporated, at my request, in the final staff draft.

The Interior Department, however, did not accept this attempt at a good faith compromise. On April 22, 1976, you sent another letter expressing further displeasure over different provisions and I quote, "on which I did not comment in my earlier letter." This was followed by a meeting with your representatives specifically raising ten more objections. This was then followed by a submission of 39 additional amendments. Staff reviewed these amendments meeting on numerous occasions with your representatives, and then recommended changes. I then successfully proposed, as amendments on the Floor, 15 of these changes in total and six additional in part. In addition, in keeping with my good faith efforts at a reasonable compromise, I opposed attempts to incorpoarte other provisions that you had earlier indicated were unacceptable.

After passage of the House version of S. 521 on July 30, 1976, I had my staff contact your representatives for further comment on the bill. No response was received until your letter of August 26, 1976. It is important to note that the Department was told of the need for prompt action in light of the heavy legislative schedule of both Houses and that your most recent letter was sent after the Department was told of a possible House/Senate compromise on an acceptable version of S. 521.

It is apparent that S. 521 is already the product of compromise with your Department and is a carefully balanced and responsible reform of the Outer Continental Shelf Lands Act. A review of the provisions of the bill indicates that it accommodates most Administration concerns and enacts important aspects of your own leasing, environmental and safety programs. It is also apparent that the Committee's good faith attempts to work with your Department have been met with stubborn resistance. Obviously, negotiations and compromise have become a one way street. We are asked to accept your suggestions and you offer nothing in return.

In your letter you list 13 "must" and other "non-critical" changes that are to be incorporated in the bill without which the bill would be "unacceptable."

I am attaching specific responses to your proposed amendments in a final attempt to seek your support for passage of S. 521. These responses indicate the fears and concerns expressed in your letter are unwarranted. It is time to end this conflict and to begin cooperating with the Congress in good faith. The present OCS bill, with the joint Senate/House amendments, is more than a reasonable compromise—it is an attempt to satisfy most of your requests and recommendations, and also to balance the various considerations presented by the more than 300 witnesses who testified before the House Ad Hoc Committee and the host of witnesses before the Senate Interior Committee.

Congress has acted responsibly and properly by detailing needed reforms in our federal offshore leasing system. We urge that you, and the Administration, also so act in the best interests of the United States.

Sincerely,

JOHN M. MURPHY,
Member of Congress.

DISCUSSION OF PROPOSED AMENDMENTS

MUST AMENDMENTS

1. Lease cancellation and development plan disapproval

Prior to House passage of S. 521, you proposed new standards for cancellation and disapproval, a mandated suspension period prior to cancellation, and a new provision as to cancellation compensation. By Floor amendment, the House accepted two out of three of your recommendations. Now you seek to make cancellation totally discretionary. By misreading the bill's provisions, you complain that there is no opportunity for a weighing of risks and benefits; that there is an undue limitation on discretion; and that it places an unfair risk burden on the lessee.

(a) *Cancellation*—As the bill is now worded, the Secretary is given the authority to prepare cancellation regulations to determine if continued activities actually *"would cause"* not just harm but *"serious harm or damage"*; which he finds *"would not decrease over a reasonable period of time."* The bill grants Interior Department its requested mandated suspension period to making these determinations.

By definition, a determination of "serious harm or damage" necessarily involves a weighing of the severity of harm or damage with the national interest. By limiting the weighing to harm against "the advantages of continuing such operations," you would open up the procedure to possible abuse. Advantages are based on estimates of resource, which surely should not be the sole criterion. A more objective standard for the balancing is necessary.

By definition again, a finding that activities "would cause" such serious harm or damage involves an expert evaluation of the risks—recognized by the Committee as being traditionally determined by the courts to be left to the administering agency. A finding that the harm or damage must be one that "would not decrease over a reasonable period of time" indicates that the probability of such harm or damage must be quite high to allow cancellation.

The exact meaning of these terms and the exact circumstances of application of this provision are to be, as provided in the bill, determined by regulations.

Finally, you seek to limit cancellation only to those cases where the harm or damage is "unanticipated". The occasions when the Secretary might find that activity would cause and not just *threaten* serious harm or damage will be sufficiently *rare* to avoid having leases unnecessarily cancelled. To limit your ability to cancel a lease when you find that such harm or damage would in fact occur, is, at best, unwise.

(b) Disapproval—As the bill is now worded, the Secretary is to determine if "exceptional" circumstances indicate that a development and production plan "cannot" after attempts, "be modified" to "insure a safe operation." Like the cancellation provision, the Interior Department is to have a five-year period to make these determinations. By definition, a determination of "exceptional circumstances" necessarily involves a weighing; a finding that a plan "cannot be modified" involves an expert evaluation; and the determination of what is or is not a "safe operation," in light of amended section 3(6) [Section 202 of the bill], is to be determined by the Secretary based on high probabilities of real risks.

2. Bonus bidding limitations—waiver

In your original suggested amendment, you opposed the provision providing for two House approvals prior to going below the

mandated requirements of use of new bidding systems. I was able on the Floor to change this provision to one House approval, with an expedited consideration of any requests. Now you again seek to require two House disapprovals of any waiver of the limitation. The House and Senate have tentatively agreed to exempt the first year from the approval procedure. In addition, under the bill, if bids are too low, the Department retains its power to not accept the bid. Finally, the bill only requires leases to be "offered" using new systems. Ample opportunities are thus given to allow you to demonstrate the ineffectiveness of other systems and secure a waiver.

The Committee, and both Houses, of course, disagree with your premise of total faith in the bonus bid system. Your two most recent sales, primarily using the bonus bid system, indicate that you are either not receiving full value for your resources (exceptionally low bids in California) or are granting leases only to the larger oil companies (80 percent to the top seven and their groups in the Baltimore Canyon sale).

Nevertheless, your fears as to the effect of this provision are groundless. If the alternate systems are bad, then no one will believe in the new systems, and thus will not bid—and your offer will go unaccepted. If the government is not assured an adequate return, then you need not accept the bids.

3. Information to States relative to adjacent State lands

In your original 39 amendments and now again, you misread the provision giving information to states having lands adjacent to federal lands with possible common pools of hydrocarbons. As discussed in the Committee Report, the provisions on confidentiality of information and supplying information to states with such adjacent lands are consistent. "Knowledge so obtained would be subject, under Section 26, to applicable federal confidentiality provisions."

4. State inspection of information

In your 39 amendments, and now again, you raise needless concerns about confidentiality of information provisions as it relates to states. The OCS Committee adopted the Minority proposal granting access to a state to all information, after a lease sale. The section also details stringent limitations on the release of knowledge about confidential or privileged information by state representatives. States are not "competitors" of lessees and therefore their access to information and the restrictions on release by them of such information cannot damage the competitive position of a lessee.

5. Joint Federal/State leasing

In response to an original Administration recommendation, an amendment was adopted on the Floor which makes it even more clear that a state will not control federal OCS lands. If the Secretary "concludes" that a common structure or trap (of oil or gas) exists, he is to allow the state to jointly lease such area, but subject to the terms of a lease prepared by the Department, and consistent with applicable federal regulations. The purpose of the joint lease is to assure no loss of state revenue and coordinated development in border areas. The lease terms and administration remain within the Department, for if terms are not accepted by the state, the Secretary of Interior is free to lease these areas on his own.

Despite these changes, in conformity with your concerns, you now seek a total substitute for the whole subsection. This is not compromise: it is intransigence.

6. Regulations

In a joint Senate/House proposed amendment, all regulatory power is given to the Department of the Interior and, as heretofore, where appropriate to the Coast Guard and Army. However, in light of the concerns expressed concerning workers' safety, the Department of Labor must concur in regulations for occupational safety and health. This compromise should satisfy most of your objections relative to an unworkable regulatory scheme.

In addition, the joint amendments provide for inspections at least once a year instead of twice and a technical amendment provides for, as was the Committee's intent, no loss of regulatory power while new regulations are promulgated or old ones repromulgated.

7. State and regional board recommendations

In your original request to the Committee, you expressed concern as to the power of Boards and States over OCS activities. Pursuant to that concern, the Committee changed its section on State and Board input to provide that recommendations can be overridden by the Secretary if necessary to comply with the Act, and to assure oil and gas supplies are obtained in a balanced manner. In addition, the joint proposed amendments would provide that the overriding of a recommendation by the Secretary is final and not to be reversed unless it is determined to be arbitrary or capricious. Again, this is, I believe, a workable compromise, which should be supported by you.

8. Baseline and monitoring studies

Both the Senate and the House adopted provisions transferring baseline and monitoring studies to the Department of Commerce. The Secretary of Commerce would utilize NOAA within Commerce, and as required by the bill, would work together with the Department of the Interior. As you have indicated, NOAA often performs these operations now. Your statement that this would "isolate control" of studies from decisions on activities presumes a total lack of coordination in the Executive Branch, a surprising statement if true. Moreover, the bill specifically provides studies to be forwarded to you prior to approval of a development and production plan—which assures coordination as contact must be made relative to the supplying of information at the proper time. Moreover, the general regulatory provision of the bill provides for coordination and interagency contact.

9. Marking of obstructions

You suggest that requiring the marking of obstructions is "excessive" and "costly." As indicated by Administration representatives, the owner of an artificial island, installation or device, is now required to mark obstructions. Only when he does not so mark, in violation of applicable regulations, does the Coast Guard act. No additional burdens are added by this provision. Rather, it assures that owners comply with applicable regulations by requiring the Coast Guard to enforce compliance. Moreover, marking is to be "for the protection of navigation" and discretion is given to the Coast Guard to determine how, where, and when the marking is to occur by the owner or by the Coast Guard for such protection.

10. Due diligence

You suggest that the section of the bill requiring due diligence on other leases is "unnecessary" and "unworkable". At the time of original consideration of this section, you expressed the concern that this might lead to cancellation of a lease held jointly by several parties. In response, an amendment was accepted by the House providing a remedy to a non-negligent or innocent party if a lease is cancelled because of lack of due diligence by another party. Applying diligence requirements only lease-by-lease would provide an insufficient opportunity to review the activities of a lessee in totality. A company which is acting improperly on one lease should know that it cannot get away with it long enough to secure another lease. This subsection insures adequate enforcement of diligence regulations and secures compliance with such regulations.

11. Citizens' suits

You criticize the citizens' suits provision alleging it would increase the number of "nuisance" suits and thus "burden" the courts and the Department. This section is patterned on numerous provisions in other statutes that have a long and well-established judicial history. The only change made by the Committee, and accepted by the House, was to provide a limit on such suits by providing that only those showing a "probability" rather than a "possibility" of having an interest adversely affected can sue.

As to your other suggestions, clearly any statute is limited by the Constitution, and a provision to this effect is unnecessary. In addition, your suggestion that citizens' suits should be limited to challenges only of required regulations, and not be allowed as to terms of leases or permits, would severely and negatively affect the intent of this section. The section provides a detailed unitary and complete procedure for challenges by citizens, and any limitations on the effect and scope of those procedures would result in law suits filed outside the scope of the section, thus increasing litigation and thereby delaying activities.

12. On-structure stratigraphic drilling

You suggest that the provision for on-structure drilling would result in "government exploration". Through one of the joint amendments, it is made clear that the Secretary is to seek qualified applicants only during an established time limit. If no applicants are forthcoming, the burden is satisfied. If applicants are forthcoming, this limit (once per area) would not interfere in any way with the discretion of the Secretary to determine how best to explore proposed OCS lease areas.

You and your representatives have consistently testified that you believe present law gives you the discretion to conduct all types of exploration, governmental or non-governmental, pre-lease or post-lease. That discretion is not affected by the on-structure drilling provision. In addition, one of the proposed joint amendments again restates that you, as Secretary of the Interior, are given the "discretion" to conduct government drilling by contract.

I fail to see how the granting, explicitly, of the discretion you now claim to have anyway, and the suggestion that a limited number of pre-lease on-structure exploratory permits be granted in any way, "injects the federal government into a basic industrial role [of exploration]".

13. Congressional veto of regulations

This provision was added to the bill during Floor consideration. The proposed Senate/House joint amendments would eliminate this provision.

NON-CRITICAL AMENDMENTS

Each of the "non-critical amendments" suggested by you are either unnecessary or have already been modified in accordance with your prior request.

For example, the provision on "report of safety violations" no longer requires the listing of any particular person and no longer requires someone to determine whether a violation has been "proven".

The provision as to "Attorney General and FTC review" presently provides that the Attorney General and the Federal Trade Commission are to secure information from the Secretary, at the time of a lease sale or a lease extension, as they "may require . . ." You suggest limiting the information to go to the Attorney General and the FTC to that available to you. Again, your suggestion presupposes that there is no coordination between the various departments of the Executive Branch. I fail to understand why you, the Attorney General and the FTC could not work out what information would be suitable for all needs. This should not involve any delay as regulations would be prepared in

advance relative to what information would be required, prepared, and forwarded.

You suggest that permittees and lessees should be equally compensated for processing and reproducing data. The present bill provides for compensation to a permittee and a lessee for reproducing data. In addition, compensation is to be provided for the processing of data by a permittee, who has received no rights to any hydrocarbons because of his activities.

A lessee must and can be treated differently. In return for certain payments, and in agreeing to comply with certain regulations, a lessee obtains the right to extract oil and gas. The bill would provide that the data, which he had already prepared for his own use, is to be forwarded to the Secretary. If the Secretary makes additional requests for certain kinds of processed data, not otherwise prepared by the lessee, the lessee would be paid for such processing. I fail to see how any burdens are thus placed on a lessee. If he prepares the data on his own, the government pays for reproduction. If he prepares it at your request, the government pays for processing and reproduction. This provision is reasonable, and not objected to by potential lessees, or by the geologists.

You object to averaging out of prices under the "Phillips System". This provision was carefully worded after meetings with your staff, various oil and gas companies, and the majority and minority staff. It was felt that there would be inadequate participation for a real test of the system unless the procedure presently in the bill was adopted. Rather than "handicapping" experimentation, it would enhance it.

You complain of the definition of "affected state", as you believe it is not sufficiently limited to states affected by OCS activities. Under the bill, the term "affected state" only applies to activities undertaken pursuant to the OCS Lands Act, which means it only applies to OCS activities. Thus, the provision that allows the Secretary to define an "affected state" based on effects of a possible oil spill necessarily means that application is limited to cases where the possible spill would result from OCS activities.

MAO TSE-TUNG

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, I submit for the RECORD the following two articles published on the occasion of the death of Mao Tse-tung in China. I recommend them as important reminders of the very human quality of a leader and a people we have from time to time misunderstood:

[From the Wall Street Journal, Sept. 10, 1976]

IN CHINA AT MAO'S DEATH

(By Robert L. Bartley)

PEKING.—The moment was already incongruous enough, with former Defense Secretary James Schlesinger reviewing the troops of the People's Liberation Army after a rifle and hand grenade throwing exhibition at the Third Garrison Division base an hour and a half northeast of Peking.

A loudspeaker in the background sounded the notes of the "Internationale." An instant later we learned that the "Internationale" was played not for Mr. Schlesinger but for the death of Chairman Mao Tse-tung, leader of the Chinese Communist revolution and for the last 27 years ruler of one fourth of mankind.

The procession of cars started back over the North China plain, away from the mountains and toward Peking. In one car Ma Yu-chen, head of the information department of the Chinese Foreign Ministry, turned from his slumped position in the front seat and started to translate for two American journalists the broadcast of the official announcement.

The mouth organ of the party, the government and the army announced with "extreme grief," that Chairman Mao had died at 10 minutes after midnight the preceding morning. The announcement was broadcast at 4 p.m. after a 3:30 p.m. bulletin announcing an upcoming development. It was rebroadcast throughout the night.

At first, the peasants lining the road seemed not to know. A young girl in a red-checked blouse waved gaily to an acquaintance. Nothing seemed unusual until gradually you recognized that the road was filling with a somber procession. Against the fields of corn and sorghum ready for harvest there came lines of bicycles, some with pigs or bundles of fodder strapped over back platforms. There were lines of carts pulled by the two-wheeled, hand-driven motor-powered tractors that represent agricultural modernization in China. There were carts pulled by horses and mules and an occasional truckload of peasants. The workers were being hauled back from the fields.

Those who had not yet joined the procession stood idly in the fields. Oxen were tethered near the road, their tethers nearly motionless. A team of ditch-diggers stood blankly with picks and shovels in hand. In villages where sunflowers peeked over courtyard walls, workers squatted in circles.

For miles of gravel and narrow asphalt road the outgoing traffic continued to mount. The endless bicycles were joined by peasants with yokes dangling wild grass from straps on either side, a mother pushing her child in a two-wheeled cart, children carrying empty harvest baskets, whole classes of school children in orderly groups.

CHAIRMAN MAO'S ACHIEVEMENTS

Mr. Ma continued his translation of the official announcement. Chairman Mao founded and led the revolution and the army, he overcame left and right opportunists—a list starting with obscure personages of the 1930s and ending with Teng Hsiao-ping, deposed as China's premier last April. He announced the historic theory that the bourgeoisie exist within the party, fought revisonism and provided a new and fuller experience of world significance.

It is now time to "turn grief into strength," the announcement continued, by carrying out Mao's last will—continuing the struggle against Teng Hsiao-ping, continuing the class struggle of unifying around the Central Committee of the Communist Party to be prepared against foreign aggression, "liberating" Taiwan, never seeking hegemony or "becoming a superpower." The statement concluded, "long live Chairman Mao—immortal."

Mr. Ma returned to his slump, only occasionally turning to volunteer something and earning too many questions as a reward.

As the procession neared Peking, the road suddenly cleared. No one was any longer heading to the communes back in the countryside. But on turning into the four-lane road that begins a few miles out of Peking, one lane was full of cyclists heading into the city, a vast river of blue and gray, contrasting with the more varied hues of the farm workers.

At 5:35 p.m. on the outskirts of the city, the first black armband appears, worn by a middle-aged woman cycling into town. Soon two more armbands appear and through our drive their numbers grow. Those with white shirts wear bands; those with dark clothing wear white cloth flowers. The street sounds subdued. Normally cyclists ignore motor cars with abandon and the cars honk furiously, but now silence, broken only by an occasional decorous beep.

The procession arrives at the Peking Hotel and the Americans offer condolences to the Chinese. No one seems sure what to do next. Correspondents grab Charles Benoit, the language expert of the Schlesinger party, change from field dress into more respectful jackets and ties and walk the two blocks to Tien An Men Square, the heart of Peking.

By 7 p.m. a harvest moon is rising over the square. Chairman Mao died only 10 minutes after the end of the mid-autumn festival, the fullest moon of the year. The darkness gathers, accenting the huge portrait of Mao over the gate to the Forbidden City, the palaces built for the emperors of China in the early 1400s. His portrait is flanked by Chinese inscriptions that say "Long Live the Chinese Peoples Republic," "Long Live the Solidarity of the People of the World," and "Long Live Chairman Mao."

The crowd of a few thousand far from fills the huge square but gathers in clumps and knots, diminished and replenished by passing cyclists. The biggest group is in front of the Forbidden City. One gray-clad youth, ignored by white-jacketed traffic policemen standing in front of the crowd, goes to the foot of the bridge through the gate and bows from the waist. He advances halfway across the bridge, bows again and retires without turning his back.

A mother in pigtails stands with an arm around her daughter in pigtails. A younger couple sits side by side, holding hands, a sight almost unknown in this city.

BOWED HEADS AND WREATHS

Across the street from the gate a man stands rigidly and silently with his head stiffly bowed. A bit behind him are two more in the same regimen. Near the other end of the square a group sits in a circle listening to a radio broadcast of the announcement. Beyond it is the "Monument to the People's Heroes," rows ascending and descending. At the top four wreaths already have been laid. A soldier pulls a low chain across the entrance to the monument, which stops no one.

At the reporters' urging, Mr. Benoit tries to strike up a conversation by offering condolences to a young man. Within three seconds a circle of 50 people has gathered and the questioners beat a hasty retreat. They pass two men sobbing openly. Two of the three rigid head-bowers are still in their positions.

At the hotel, the schedued trip to Tibet and Sinkiang is off and what should be done with the travelers is not yet decided. The Chinese invitation to Mr. Schlesinger to visit certain military facilities was intended in part to dramatize China's concerns about the Soviet military presence along its borders. Western and Chinese members of the trip happen to converge at the elevator. Mr. Ma is coughing with sobs. James Schlesinger appears, white haired and dignified, wearing a black armband over his white shirt. Mr. Ma sobs contained, offers a car to the telegraph office later in the night. By 11:15 p.m., after the unofficial curfew, the crowd in Tien An Men square has dwindled to perhaps two dozen on the bridge before the portrait.

What Mao's death may portend for the Chinese people we will learn another day. The Chinese themselves talk of constant struggle against "capitalist roaders." And the succession of Premier Chou En-lai was decided only after a riot of 100,000 people in Tien An Men Square.

Let the superstitious recall that the Chinese regarded earthquakes like those this year as portending changes in the "mandate of heaven" and a new dynasty. Let the China watchers weigh, uselessly, if experience is any guide, the nuances of the official proclamation. In political terms only a fool would venture any certainty.

But in human terms, the emotions in the faces seen in Peking in the hours after the announcement of Mao Tse-tung's death were last seen by this writer some 13 years ago as

a cub reporter. The assignment was to go into streets and ask the American people what they thought of the assassination of John F. Kennedy.

[From the New York Times, Sept. 10, 1976]

RECOLLECTIONS OF TALKS WITH MAO IN YENAN IN 1944

(By John S. Service)

BERKELEY, Calif.—Mao Tse-tung, when I first met him in 1944, was 51 years old. For four months I saw a good deal of him, certainly two or three times a week; perhaps 50 occasions in all under all sorts of circumstances, official and relaxed—private conversations, group discussions, meals, theater and other entertainments, public speeches, and even Saturday night dances during warm summer evenings on the packed earth of an orchard.

I was attached to the staff of Lieut. Gen. Joseph W. Stilwell and a member of the first United States Army Observer Group to visit Yenan and establish direct contact with the Communist Party leadership.

My job was to report the views and statements of Chairman Mao and other leaders of the party. How Mao looked, his mannerisms and the impression he made, the general conversation—all these seemed hardly relevant to official reports and were largely omitted. But Mao Tse-tung was not a person one forgets.

When one first met him there was not quite that feeling of immediate warmth and almost instant rapport that one experienced with Chou En-lai. Mao was large for a Chinese but not heavily fleshly as he later became. He moved somewhat slowly, and there was an air of gravity and dignity about him. It was not pomposity though. He was courteous and cordial. Perhaps it was a sort of shyness and reserve; one got a little of the feeling that he was sizing you up.

Things changed, of course, when one became better acquainted with him. Lacking perhaps some of the suavity and urbanity of Chou, Mao could also be more lively and spontaneous. Conversations were likely to sparkle with witticisms, Chinese classical allusions and sharp and surprising statements. Apt and obvious conclusions were snapped out of the air before they seemed logically to have been reached. Conversations also wandered in unexpected and wildly diverse directions. There were few subjects in which he was not interested and few about which his omnivorous reading had not given him some knowledge.

It was normal, I suppose, that he usually seemed to be leading the conversation. You felt at times that it was you who was being interviewed. Yet this was done with a great deal of finesse. He did not monopolize the conversation, there was no "hard sell" and you were not being overpowered. In fact, in group meetings he was usually meticulous that each person present had a chance to join in and express himself. Very often, Mao would then sum up the sense of the meeting. Whenever I saw this done, his summarization was masterfully fair, complete and succinct.

Mao's clear and undisputed leadership of the party had only fairly recently been achieved. But there was an easy and relaxed atmosphere among the top Communist leaders that amazed those of us who had had contact with the Chungking Government leader, Chiang Kai-shek, and saw the tension he created among all below him.

Deference was paid to Chairman Mao, and it was clear that he was the first among equals. He seemed to be, for instance, the only leader who lived in a small separate cottage outside of the various institutional complexes.

But among a group of the old-time Long March comrades, there was no obsequiousness, no standing at attention, but rather an easy give-and-take, some joking and banter about shared events of the past, and even a willingness to differ in opinion—though not in front of foreign guests on any issues of basic policy.

Policy was what chiefly occupied Mao's time and thought: policy in best winning the support of the peasants in the guerrilla areas behind the Japanese lines; policy in using the strength derived from this peasant support in the inevitable coming contest for power against Chiang-Kai-shek's one-party dictatorship; policy that might persuade the United States to take an evenhanded or neutral role in this Chinese domestic contest.

These were subjects, in all their aspects and ramifications, that Mao preferred to talk about. Details, day-to-day affairs, the routine of governing he was content to leave to others. Capable associates, as Chou En-lai or Chu Teh, for instance, were not lacking.

But if I wanted more detail than he was interested in, or felt able to give, he would regularly refer me to some other leader. He sent me, for instance, to Liu Shao-chi to talk about party affairs, strength and organization. Po Ku, one of the Soviet-trained leaders and one of Mao's former rivals within the party, was the man he picked to talk to me about postwar economic policies. A Japanese Communist leader in exile was Mao's nominee to talk to me on the Chinese party's views about the question of the future of the Japanese Emperor.

This willingness to delegate responsibility and his obvious trust and reliance on associates were but one of the many contrasts with what I had observed in Chungking, where few decisions could seemingly be made without Chiang Kai-shek.

Since our group in Yenan was an Army one and charged with assessing the military potential of the Communist forces in the war against Japan, our first meeting dealt with setting up detailed briefings and procedures. But it was known to the Communists that I was a civilian and reporting both to General Stilwell and the State Department.

As one of the early meetings broke up and Mao could speak to me privately, he said with a quizzical half-smile that he assumed I wanted to have a talk with him but that he also wanted to talk with me. However, he went on, he thought our talk would be more mutually useful if we both first had a chance to get acquainted and if we Americans were able to see something of the Communists.

It was not until just a month later, then, that I was invited for my first real talk with Mao alone. With a break for supper, when Chiang Ching, his wife, joined us, it went on for eight hours. Other talks followed but none of so strenuous a length. The groundwork had been laid.

One of the things that struck me most about that talk was that Mao's characteristic calm air of strength and serenity was not a pose. He was absolutely confident of the eventual success of his cause and the Communist Party. The contrast with their actual circumstances in the Yenan caves at the time was overwhelming. It took us Americans some time to adjust to it, and another considerable period to come to the conclusion we finally reached: that Chairman Mao was right in that confidence.

When I was able to revisit China, in 1971, it was remarkable how many of the themes stressed and restressed by Mao in those 1944 talks in Yenan seemed still alive and full of meaning.

The party, he had said, must serve the people, and accept (as in the Cultural Revolution) the criticism of the people. Intellectuals must learn something of manual work, and education must be practical, not excessively theoretical. China could develop itself only through self-reliance. The peasants were capable of great creativity and prodigous accomplishments when motivated. China should fear no dangers and difficulties. The spirit is superior to the machine. And all is possible to patience and firm persistence.

Some subjects, such as relations with the Soviet Union, were less sharply dealt with by him. We are first of all, he always insisted, Chinese. We seek friendly relations, but we take nobody's dictation. We will always make our own decisions and always apply Marxism according to the actual circumstances of China. And, he was obviously thinking even then that a friendly United States was China's necessary balance to an overbearing Soviet Union.

Not all that Chairman Mao thought and fought for has of course been accomplished. Since those early probings in 1944, for instance, Chinese-American relations are still in an unsatisfactory twilight zone. But on the whole, what man has accomplished more in a lifetime! China has stood up in the world. The face of the country has been transformed. And its people have been led through a long, still-unended revolution forging a new egalitarian society that has brought the great mass of the people a sense of purpose, confidence, security and well-being that most of them could never have dreamed of.

I used to ask Chinese Communist friends why they thought Mao had won out over his many rivals and become the acknowledged leader. The answer was always the same. It boiled down to one phrase: "He saw far."

NATIONAL GOVERNORS' CONFERENCE DOES NOT ENDORSE AUGUST 26, 1976, SYNFUELS SUBSTITUTE FOR BIG OIL SHALE PROJECTS

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, the National Governors' Conference has been a potent and important force in the shaping of synthetic fuels legislation insofar as oil shale is concerned. Repeatedly, the Governors' conference has recommended that the legislation specifically not authorize the commercialization of oil shale. The conference stressed the need to limit oil shale to the so-called modular approach.

Today's the Governors' conference advised Representative RICHARD OTTINGER of New York and myself that the Governors once again repeat their earlier recommendation of support for the oil shale provisions of the Commerce Committee's version of H.R. 12112.

When the Committee on Science and Technology reported its version of H.R. 12112, on May 15, 1976, Representative BARRY M. GOLDWATER, JR., Republican of California, quite properly pointed out in his "Dissenting Views" that H.R. 12112 contained what he described as a "rainbow" rider, which he said was a "giveway to the oil shale industry."

The Banking, Currency and Housing Committee did not change this rider, but the House Interstate and Foreign Commerce Committee did. The Commerce Committee, through the efforts of Representative TIMOTHY WIRTH, eliminated the "rainbow" and limited assistance for the oil shale industry to modular facilities only.

GOVERNORS FAVOR MODULAR APPROACH

On August 24, 1976, Govs. Thomas P. Salmon of Vermont and Richard D. Lamm of Colorado wrote to Chairman

TEAGUE that they urge the Governors of this Nation to support H.R. 12112, as amended by the oil shale language as contained in the Interstate and Foreign Commerce version of the bill.

However, on August 26, 1976, a substitute amendment was introduced to H.R. 12112 and printed in the CONGRESSIONAL RECORD—page 27908. The substitute amendment does not include the Commerce Committee "language." We were interested in clarifying the intent of the Governors. Therefore, Representative OTTINGER and I wrote the Governors as follows:

The "oil shale language . . . contained" in the Commerce Committee's version of H.R. 12112 quite clearly limits the financial assistance for oil shale to modular facilities and cuts back the cost-sharing provision to that now provided for by ERDA policy under Public Law 93-577 for other demonstrations to 50-50. It also specifies that the price support provisions would not be available to that modular facility or, for that matter, any oil shale development. Thus, the Commerce oil shale version is, as you have noted, consistent with the Governors' Conference earlier statements on this subject.

However, on August 26, 1976, Chairman Teague offered an amendment in the Congressional Record (p. 27908) to H.R. 12112 in the nature of a substitute which, in the case of oil shale, does not conform with your above-quoted recommendation.

Chairman Teague's amendment, which is supported by Chairman Reuss, would authorize:

A loan guarantee and/or 75% direct cost-sharing for a modular facility, plus price supports for that facility; and

A loan guarantee for the commercial size oil shale facility, once the modular proves successful, plus price supports for that facility.

In addition to the incentives in this amendment, the oil shale facility would be eligible, under the tax bill passed by the Senate, to a 12 percent investment tax credit, and, if located on one of the Federal lease tracts in Utah or Colorado, to a credit for two-fifths of its bonus payment as an offset against development.

In light of your August 24 joint recommendation and prior statements, we assume that you oppose these more extensive incentives to so-called big oil companies which, according to ERDA, are primarily interested in shale-oil projects. We would appreciate, however, your providing to us before September 8, 1976, confirmation of this.

GOVERNORS OPPOSE HUGE OIL SHALE PROJECTS

Today, we received the September 14, reply from Govs. Thomas P. Salmon of Vermont and Richard D. Lamm of Colorado. Once again they endorsed the "modular approach with regard to the development of oil shale resources with Federal support in the form of loan guarantees." They again endorse the Commerce Committee's oil shale language which clearly does not contain the vast "Rainbow" features of the substitute offered, which was never considered by any committee. The Governors added:

We advocate this type of approach because of the relatively unknown nature of the social, environmental and economic impacts of an oil shale industry, and believe that a full scale commercialization program can only be undertaken when more knowledge is gained as to these impacts.

As you are well aware, the rush to push new technologies to commercialization has often resulted in impeding development because of unforeseen impacts that adversely affected the public. It is the national interest to explore oil shale development and if we proceed in an intelligent and studious manner we will achieve our goals and not be stymied midcourse by unexpected adverse impacts.

It therefore is our policy recommendation that oil shale development proceed at levels so as to obtain necessary knowledge as to these impacts.

Our estimate of the size of facility that would provide necessary information is that of a single retort plant producing between 6,000 and 10,000 barrels of oil a day. Therefore, we believe it to be inappropriate to concur with the amended oil shale language that would allow projects to exceed the 6,000-10,000 barrel-a-day range.

We hope we have answered your questions with respect to the oil shale amendments offered by Chairman Teague.

I urge my colleagues to vote down this legislation which Representative GOLDWATER properly called a "giveaway to the oil shale industry" which is composed of such oil corporations as Shell, TOSCO, Ashland, Union, Sunoco, and others.

The entire text of the letter follows:

WASHINGTON, D.C.,
September 14, 1976.

Hon. KEN HECHLER,
U.S. House of Representatives,
Washington, D.C.
Hon. RICHARD L. OTTINGER,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMEN HECHLER and OTTINGER: Thank you very much for your letter of August 30, 1976, bringing to our attention the amendments to H.R. 12112 offered by Chairman Teague.

As noted in our earlier correspondence the NGC Committee on Natural Resources and Environmental Management endorses a "modular" approach with regard to the development of oil shale resources with federal support in the form of loan guarantees.

We advocate this type of approach because of the relatively unknown nature of the social, environmental and economic impacts of an oil shale industry, and believe that a full scale commercialization program can only be undertaken when more knowledge is gained as to these impacts.

As you are well aware, the rush to push new technologies to commercialization has often resulted in impeding development because of unforeseen impacts that adversely affected the public. It is the national interest to explore oil shale development and if we proceed in an intelligent and studious manner we will achieve our goals and not be stymied midcourse by unexpected adverse impacts.

It therefore is our policy recommendation that oil shale development proceed at levels so as to obtain necessary knowledge as to these impacts.

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We hope we have answered your questions with respect to the oil shale amendments offered by Chairman Teague. If you wish any clarification please contact the NGC Energy Program staff (202-785-5605).

Sincerely,

RICHARD D. LAMM,
Governor of Colorado, Chairman, Task Force on Synthetic Fuels.
THOMAS P. SALMON,
Governor of Vermont, Chairman, NGC Committee on Natural Resources and Environmental Management.

CONFERENCE REPORT ON H.R. 15194

Mr. MAHON submitted the following conference report and statement on the bill (H.R. 15194) "making appropriations for public works employment for the period ending September 30, 1977, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 94-1537)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15194) "making appropriations for public works employment for the period 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 House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$480,000,000"; and the Senate agree to the same.

GEORGE H. MAHON,
EDWARD P. BOLAND,
JOE L. EVINS,
GEORGE E. SHIPLEY,
J. EDWARD ROUSH,
BOB TRAXLER,
MAX BAUCUS,
LOUIS STOKES,
YVONNE BRATHWAITE BURKE,
JOSEPH M. MCDADE,
C. W. BILL YOUNG,
Managers on the Part of the House.

JOHN O. PASTORE,
JOHN L. MCCLELLAN,
J. BENNETT JOHNSTON,
WALTER D. HUDDLESTON,
CHARLES MCC. MATHIAS, JR.,
HENRY BELLMON,
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. 15194) making appropriations for public works employment 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 report:

TITLE I

Environmental Protection Agency

Amendment No. 1: Appropriates $480,000,000 for construction grants, instead of $200,000,000 as proposed by the House and $700,000,000 as proposed by the Senate.

Amendment No. 2: Deletes language proposed by the House relating to the allocation of funds as proposed by the Senate. The Committee of Conference agrees that the funds provided will be allocated in the same proportion as established by the formula incorporated by reference in Public Law 94-369.

Conference total—with comparisons

The total new budget (obligational) authority for the fiscal year 1977 and the transition period recommended by the committee of conference, with comparisons to the budget estimates, and the House and Senate bills for 1977 and the transition period follow:

Budget estimates of new (obligational) authority, fiscal year 1977	----------
Transition period	----------
House bill, fiscal year 1977	$1,138,300,000
Transition period	2,314,133,000
Senate bill, fiscal year 1977	1,638,300,000
Transition period	2,314,133,000
Conference agreement	1,418,300,000
Transition period	2,314,133,000
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 1977	+1,418,300,000
Transition period	+2,314,133,000
House bill, fiscal year 1977	+280,000,000
Transition period	----------
Senate bill, fiscal year 1977	−220,000,000
Transition period	----------

GEORGE MAHON,
EDWARD P. BOLAND,
JOE L. EVINS,
GEORGE E. SHIPLEY,
J. EDWARD ROUSH,
BOB TRAXLER,
MAX BAUCUS,
LOUIS STOKES,
YVONNE BRATHWAITE BURKE,
JOSEPH M. MCDADE,
C. W. BILL YOUNG,
Managers on the Part of the House.

JOHN O. PASTORE,
JOHN L. MCCLELLAN,
J. BENNETT JOHNSTON,
WALTER D. HUDDLESTON,
CHARLES MCC. MATHIAS, JR.,
HENRY BELLMON,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. ADDABBO (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. CARTER (at the request of Mr. RHODES), for week of September 13, 1976, on account of illness in the family.

Mr. HELSTOSKI (at the request of Mr. O'NEILL), for today, on account of official business.

Mrs. HOLT (at the request of Mr. RHODES), for today, on account of a death in the family.

Mr. MCKINNEY (at the request of Mr. RHODES), for today, on account of attending a funeral in Wilmington, Del.

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. MYERS of Pennsylvania) to revise and extend their remarks and include extraneous material:)

Mr. DERWINSKI for 5 minutes, today.

Mr. SHRIVER, for 5 minutes, today.

(The following Members (at the request of Mr. OBERSTAR) to revise and extend their remarks and include extraneous material:)

Mr. MCKAY, for 20 minutes, today.

Mr. VANIK, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. STOKES, for 10 minutes, today.

Mr. GIAIMO, for 10 minutes, today.

Mr. BROWN of California, for 10 minutes, today.

Mr. ALEXANDER, for 60 minutes, today.

Mr. SOLARZ, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MURPHY of New York, to extend his remarks in the body of the RECORD, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $2,002.

Mr. SEIBERLING to include extraneous matter in remarks made in the Committee of the Whole today.

(The following Members (at the request of Mr. MYERS of Pennsylvania) and to include extraneous matter:)

Mr. KETCHUM.

Mr. DERWINSKI in two instances.

Mr. MOORE.

Mr. RHODES in two instances.

Mr. WIGGINS.

Mr. GOODLING.

Mr. MCCLORY.

Mr. PAUL.

Mr. JOHNSON of Pennsylvania.

Mr. FINDLEY.

Mr. MOSHER in two instances.

(The following Members (at the request of Mr. OBERSTAR) and to include extraneous material:)

Mr. MAZZOLI.

Mr. STARK.

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. JONES of Tennessee.

Mr. BINGHAM in 10 instances.

Mr. SANTINI.

Mr. EARLY in two instances.

Mr. RANGEL.

Mr. MCDONALD in four instances.

Mr. JACOBS.

Mr. RODINO.

Mr. DINGELL.

Mr. HOWARD.

Mr. CORMAN in five instances.

Mr. REUSS.

Mr. THOMPSON.

Mr. BRECKINRIDGE.

Mr. PATTEN.

Mr. MURPHY of New York.

Mr. RICHMOND.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3790. An act for the relief of Camilla A. Hester, to the Committee on Judiciary.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported 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. 13655. An act to establish a five-year research and development program leading to advanced automobile propulsion systems, and for other purposes; and

H.R. 14262. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that the committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On September 13, 1976:

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.

On September 14, 1976:

H.R. 13655. An act to establish a five-year research and development program leading to advanced automobile propulsion systems, and for other purposes; and

H.R. 14262. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes.

ADJOURNMENT

Mr. OBERSTAR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 21 minutes p.m.) the House adjourned until tomorrow, Wednesday, September 15, 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:

4017. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the Department of Agriculture for the food stamp program for fiscal year 1977 has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation, pursuant to section 3679(e)(2) of the Revised Statutes; to the Committee on Appropriations.

4018. A letter from the Deputy Secretary of Defense, transmitting the initial allocation of the fiscal year 1977 authorized civilian strength of the Department of Defense among the various military departments and defense agencies, pursuant to section 501(b) of Public Law 94–361; to the Committee on Armed Services.

4019. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Wat T. Cluverius IV, Ambassador-designate to Bahrain, and his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

4020. A letter from the Chairman, Federal Power Commission, transmitting copies of various publications of the Commission; to the Committee on Interstate and Foreign Commerce.

RECEIVED FROM THE COMPTROLLER GENERAL

4021. A letter from the Comptroller General of the United States, transmitting a report on the adequacy and effectiveness of

United States and international controls over peaceful nuclear programs; jointly, to the Committee on Government Operations, and the Joint Committee on Atomic Energy.

4022. A letter from the Deputy Comptroller General of the United States, transmitting his review of the proposed rescission of budget authority for the Legal Services Corporation contained in the message from the President dated July 29, 1976 (H. Doc. No. 94–569), pursuant to section 1014(b) of Public Law 93–344 (H. Doc. No. 94–611); to the Committee on Appropriations and ordered to be printed.

4023. A letter from the Deputy Comptroller General of the United States, transmitting notice that initiation of legal action will not be necessary regarding the proposed rescission of budget authority by the President (R76–33) on Health Services Administration programs, pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations.

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:

Mrs. SCHROEDER: Committee on Post Office and Civil Services. H.R. 14830. A bill to provide for a 50-percent reduction of the burden on respondents in the censuses of agriculture, drainage, and irrigation taken in 1979 and thereafter, and for other purposes; with an amendment (Rept. No. 94–1527). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN. Committee on Ways and Means. H.R. 14970. A bill to extend the special unemployment assistance program for 1 year, and for other purposes (Rept. No. 94–1536). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SCHROEDER: Committee on Post Office and Civil Services. H.J. Res. 1008. Joint resolution authorizing the President to proclaim the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week" (Rept. No. 94–1528). Referred to the House Calendar.

Mr. MAHON: Committee of conference. Conference report on H.R. 15194 (Rept. No. 94–1537. Ordered to be printed.

Mr. HALEY: Committee on Interior and Insular Affairs. S. 2286. An act to amend the Act of June 9, 1906, to provide for a description of certain lands to be conveyed by the United States to the city of Albuquerque, N. Mex. (Rept. No. 94–1538). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. S. 2511. An act to authorize the Secretary of Agriculture to convey certain lands in the State of Idaho, and for other purposes, (Rept. No. 94–1539). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 10072. A bill to direct the Secretary of the Interior and the Administrator of General Services to convey certain public and acquired lands in the State of Nevada to the county of Mineral, Nev.; with amendments (Rept. No. 94–1540). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 12213. A bill to eliminate a restriction on use of certain lands patented to the city of Hobart, Kiowa County, Okla. (Rept. No. 94–1541). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 14227. 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; with amendments (Rept. No. 94–1542). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIGGS: Committee on International Relations. H. Con. Res. 737. Concurrent resolution expressing the sense of the Congress that every person throughout the world has a right to a nutritionally adequate diet and that the United States should increase substantially its assistance for self-help development among the world's poorest people; with amendments (Rept. No. 94–1543, pt. I). Ordered to be printed.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 3818. A bill to validate the conveyance of certain land in the State of California by the Southern Pacific Transportation Co. (Rept. No. 94–1544). Referred to the Committee of the Whole House.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 12574. A bill to authorize the Secretary of the Interior to convey the interest of the United States in certain lands in Adams County, Miss., notwithstanding a limitation in the Color-of-Title Act (45 Stat. 1069, as amended; 43 U.S.C. 1068); with an amendment (Rept. No. 94–1545). Referred to the Committee of the Whole House.

Mr. HUNGATE: Committee on the Judiciary. H.R. 13157. A bill to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes; with amendments (Rept. No. 94–1550). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE 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. FISH: Committee on the Judiciary. H.R. 9543. A bill for the relief of Eupert Anthony Grant; with an amendment (Rept. No. 94–1529). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 9908. A bill for the relief of Daniel Crowley; with an amendment (Rept. No. 94–1530). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 10962. A bill for the relief of Olive M. V. T. Davies and her children; with an amendment (Rept. No. 94–1545). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 11387. A bill for the relief of Patrick Andrew C. Laygo and Christina Socorro C. Laygo; with an amendment (Rept. No. 94–1532). Referred to the Committee of the Whole House.

Mr. DODD: Committee on the Judiciary. H.R. 11724. A bill for the relief of Mrs. Amelia Doria Nicholson (Rept. No. 94–1533). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 12831. A bill for the relief of Mo Chong-Pu; with an amendment (Rept. No. 94–1534). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 866. An Act for the relief of Patrick Andre Tasselin and his wife, Fabienne Francoise Tasselin; with amendments (Rept. No. 94–1535). Referred to the Committee of the Whole House.

Mr. DODD: Committee on the Judiciary. H.R. 2106. A bill for the relief of Marlene Pyle; with amendments (Rept. No. 94–1546). Referred to the Committee of the Whole House

Mr. FISH: Committee on the Judiciary. H.R. 3376. A bill for the relief of Natividad Casing and Myrna Casing; with an amendment (Rept. No. 94–1547). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 10757. A bill for the relief of Nora L. Kennedy; with an amendment (Rept. No. 94–1548). Referred to the Committee of the Whole House.

Mr. COHEN: Committee on the Judiciary. H.R. 11229. A bill for the relief of Carmelline Leonora Mariano Barzaga; with amendments (Rept. No. 94–1549). Referred to the Committee of the Whole House.

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. BRADEMAS (for himself, Mr. FITHIAN, Mr. ROUSH, Mr. HILLIS, Mr. EVANS of Indiana, Mr. MYERS of Indiana, Mr. HAYES of Indiana, Mr. HAMILTON, Mr. SHARP, and Mr. JACOBS):

H.R. 15546. A bill to designate the "Ray J. Madden Post Office Building"; to the Committee on Public Works and Transportation.

By Mr. CONTE:

H.R. 15547. A bill to amend the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees; to the Committee on Education and Labor.

By Mr. DOMINICK V. DANIELS:

H.R. 15548. 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 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; to the Committee on Interstate and Foreign Commerce.

By Mr. DUNCAN of Tennessee:

H.R. 15549. A bill to amend the Older Americans Act of 1965 to provide a national meals-on-wheels program for the elderly, and for other purposes; to the Committee on Education and Labor.

By Mr. MOORE (for himself and Mr. FLORIO):

H.R. 15550. A bill to amend section 2 of the Clayton Act to prevent discriminatory pricing practices by suppliers of competing marketers; to the Committee on the Judiciary.

By Mr. NOLAN:

H.R. 15551. A bill to assure American consumers of a stable and adequate supply of sugar by assuring the continued existence of a viable domestic sugar industry; jointly, to the Committees on Agriculture and Ways and Means.

By Mr. RODINO (for himself, Mr. HUNGATE, Mr. MANN, Mr. WIGGINS, and Mr. HYDE):

H.R. 15552. A bill to amend title 18, United States Code, to implement the Convention To Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance and the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, and for other purposes; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 15553. A bill to grant a Federal charter to the American GI Forum of the United States; to the Committee on the Judiciary.

By Mr. SHRIVER:

H.R. 15554. A bill to amend section 2 of the

act of August 22, 1964, to provide that articles which are produced or manufactured in Foreign-trade zones from foreign meat shall, upon their entry into the customs territory of the United States, be subject to certain import restriction; to the Committee on Ways and Means.

By Mr. SLACK:

H.R. 15555. A bill to require that any person holding a federally related home mortgage shall provide certain services and follow certain procedures before instituting foreclosure proceedings with respect to such mortgage; to the Committee on Banking, Currency and Housing.

By Mr. STEED (for himself, Mr. CONTE, Mr. ABDNOR, Mr. BAUCUS, Mr. CLEVELAND, Mr. CRANE, Mr. FASCELL, Mrs. HECKLER of Massachusetts, Mr. JENRETTE, Mr. KASTEN, Mr. KETCHUM, Mr. LAGOMARSINO, Mr. LATTA, Mrs. LLOYD of Tennessee, Mr. PRESSLER, Mr. QUIE, Mr. ROBERTS, Mr. RUPPE, Mrs. SMITH of Nebraska, Mr. SNYDER, Mr. TALCOTT, Mr. BOB WILSON, and Mr. ZABLOCKI) (by request):

H.R. 15556. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplication, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. STEIGER of Wisconsin (for himself, Mr. MILLS, Mr. MARTIN, Mr. PICKLE, Mr. BURLESON of Texas, Mr. CLANCY, Mr. ROSTENKOWSKI, Mr. KETCHUM, Mr. VANDER VEEN, Mr. CONABLE, Mr. GIBBONS, and Mr. JACOBS):

H.R. 15557. A bill to amend the Internal Revenue Code of 1954 to extend the duration of certain provisions relating to members of the Armed Forces of the United States and civilian employees who are missing in action or hospitalized as a result of wounds, disease, or injury incurred in the Vietnam conflict; to the Committee on Ways and Means.

By Mr. TAYLOR of North Carolina (for himself, Mr. BROWN of Ohio, Mr. BYRON, Mr. DON H. CLAUSEN, Mr. DE LUGO, Mr. DRINAN, Mr. HOWE, Mr. JOHNSON of California, Mr. KASTENMEIER, Mr. LAGOMARSINO, Mr. MEEDS, Mrs. MINK, Mr. OTTINGER, Mr. SEBELIUS, Mr. SEIBERLING, Mr. SIMON, Mr. TSONGAS, and Mr. WON PAT):

H.R. 15558. A bill to authorize the study of certain areas by the Secretaries of Agriculture and the Interior; to the Committee on Interior and Insular Affairs.

By Mr. TRAXLER:

H.R. 15559. A bill to establish a program for repairing and replacing unsafe highway bridges; jointly, to the Committees on Public Works and Transportation, and Ways and Means.

By Mr. VANIK:

H.R. 15560. A bill to amend the Internal Revenue Code of 1954 to change the method used to determine the rate of interest on tax deficiencies and overpayments; to the Committee on Ways and Means.

H.R. 15561. A bill to amend the Internal Revenue Code of 1954 to require taxpayers to provide on the first page of any income tax return certain information with respect to their interests in foreign bank accounts; to the Committee on Ways and Means.

By Mr. MIKVA:

H.R. 15562. A bill to require the Social Security Administration, the Veterans' Administration, and the Immigration and Naturalization Service to provide, in connection with any response to any person requesting information or assistance from any of such agencies, a card suitable for mailing inquiring into the opinion of such person concerning the promptness, courtesy, and fairness with which such request was handled by such agency, and for other purposes; jointly, to the Committees on Ways and Means, Veterans' Affairs, and the Judiciary.

By Mr. TAYLOR of North Carolina:

H.R. 15563. A bill to amend the act of July 9, 1965 (79 Stat. 213; 16 U.S.C. 460-17 (c)), and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. MINK (for herself, Mr. MINETA, and Mr. CHARLES H. WILSON of California):

H. Con. Res. 748. A resolution to commemorate the 35th anniversary of the founding of the Military Intelligence Service Language School, and to command Justice John Fujio Aiso for his distinguished contributions to the school; to the Committee on Post Office and Civil Service.

By Mr. GONZALEZ (for himself, Mr. DOWNING of Virginia, and Mr. FAUNTROY):

H. Res. 1540. A resolution creating a select committee to conduct an investigation and study of the circumstances surrounding the death of John F. Kennedy and the death of Martin Luther King, Jr., and of any others the select committee shall determine; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. HORTON:

H.R. 15564. A bill for the relief of Dr. Ming Derek Chan, Belle May Chan, Evelyn Chan, and Jeannie Chan; to the Committee on the Judiciary.

By Mr. MITCHELL of New York:

H.R. 15565. A bill for the relief of GFM Co.; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10498

By Mr. MYERS of Pennsylvania:

Section 310 is amended by adding immediately after line 24 on page 331:

"(c) In developing and implementing its research program and making its recommendations, the Task Force shall consider the impact of personal health habits, including tobacco smoking, on the relationship between environmental pollution and human cancer and heart and lung disease."

Renumber succeeding sections accordingly.

By Mrs. SCHROEDER:

Page 297, line 12, after "(a)" insert "(1)".

Page 297, strike out line 19 and all that follows down through line 4 on page 298 and substitute: "with altitude adjustment instructions provided by the manufacturer under subsection (b) and approved by the Administrator.

"(2) If the Administrator finds that adjustments or modifications made pursuant to instructions of the manufacturer under paragraph (1) will not insure emission control performance at least equivalent to that which would result if no such adjustments or modifications were made, he shall disapprove such instructions. Such finding shall be based upon minimum engineering evaluations consistent with good engineering practice. In any case in which emissions of one or more pollutants are increased by reason of adjustments or modifications made to reduce emissions of one or more other pollutants, emission control performance may be found by the Administrator to be equivalent for purposes of this subsection if the aggregate effect of emission control performance resulting from such adjustments or modifications will be more protective of health and welfare than the effect of emission control performance if no such adjustments or modifications had been made."

Page 298, strike out line 5 and all that follows down through line 17 and insert in lieu thereof the following:

"(b)(1)(A) Upon submission of any new motor vehicle or motor vehicle engine to the Administrator for purposes of obtaining a certificate of conformity under section 206(a)(1), the manufacturer shall submit to the Administrator instructions providing for such vehicle and engine adjustments and modifications as may be necessary to insure emission control performance at different altitudes. If the Administrator does not disapprove such instructions on or before the issuance of the certificate of conformity for the vehicle or engine, such instructions shall be treated as approved for purposes of this section.

"(B) In the case of any model year beginning after the date of enactment of this section, instructions respecting vehicles or engines manufactured during such model year which have been approved by the Administrator, shall be included in the instructions required under section 207(c)(3) and shall, not later than the date on which a class or category of motor vehicles or motor vehicle engines first becomes available for sale to the general public, be made available to any person upon request.

"(C) In the case of any model year beginning before the date of enactment of this section, instructions respecting each class or category of vehicles or engines to which this title applies providing for such vehicle and engine adjustments and modifications as may be necessary to insure emission control performance at different altitudes shall be submitted to the Administrator not later than 6 months after the date of the enactment of this section. If the Administrator does not disapprove such instructions on or before the date 8 months after such date of enactment, such instructions shall be treated as approved for purposes of this section.

"(D) If any instructions provided by a manufacturer for purposes of this section are disapproved by the Administrator, not later than 60 days after such disapproval, the manufacturer shall revise the instructions (in accordance with such requirements as the Administrator determines necessary for approval) and shall make the revised and approved instructions available to any person upon request.

"(2) Any violation by a manufacturer of paragraph (1) shall be treated as a violation by such manufacturer of section 203(a)(3) for purposes of the penalties contained in section 205."

H.R. 12112

By Mr. BLOUIN:

(Amendment to amendment by Mr. TEAGUE.)

On pages 27912-27913 of the CONGRESSIONAL RECORD of August 26, 1976, strike all of subparagraphs (1) through (4), inclusive, of subsection (z).

On page 27912 of the CONGRESSIONAL RECORD of August 26, 1976, at the end of subsection (z)(1) insert the following new sentence: "Such price guarantee contracts shall be subject to the provisions of section 7(c)(1) through (6) inclusive, of this Act."

On page 27913 of the CONGRESSIONAL RECORD of August 26, 1976, strike all of subsection (z)(3) and insert therein the following:

"(3) Subsections (c)(5), (c)(7), (d), (e), (i), (k), (m), and (p) through (y) shall apply to agreements or contracts under this subsection."

On page 27913 of the CONGRESSIONAL RECORD of August 26, 1976, at the end of subsection (z)(2), insert a new sentence to read as follows: "The Administrator may not enter into any agreement under this subsection with any person who receives any other financial assistance under this section or sections 7 and 8 of this section without

specific authorization by Congress enacted after the date of enactment of this section."

By Mr. ECKHARDT:

(Amendment to amendment by Mr. TEAGUE.)

On pages 27912-27193 of the CONGRESSIONAL RECORD of August 26, 1976 strike all of subsection (z), and on page 27913, after section 2, add a new section to read as follows:

"SEC. 3. The Federal Nonnuclear Energy Research and Development Act of 1974 is further amended by adding a new title at the end thereof as follows:

"'TITLE I—PRICE GUARANTEES AND PURCHASE AGREEMENTS FOR CERTAIN DEMONSTRATION FACILITIES

"'PURPOSE

"'SEC. 101. Is is the purpose of this title to authorize a limited program of price guarantees and purchase contracts with respect to the output of certain demonstration facilities for the conversion of domestic coal and certain other domestic resources into synthetic fuels.

"'DEFINITION

"'SEC. 102. For purposes of this title—

"'(1) The term "synthetic gas" means gas manufactured from coal or other hydrocarbon-containing materials (other than from crude oil, residual fuel oil, refined petroleum products, natural gas, or natural gas liquids).

"'(2) The term "Administrator" means the Administrator of the Energy Research and Development Administration.

"'PRICE GUARANTEES FOR NONREGULATED SYNTHETIC GAS

"'SEC. 103. (a) The Administrator may enter into a price guarantee agreement with any person proposing to construct a demonstration facility, within the United States for the production of synthetic gas, the sale of which to the ultimate user is not subject to price regulation under State or Federal law. Such agreement shall provide that if such person enters into a contract to supply such gas at a price which is initially fixed in the contract, but which decreases in proportion to any reduction (after the date of execution of the contract) in the average price of imported crude oil, then the United States will pay to such producer an amount which is specified in the agreement and which is not greater than the product of such decrease in the price of the synthetic gas produced times the number of units produced. The terms and conditions of such agreement and of contracts to which such agreement relates shall be prescribed by the Administrator by rule.

"'(b) The aggregate production to which agreements under this section apply may not at any time exceed 125,000 barrels of crude oil equivalent per day.

"'PURCHASE AGREEMENTS FOR CERTAIN SYNTHETIC FUELS

"'SEC. 104. (a) The Administrator may enter into a purchase contract with any person proposing to construct a demonstration facility within the United States to produce synthetic fuels (other than from oil shale). Under such contract, the Administrator may agree to purchase all or part of the output of such facility from such person—

"'(1) in the case of a demonstration facility producing liquid synthetic fuel, at a price which does not exceed the average price of imported crude oil (determined as of the date of execution of such contract), and

"'(2) in the case of a demonstration facility producing synthetic gas, at a price which does not exceed the average Btu equivalent price of imported crude oil (determined as of the date of execution of such contract)

"'(b) Synthetic fuels obtained under subsection (a) may—

"'(1) be resold by the Administrator at their market value (without regard to their acquisition cost),

"'(2) to the extent authorized by law (A) be consumed by departments and agencies of the United States, or (B) in the case of liquids, be acquired for storage in the Strategic Petroleum Reserve established by part B of title I of the Energy Policy and Conservation Act.

The Administrator may enter into a contract to exchange synthetic gas obtained under subsection (a)(2) for crude oil, residual fuel oil, or refined petroleum products. Such exchange shall be on a Btu equivalency basis, or on terms more favorable to the United States.

"'(c) The aggregate production to which contracts under this section apply may not at any time exceed 57,000 barrels of crude oil equivalent per day.

"'GENERAL PROVISIONS

"'SEC. 105. (a) To the maximum extent practicable, this title shall be administered in a manner consistent with the guidelines under paragraphs (1), (2), (4), and (5) of section 7(c) of the Federal Non-nuclear Energy Research and Development Act of 1974. Agreements and contracts under sections 103 and 104 shall be entered into on the basis of competitive bidding, in the manner similar to that described in section 7(c)(3) of such Act.

"'(b) No agreement under section 103 or contract under section 104 may extend for a period in excess of 20 years from the date such agreement or contract was entered into and may not be renewed.

"'(c) For purposes of this title, the average price of imported crude oil, average Btu equivalent price of imported crude oil, crude oil equivalent, and Btu equivalency shall be determined, by rule, by the Administrator of the Federal Energy Administration. Such rules shall specify the manner in which transportation costs shall be taken into account.

"'(d) Subsections (c)(5), (c)(7), (e), (k), (s), (t), (v), and (w) through (z) of section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974 shall apply to agreements or contracts under this title.

"'(e) Authority under this section to enter into price guarantee agreements under section 103 and purchase contracts under section 104 shall be effective only to the extent provided in appropriations Acts enacted after the date of enactment of this Act.

"'(f) The Administrator may not enter into contracts or agreements under this title which result in—

"'(1) an aggregate contingent liability of the United States in any fiscal year under contracts or agreements executed under this title during the fiscal year ending September 30, 1977, which exceeds $250,000,000; and

"'(2) an aggregate contingent liability of the United States in any fiscal year under contracts or agreements executed under this title after the fiscal year ending September 30, 1977, which exceeds $250,000,000.

"'PROHIBITION ON DUPLICATION OF ASSISTANCE

"'SEC. 106. The Administrator may not enter into any price guarantee agreement under section 103 or enter into any purchase contract under section 304 with any person who receives any financial assistance under section 7, 8, or 19 of the Federal Nonnuclear Energy Research and Development Act of 1974.

"'EXPIRATION DATE

"'SEC. 107. The Administrator's authority to enter into price guarantee agreements under section 303 of the Administrator's authority to enter into purchase contracts under section 304 shall expire on September 30, 1986.'"

By Mr. GOLDWATER:

On page 105 (which is part of the Banking, Currency and House Committee amendment) strike all of subsection (aa), beginning on line 17 through line 26, page 106.

On page 106 (which is part of the Banking, Currency and House Committee amendment), line 2 strike the period and insert in lieu thereof, "*: Provided,* That a recipient of a loan guarantee under this section shall not be eligible to receive assistance in the form of a price guarantee contract under this subsection and, conversely, a recipient of assistance in the form of a price guarantee contract under this subsection shall not be eligible for a loan guarantee under this section."

On pages 27912 and 27913 of the August 26, 1976 CONGRESSIONAL RECORD (Mr. TEAGUE's substitute), strike subsection (Z) in its entirety.

On page 27912 of the August 26, 1976 CONGRESSIONAL RECORD (Mr. TEAGUE's substitute), strike the period at the end of subsection (Z)(1) and insert in lieu thereof, "*: Provided,* That a recipient of a loan guarantee under this section shall not be eligible to receive assistance in the form of a price guarantee contract under this subsection and, conversely, a recipient of assistance in the form of a price guarantee contract under this subsection shall not be eligible for a loan guarantee under this section."

On page 34 (which is part of the Science and Technology Committee amendment), line 4, strike subsection (5)(B) through line 21, and insert in lieu thereof:

"(B) Any modular facility with respect to which assistance is provided under a cooperative agreement entered into pursuant to subparagraph (A) shall not be eligible for a loan guarantee under this section as a full size facility or for purposes of expansion to a full size facility."

On page 27909 of the August 26, 1976 CONGRESSIONAL RECORD (Mr. TEAGUE's substitute), strike subsection (5)(B), and insert in lieu thereof:

"(B) Any modular facility with respect to which assistance is provided under a cooperative agreement entered into pursuant to subparagraph (A) shall not be eligible for a loan guarantee under this section as a full size facility or for purposes of expansion to a full size facility."

On page 32 (which is part of the Science and Technology Committee amendment), line 14, after the last comma, insert, "(k),".

On page 27908 of the August 26, 1976 CONGRESSIONAL RECORD (Mr. TEAGUE's substitute), insert, "(k)," between "(h)," and "(n)," in the proviso at the end of subsection (b)(1) in the third column of that page.

On page 33 (which is part of the Science and Technology Committee amendment), line 8, after the period, insert the following: "In no case shall the bonds, debentures, notes, and other obligations guaranteed under this section be purchased or financed with Federal funds, through the Federal Financing Bank or otherwise, except as provided in subsection (n)."

On page 27909 of the August 26, 1976 CONGRESSIONAL RECORD (Mr. TEAGUE's substitute) at the end of subsection (b)(3) in the first column, after the period, insert the following: "In no case shall the bonds, debentures, notes, and other obligations guaranteed under this section be purchased or financed with Federal funds, through the Federal Financing Bank or otherwise, except as provided in subsection (n)."

By Mr. HARKIN:

(Amendment to amendment by Mr. TEAGUE.)

On page 27908 of the CONGRESSIONAL RECORD of August 26, 1976, strike the fourth sentence which begins with the words, "The authorized indebtedness to be guaranteed" of subsection (b)(1), and insert therein the following new sentence: "The authorized indebtedness to be guaranteed under clauses (A), (B), and (C) of this paragraph shall be allocated by the Administrator so that no

more than 50 per centum is for high-Btu gasification and related community assistance under subsection (k), no more than 30 per centum is for other fossil based synthetic fuels and biomass, which shall include, but is not limited to, animal and timber waste, urban and other waste, and sewage sludge, and related community assistance under subsection (k), and no less than 20 per centum for renewable resources and for industrial energy conservation and related community assistance under subsection (k)."

On page 27908 of the CONGRESSIONAL RECORD of August 26, 1976, strike the second sentence beginning with the words, "The amount of obligations" of subsection (b)(1) and insert therein the following new sentence: "The amount of obligations authorized for any guarantee or commitment to guarantee under this subsection is $2,000,000,000:"

On page 27909 of the CONGRESSIONAL RECORD of August 26, 1976, strike the words "initiated by the Governor" in subsection (e)(1).

On page 27909 of the CONGRESSIONAL RECORD of August 26, 1976, at the end of subsection (e)(1), insert the following new sentence: "Nothing in this section shall be deemed to restrict the right of any person to obtain judicial review under Federal or State law, as appropriate, of any Federal agency action or State agency action."

On pages 27912–27913 of the CONGRESSIONAL RECORD of August 26, 1976, strike all of the subparagraphs (1) through (4), inclusive of subsection (2).

By Mr. HAYES of Indiana:

(Amendment to amendment by Mr. TEAGUE.)

On page 27909 of the CONGRESSIONAL RECORD of August 26, 1976 strike paragraph (9) of subsection (b) and insert therein the following new paragraph:

"(9) the obligation provides that the Administrator shall, after seven years, but not later than ten years, after issuance of such obligation, determine, in writing, whether to terminate Federal participation in the demonstration facility, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation. Such determination shall be published in the *Federal Register*. In the event that the Administrator determines that such termination is appropriate, he shall notify the borrower and provide a minimum of two years and not more than three years in which to find alternative financing. If the borrower is unable to secure such financing, the Administrator may elect not to terminate upon agreement by the borrower to pay an additional fee of not less than 1 per centum per annum on the remaining obligation to which the guarantee applies."

On page 75 (which is part of the Banking, Currency and Housing Committee amendment, line 14, strike all through the period on line 6, page 76, and insert in lieu thereof the following:

"(9) the obligation provides that the Administrator shall, after seven years, but not later than ten years, after issuance of such obligation, determine, in writing, whether to terminate Federal participation in the demonstration facility, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation. Such determination shall be published in the *Federal Register*. In the event that the Administrator determines that such termination is appropriate, he shall notify the borrower and provide a minimum of two years and not more than three years in which to find alternative financing. If the borrower is unable to secure such financing, the Administrator may elect not to terminate upon agreement by the borrower to pay an additional fee of not less than 1 per centum per annum on the remaining obligation to which the guarantee applies."

On page 36 (which is part of the Science and Technology Committee Amendment) between line 12 and 13 insert the following:

"(8) the obligation provides that the Administrator shall, after seven years, but not later than ten years, after issuance of such obligation, determine, in writing, whether to terminate Federal participation in the demonstration facility, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation. Such determination shall be published in the *Federal Register*. In the event that the Administrator determines that such termination is appropriate, he shall notify the borrower and provide a minimum of two years and not more than three years in which to find alternative financing. If the borrower is unable to secure such financing, the Administrator may elect not to terminate upon agreement by the borrower to pay an additional fee of not less than 1 per centum per annum on the remaining obligation to which the guarantee applies."

By Mr. HECHLER of West Virginia:

(Amendment to the amendment by Mr. TEAGUE.)

On page H9183 of the CONGRESSIONAL RECORD of August 26, 1976, strike all of subsection (s) and insert the following:

"SUNSHINE IN GOVERNMENT

"(s)(1) Each officer or employee of the Administrator and the Secretary of the Treasury who—

"(A) performs any function or duty under this Act; and

"(B) has any known financial interest (i) in any person subject to such Act, or (ii) in any person who applies for or receives any grant, contract, or other form of financial assistance pursuant to this Act;

shall, beginning on February 1, 1977, annually file with the Administrator or said Secretary, as appropriate, 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.

"(2) The Administrator and said Secretary shall—

"(A) act within ninety days after the date of enactment of this section—

"(i) to define the term 'known financial interest' for purposes of paragraph (1)(B) of this subsection; and

"(ii) to establish the methods by which the requirement to file written statements specified in paragraph (1) of this subsection will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator and said Secretary of such statements; and

"(B) 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.

"(3) In the rules prescribed in paragraph (2) of this subsection, the Administrator and said Secretary may identify specific positions within such agency which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this subsection.

"(4) Any officer or employee who is subject to, and knowingly violates, this subsection or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

By Mr. MOFFETT:

On page 104 (which is a part of the Banking, Currency and Housing Committee amendment), after the period on line 12, insert the following:

"No more than 75 percentum of the aggregate amount of obligations authorized to be guaranteed under this section may be issued with respect to demonstration facilities the total cost of each of which exceeds $10,000,000."

On page 53 (which is part of the Science and Technology Committee amendment), after the period on line 9 insert the following:

"No more than 75 percentum of the aggregate amount of obligations authorized to be guaranteed under this section may be issued with respect to demonstration facilities the total cost of each of which exceeds $10,000,000."

On page 60 (which is part of the Science and Technology Committee Amendment), between lines 23 and 24, insert a new paragraph to read as follows:

"(5) No fulltime officer or employee of the Energy Research and Development Administration who directly or indirectly discharged duties or responsibilities under this section, and who was at any time during the twelve months preceding the termination of his employment with the Administration compensated under Executive Schedule or compensated at or above the annual rate of basic pay for grade GS–16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Administration, employment or compensation, directly or indirectly, from any person, persons, association, corporation or other entity, that had entered into a cooperative agreement or guarantee or commitment to guarantee with the Administration under this section during such time as such officer or employee discharged duties or responsibilities under this section."

On page 101 (which is part of the Banking, Currency and Housing Committee Amendment), after line 26, insert a new paragraph to read as follows:

"(5) No fulltime officer or employee of the Energy Research and Development Administration who directly or indirectly discharged duties or responsibilities under this section, and who was at any time during the twelve months preceding the termination of his employment with the Administration compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS–16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Administration, employment or compensation, directly or indirectly, from any person, persons, association, corporation or other entity, that had entered into a cooperative agreement or guarantee or commitment to guarantee with the Administration under this section during such time as such officer or employee discharged duties or responsibilities under this section."

On page 43 (which is part of the Science and Technology Committee amendment), line 18, change the period to a colon and insert therein the following: "*Provided*, That the Administrator shall not receive or approve any applications for financial assistance under this section until after March 1, 1977."

On page 84 (which is part of the Banking, Currency and Housing Committee amendment), line 8, change the period to a colon and insert therein the following: "*Provided*, That the Administrator shall not receive or approve any applications for financial assistance under this section until after March 1, 1977."

On page 36 (which is part of the Science and Technology Committee amendment),

line 25, insert a period after the word "so" and strike all thereafter thru the period on line 2, page 37.

On page 76 (which is part of the Banking, Currency and Housing Committee amendment), line 22, insert a period after the word "so" and strike all thereafter thru the period on line 24.

(Amendments to amendment by Mr. TEAGUE.)

On page 27909 of the CONGRESSIONAL RECORD of August 26, 1976, strike all of subsection (c)(2) and insert the following:

"(2) the amount guaranteed with respect to any demonstration facility may not at any time exceed 75 per centum of the total cost incurred as of such time with respect to such facility (as determined by the Administrator), except if the total cost incurred with respect to a demonstration facility exceeds the project cost estimated by the Administrator at the time the loan guarantee was issued, the amount guaranteed may not exceed 75 per centum of such estimated project cost and 60 per centum of such excess. In determining the cost incurred with respect to a facility—

"(A) there shall be excluded any cost incurred for facilities and equipment used in the extraction of a mineral to be converted to synthetic fuel, unless the Administrator determines that such facilities and equipment are not capable of producing any marketable fuel other than synthetic fuel.

"(B) property or services obtained for the facility in a transaction with a person who has or will have a substantial ownership or profits interest in the facility shall be valued at the cost to the borrower or fair market value, whichever is less;".

On page 27908 of the CONGRESSIONAL RECORD of August 26, 1976, strike all of subsection (b)(3) and insert therein the following:

"(3) Prior to issuing a guarantee or commitment to guarantee with respect to any facility under this section, the Administrator shall submit to the Secretary of the Treasury a full and complete report on the proposed facility and the guarantee, including the impact of the guarantee on the capital market and other persons seeking financing without the aid of guarantees. The Secretary of the Treasury shall—

"(A) insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of each guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal activities which directly or indirectly impact on such capital markets, and

"(B) impose such conditions on the issuance of each guarantee, after analyzing the financing of the facility, the tax benefits which would be available to investors in the facility, and the regulatory actions associated with the facility, as may be necessary to assure that investors having an ownership or profits interest in the facility bear a substantial risk of after-tax loss in the event of default;

"and the guarantee or commitment to guarantee shall not be issued unless (i) its timing, interest rate, and substantial terms and conditions (as described in subparagraph (A)) are concurred in by the Secretary, and (ii) it meets the conditions imposed by the Secretary under subparagraph (B) of this paragraph. Such report, including the analysis, shall be included in the report required to be made to Congress pursuant to subsection (m) of this section."

On page 27912 of the CONGRESSIONAL RECORD of August 26, 1976, at the end of subsection (s) insert a new paragraph to read as follows:

"(5) No fulltime officer or employee of the Energy Research and Development Administration who directly or indirectly discharged duties or responsibilities under this section, and who was at any time during the twelve months preceding the termination of his employment with the Administration compensated under Executive Schedule or compensated at or above the annual rate of basic pay for grade GS-16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Administration, employment or compensation, directly or indirectly, from any person, persons, association, corporation or other entity, that had entered into a cooperative agreement or guarantee or commitment to guarantee with the Administration under this section during such time as such officer or employee discharged duties or responsibilities under this section."

On page 60 (which is part of the Science and Technology Committee amendment), between lines 23 and 24, insert a new paragraph to read as follows:

"(5) No fulltime officer or employee of the Energy Research and Development Administration who directly or indirectly discharged duties or responsibilities under this section, and who was at any time during the twelve months preceding the termination of his employment with the Administration compensated under Executive Schedule or compensated at or above the annual rate of basic pay for grade GS-16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Administration, employment or compensation, directly or indirectly, from any person, persons, association, corporation or other entity, that had entered into a cooperative agreement or guarantee or commitment to guarantee with the Administration under this section during such time as such officer or employee discharged duties or responsibilities under this section."

On page 101 (which is part of the Banking, Currency and Housing Committee amendment), after line 26, insert a new paragraph to read as follows:

"(5) No fulltime officer or employee of the Energy Research and Development Administration who directly or indirectly discharged duties or responsibilities under this section, and who was at any time during the twelve months preceding the termination of his employment with the Administration compensated under Executive Schedule or compensated at or above the annual rate of basic pay for grade GS-16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Administration, employment or compensation, directly or indirectly, from any person, persons, association, corporation or other entity, that had entered into a cooperative agreement or guarantee or commitment to guarantee with the Administration under this section during such time as such officer or employee discharged duties or responsibilities under this section."

(Amendment to amendment by Mr. TEAGUE.)

On page 27912 of the CONGRESSIONAL RECORD of August 26, 1976 after the period at the end of subsection (x) insert the following new sentence:

"No more than 75 per centum of the aggregate amount of obligations authorized to be guaranteed under this section may be issued with respect to demonstration facilities the total cost of each of which exceeds $10,000,000."

On page 104 (which is a part of the Banking, Currency and Housing Committee amendment), after the period on line 12, insert the following:

"No more than 75 per centum of the aggregate amount of obligations authorized to be guaranteed under this section may be issued with respect to demonstration facilities the total cost of each of which exceeds $10,000,000."

On page 53 (which is part of the Science and Technology Committee amendment), after the period on line 9 insert the following:

"No more than 75 per centum of the aggregate amount of obligations authorized to be guaranteed under this section may be issued with respect to demonstration facilities the total cost of each of which exceeds $10,000,000."

(Amendment to amendment by Mr. TEAGUE.)

On page 27912 of the CONGRESSIONAL RECORD of August 26, 1976 change the period at the end of subsection (p)(2) and insert the following: *"Provided*, That it is established by a certificate filed with the Administrator that not less than 90 per centum of the employees of such corporation, partnership, firm, or association, are and will continue to be during the term of any guarantee or agreement issued under this section to such corporation, partnership, firm, or association legal residents of the United States."

On page 58 (which is a part of the Science and Technology Committee amendment), line 5, change the period to a colon and insert: *"Provided*, That it is established by a certificate filed with the Administrator that not less than 90 percentum of the employees of such corporation, partnership, firm, or association, are and will continue to be during the term of any guarantee or agreement issued under this section to such corporation, partnership, firm, or association legal residents of the United States."

On page 99 (which is a part of the Banking, Currency and Housing Committee amendment), line 6, change the period to a colon and insert: *"Provided*, That it is established by a certificate filed with the Administrator that not less than 90 percentum of the employees of such corporation, partnership, firm, or association, are and will continue to be during the term of any guarantee or agreement issued under this section to such corporation, partnership, firm, or association legal residents of the United States."

On page 124 (which is a part of the Interstate and Foreign Commerce Committee amendment), line 3, change the period to a colon and insert: *"Provided*, That it is established by a certificate filed with the Administrator that not less than 90 percentum of the employees of such corporation, partnership, firm, or association, are and will continue to be during the term of any guarantee or agreement issued under this section to such corporation, partnership, firm, or association legal residents of the United States."

By Mr. OTTINGER:

On page 84 (which is part of the Banking, Curency and Housing Committee amendment), line 8, change the period to a colon and insert therein the following: *"Provided*, That the Administrator shall not receive or approve any applications for financial assistance under this section until after March 1, 1977."

On page 43 (which is part of the Science and Technology Committee amendment), line 18, change the period to a colon and insert therein the following: *"Provided*, That the Administrator shall not receive or approve any applications for financial assistance under this section until after March 1, 1977."

(Amendment to the amendment by Mr. TEAGUE.)

On page 27910 of the CONGRESSIONAL RECORD of August 26, 1976, strike the period at the end of the first sentence of subsection (i) and insert therein a colon and the following: *"Provided*, That the Administrator shall not receive or approve any applications for financial assistance under this section until after March 1, 1977."

On page 32 (which is part of the Science and Technology Committee amendment)

strike line 6 through the period on line 9 and insert the following: "submitted to the Speaker of the House of Representatives and the President of the Senate."

On page 70 (which is part of the Banking, Currency and Housing Committee amendment), strike line 7 through the period on line 10 and insert the following: "of each such study is submitted to the Speaker of the House of Representatives and the President of the Senate."

(Amendment to amendment by Mr. TEAGUE.)

On page 27908 of the CONGRESSIONAL RECORD of August 26, 1976, in subsection (b)(1) strike the words "and the House Committee on Science and Technology" and the words "and the Senate Committee on Interior and Insular Affairs" and insert a period after the word "Senate".

On page 94 (which is part of the Banking, Currency and Housing Committee amendment), after the word "and" on line 1, strike all through the period on line 3, and insert the following: "to the President of the Senate."

On page 52 (which is part of the Science and Technology Committee amendment), strike line 24 through the period on line 2, page 53, and insert the following: "and to the President of the Senate."

(Amendment to Amendment by Mr. Teague.)

On page 27911 of the CONGRESSIONAL RECORD of August 26, 1976, in paragraph (3) of subsection (1) strike the words: "and the House Committee on Science and Technology" and the words "and the Committee on Interior and Insular Affairs of the Senate" and insert a period at the end of the paragraph.

On page 94 (which is part of the Banking, Currency and Housing Committee amendment), strike line 7 through the word "Senate" on line 9 and insert therein the following: "Speaker of the House of Representatives and the President of the Senate".

On page 53 (which is part of the Science and Technology Committee amendment), strike line 6 through the word "Senate" on line 8 and insert therein the following: "Speaker of the House of Representatives and the President of the Senate".

(Amendment to Amendment by Mr. Teague.)

On page 27911 of the CONGRESSIONAL RECORD of August 26, 1976 in subsection (m) strike the words: "Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate" and insert therein "Speaker of the House of Representatives and the President of the Senate".

On page 27911 of the CONGRESSIONAL RECORD of August 26, 1976, strike the first sentence of subsection (n)(2) and insert the following:

"(2) There are authorized to be appropriated in fiscal year 1977 $2,000,000 for administrative expenses."

On page H9180 of the CONGRESSIONAL RECORD of August 26, 1976, strike all of subsection (b)(5) and insert therein the following:

"(5)(A) The Administrator shall not enter into any guarantee or commitment to guarantee with respect to any obligation for any facility for the demonstration of conversion of oil shale into synthetic fuels unless such facility is a modular facility, the production of which is not less than 6,000 and not more than 10,000 barrels per day. No such modular facility may receive both loan guarantees under this section and any direct or indirect financial assistance under any other section of this Act.

"(B) The provisions of subsections (d), (e), (k), (m), (p), (s), (t), (u), (v), (w), (x), (y), and (z) shall apply to any facility—

"(i) which is designed to convert oil shale into synthetic fuels.

"(ii) which has a capacity of more than 6,000 barrels per day, and

"(iii) which receives, or seeks to receive, assistance (other than loan guarantees) under this Act,

in the same manner as such subsections would apply to a facility with respect to which a loan guarantee is issued, or sought to be issued, under this section."

On page 27912 of the CONGRESSIONAL RECORD of August 26, 1976, after "(r)" insert "(1)" and after subsection (r) insert the following:

"(2) The Administrator shall require, as a condition of issuing one or more guarantees with respect to a project which guarantees in the aggregate exceed $20,000,000, that the applicant for such guarantee agree (or obtain any agreements necessary to assure) that any proprietary or patented process (other than a process to which paragraph (1) applies)—

"(A) which is used in the project,

"(B) which is necessary for general commercial application of the technology utilized in the project, and

"(C) which is known to the Administrator or the applicant at the time such obligation is entered into,

shall be available for general commercial application in similar projects in the United States at such fee and on such other terms and conditions as the Administrator determines are reasonable. Such fee, or the manner for determining it, and such terms and conditions shall be specified in the guarantee agreement or in a separate agreement (executed before the guarantee is issued) with the persons controlling the rights to use such process."

On page 27908 of the CONGRESSIONAL RECORD of August 26, 1976, strike the first proviso in the last sentence of subsection (b)(1) and insert a new proviso as follows: "*Provided*, That paragraphs (2) through (4) of this subsection, and subsections (c)(1), (4), (8) and (9), (d), (g) (2) through (4), (m), and (n) through (y) of this section shall also apply to such guarantees:"

On page 27911 of the CONGRESSIONAL RECORD of August 26, 1976, strike the proviso in subsection (m) and insert the following new proviso: "*Provided*, That where the cost of such demonstration or modular facility exceeds $200,000,000, such guarantee or commitment to guarantee or cooperative agreement and price guarantee contract shall not be finalized except as specifically authorized by legislation hereafter enacted by Congress."

On page 27909 of the CONGRESSIONAL RECORD of August 26, 1976, between the first and second sentences of subsection (e)(2), insert the following new sentence: "The Administrator shall consult with the Environmental Protection Agency in making this review and giving such approval."

H.R. 15069

By Mr. HECHLER of West Virginia:

On page 35, after line 20, insert the following new section:

"SUNSHINE IN GOVERNMENT

"SEC. 14. (a) Each officer or employee of the Secretary of Agriculture who—

"(1) performs any function or duty under this Act, or any Acts amended by this Act, concerning units of the National Forest System; and

"(2) has any known financial interest (A) in any person subject to such Acts, or (B) in any person who holds a permit, contract, or other instruments for the use and occupancy, including, but not limited to, the sale of timber, of National Forest System lands;

"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 nonpolicymaking 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."

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 13, 1976, page 30189.

HOUSE BILLS

H.R. 15221. August 23, 1976. Judiciary. Deletes the provisions of the Immigration and Nationality Act which limit to two the number of petitions for preference status which may be granted to a petitioner on behalf of an alien orphan immigrating to the United States for adoption.

H.R. 15222. August 23, 1976. Public Works and Transportation. Authorizes the States to perform certain functions delegated to the Secretary of the Army and the Chief of Engineers with respect to public works and dredging projects on intrastate waters.

H.R. 15223. August 23, 1976. Armed Services. Authorizes the Secretary of the military department concerned to conduct safety investigations of aircraft accidents involving aircraft within such department.

Prohibits the release of information contained in specified parts of such a safety investigation report outside the armed force concerned without the authorization of the Secretary concerned and stipulates that such information may not be subject to discovery.

Prohibits the use of such information as evidence in any disciplinary action or judicial or administrative proceeding arising from the accident being investigated.

H.R. 15224. August 23, 1976. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to develop a river system management plan for the Upper Mississippi River, in the format of the "Great River Study."

H.R. 15225. August 23, 1976. Judiciary; Standards of Official Conduct. Requires lobbyists to: (1) register with the Federal Election Commission; (2) make and retain certain records; and (3) file reports with the Commission regarding their activities.

Requires certain officials of the executive branch to record their communications with lobbyists. Repeals the Federal Regulation of Lobbying Act.

H.R. 15226. August 23, 1976. Education and Labor; Ways and Means. Directs the Secretary of Labor to enter into contracts with Opportunities Industrialization Centers, Incorporated, and with any other nonprofit community based organization for the provision of specified employment and training services for unemployed persons, especially unemployed youth. Directs that priority be given to such organizations to provide similar services under enumerated public works and revenue sharing programs.

Amends the Comprehensive Employment and Training Act to authorize the Secretary of Labor to provide financial assistance for year-round jobs for economically disadvantaged youths.

Amends the Internal Revenue Code to qualify wages paid to specified previously unemployed persons for the work incentive program expenses credit.

H.R. 15227. August 23, 1976. Education and Labor. Amends the Service Contract Act of 1965 to extend its applicability to contracts performed on the Canal Zone.

H.R. 15228. August 23, 1976. Education and Labor. Amends the Service Contract Act of 1965 to extend its coverage to professional employees who are paid at a rate not exceeding the rate received by Federal Government employees in grade 15 of the General Schedule.

Requires that the minimum fringe benefits and salaries paid to such employees conform to the most recent National Survey of Professional, Administrative, Technical, and Clerical Pay issued by the Department of Labor.

H.R. 15229. August 23, 1976. Ways and Means. Amends the Internal Revenue Code to provide a single unified rate schedule for estate and gift taxes. Repeals the estate and gift tax exemptions. Substitutes for such exemptions a credit against estate and gift taxes.

H.R. 15230. August 23, 1976. Ways and Means. Amends the Internal Revenue Code to provide a single unified rate schedule for estate and gift taxes. Repeals the estate and gift tax exemptions. Substitutes for such exemptions a credit against estate and gift taxes.

H.R. 15231. August 23, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 15232. August 23, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 15233. August 23, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 15234. August 23, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 15235. August 23, 1976. 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 the termination of the claimant's employment status with the Department of the Navy.

H.R. 15236. August 23, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 15237. August 24, 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. 15238. August 24, 1976. Interstate and Foreign Commerce. Directs the Federal Communications Commission to take steps as may be necessary to increase the channels available for use in the citizens radio service to 46 channels.

H.R. 15239. August 24, 1976. Public Works and Transportation. Authorizes the Secretary of the Army acting through the Chief of Engineers, to acquire lands, easements, rights-of-way, and complete relocations associated with Canyons 1 and 2 at Wenatchee, Washington.

H.R. 15240. August 24, 1976. Public Works and Transportation. Directs the Secretary of the Army, acting through the Chief-of-Engineers, to conduct hydrographic surveys of the Columbia River in Washington, for the purpose of identifying navigational hazards.

H.R. 15241. August 24, 1976. Education and Labor. Amends the Comprehensive Employment and Training Act of 1973 to require that employees of a prime sponsor who perform services relative to the manpower services program under such Act to be assured of working conditions and benefits comparable to those of other employees of such sponsor.

H.R. 15242. August 24, 1976. Veterans' Affairs. Directs that the premiums on National Service Life Insurance be waived during any time after which the insured has attained the age of 65 and has paid premiums on the insurance for not less than 25 years.

H.R. 15243. August 24, 1976. Post Office and Civil Service; House Administration. Expands the prohibition of the employment by any public official of any relative of such public official in an agency in which such official serves or over which such official exercises jurisdiction or control to cover the Legislative branch.

H.R. 15244. August 24, 1976. Interior and Insular Affairs. Requires that electric power in the southwestern power area be sold at agreed points of delivery and at uniform, nondiscriminatory rates. Stipulates that agreed points of delivery shall not be changed unilaterally by the Secretary of the Interior.

H.R. 15245. August 24, 1976. Public Works and Transportation. Amends the Local Public Works Capital Development and Investment Act of 1976 to revise the criteria under which States and local governments are to be given priority in making public works grants during periods when the national unemployment rate exceeds six and one-half percent.

H.R. 15246. August 24, 1976. Education and Labor. Amends the Service Contract Act of 1965 to redefine "service employees" for purposes of Federal service contract labor standards.

H.R. 15247. August 24, 1976. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to grant reasonable litigation costs, including attorneys' fees, to any employer who successfully contests a citation or proposed penalty before the Occupational Safety and Health Review Commission or an order of the Commission before an appropriate United States court of appeals.

H.R. 15248. August 24, 1976. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to provide that no compensatory charge for or in connection with interstate or foreign communication by wire or radio may be found to be unjust or unreasonable because it is too low.

H.R. 15249. August 24, 1976. Armed Services. Permits the enlistment of Vietnamese and Cambodian alien refugees into the U.S. Armed Forces.

H.R. 15250. August 24, 1976. Judiciary. Permits the Attorney General, under the Immigration and Nationality Act, to adjust the status of any alien from Indochina to permanent resident without regard to immigration quotas or lack of possession by such alien of specified required immigration documents. States that such alien need only be eligible to receive an immigrant visa to qualify for such change of status.

SENATE—*Tuesday, September 14, 1976*

The Senate met at 11 a.m. and was called to order by Hon. DICK CLARK, a Senator from the State of Iowa.

PRAYER

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

O Thou whose word instructs us "to commit thy way unto the Lord; trust also in Him: and He shall bring it to pass," we commit this day and its labor to Thee. We ask not that our burdens be removed from us but for strength to carry them. We pray in this place for one another that together we may concert our best endeavors for the Nation. Make us wise craftsmen in the art of government that the people be well served and Thy kingdom set forward. Keep us humble and watchful and prayerful, growing each day in the ways of the Master, in whose name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 14, 1976.

To the Senate:

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

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Mon-

day, September 13, 1976, be dispensed with.

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

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 1139, 1143, and 1144.

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

ADDITION OF THE SALT CAIRN SITE TO THE FORT CLATSOP NATIONAL MEMORIAL

The Senate proceeded to consider the bill (S. 828) to provide for addition to the Fort Clatsop National Memorial of the site of the salt cairn utilized by the Lewis and Clark Expedition, and for other purposes.

Mr. HATFIELD. Mr. President, I strongly support S. 828, which would include the site of the salt cairn utilized by the Lewis and Clark Expedition, located at Seaside, Oreg., as a part of the Fort Clatsop National Memorial.

The availability of salt was of the utmost importance to the Lewis and Clark Expedition. The journals of the expedition tell us that during the preparations for the journey and on the trip itself the leaders were greatly concerned about having enough salt for their men. It was necessary because the strenuous physical activity involved in such an endeavor resulted in the loss of body salt, as well as to make their food more palatable.

When the expedition arrived at Fort Clatsop, Oreg., in December of 1805, it was imperative that their salt supply be replenished. Capt. William Clark wrote:

> We having fixed on this Situation as the one best Calculated for our Winter quarters I deturmin'd to go as direct a Course as I could to the Sea Coast which we could here roar and appeared to be at no great distance from us, my principle object is to look out a place to make salt.

That place was found and a group of men spent 2 months producing 20 gallons of salt by a continuous process of boiling sea water in five "kittles." The site of that salt cairn is located in what is now Seaside, Oreg. The land is presently owned by the Oregon Historical Society which is willing to give it to the National Park Service as a satellite of the Fort Clatsop National Memorial.

Both the Oregon Lewis and Clark Trail Heritage Foundation Committee, headed by Dr. E. G. Chuinard, and the Oregon Historical Society strongly support S. 828.

Mr. President, the site of the salt cairn is presently not being cared for in an adequate fashion. Inclusion as a satellite site of the Fort Clatsop National Memorial will insure the protection that this area deserves.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 828

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to include within the Fort Clatsop National Memorial the site of the historic salt cairn utilized by the Lewis and Clark Expedition while encamped at Fort Clatsop, which salt cairn and its related function of salt making were an integral part of the history, operation, and significance of Fort Clatsop, section 2 of the Act of May 29, 1958 (72 Stat. 153; 16 U.S.C. 450mm-1), is amended to read as follows:

"SEC. 2. The Secretary of the Interior shall designate for inclusion in Fort Clatsop National Memorial land and improvements thereon located in Clatsop County, Oregon, which are associated with the winter encampment of the Lewis and Clark Expedition, known as Fort Clatsop, including the site of the salt cairn (specifically, lot number 18, block 1, Cartwright Park Addition of Seaside, Oregon) utilized by that expedition and adjacent portions of the old trail which led overland from the fort to the coast: *Provided,* That the total area so designated shall contain no more than one hundred and thirty acres.".

GEN. DRAZA MIHAILOVICH MONUMENT

The Senate proceeded to consider the bill (S. 2135) to authorize the construction and maintenance of the General Draza Mihailovich Monument in Washington, District of Columbia, in recognition of the role he played in saving the lives of approximately 500 U.S. airmen in Yugoslavia during World War II, which had been reported from the Committee on Rules and Administration with an amendment on page 2, line 4, strike out:

> Such monument shall be located on public land within the District of Columbia, to be located according to plans approved by the National Capital Planning Commission, the Fine Arts Commission, and the Secretary of the Interior.

And insert in lieu thereof:

> Such monument shall be of appropriate design and shall be located on Federal public land within the District of Columbia or environs. The design and location of the monument shall be subject to approval by the National Capital Planning Commission, the Fine Arts Commission, and the Secretary of the Interior.

So as to make the bill read:

S. 2135

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, pursuant to section 2 of this bill, the Secretary of the Interior shall permit the National Committee of American Airmen Rescued by General Mihailovich to construct and maintain a monument to General Draza Mihailovich, in recognition of the role he played in saving the lives of approximately five hundred United States airmen in Yugoslavia during World War II, as described in such committee's petition to Congress concerning the authorization of such monument. Such monument shall be of appropriate design and shall be located on Federal public land within the District of Columbia or environs. The design and location of the monument shall be subject to approval by the National Capital Planning Commission, the Fine Arts Commission, and the Secretary of the Interior.

SEC. 2. The National Committee of American Airmen Rescued by General Mihailovich shall accept private funds which shall be the sole source for the construction and maintenance of such monument. The Secretary of the Interior shall only permit such committee to begin the construction of such monument when he determines that such committee has sufficient funds to complete such construction and to provide for such maintenance; except that such committee must have such funds no later than two years after the date of enactment of this Act.

Mr. THURMOND. Mr. President, I am pleased to rise in support of S. 2135, my bill to authorize the National Committee of American Airmen Rescued by Gen. Draza Mihailovich to erect a monument in Washington, D.C.

The monument is to be erected by funds solicited from the general public and will not cost American taxpayers one penny.

During World War II, the United States and Great Britain initially supported the nationalist resistance movement in Yugoslavia, led by Gen. Draza Mihailovich. Due to a tragic combination of errors and mistaken information, the Allies withdrew their support from Mihailovich at the end of 1943 and threw their weight behind the Communist resistance movement under the leadership of Marshal Tito.

Despite his abandonment by the Allies, and despite the merciless war waged against him by both the Communists and the Nazis during 1944, General Mihailovich and his forces, known as the Chetniks, succeeded in rescuing some 500 American airmen who were shot down over Yugoslavia. Most of these men were safely evacuated to Italy in a series of dramatic air rescue missions, which picked them up from the heart of Nazi-occupied Yugoslavia and flew them to Italy.

President Harry S. Truman in 1948 posthumously awarded the Legion of Merit to General Mihailovich for his services in rescuing American airmen, and for his larger services to the Allied cause. Unfortunately, the State Department kept the award to Mihailovich classified "secret" for almost 20 years, for fear of offending the sensitivities of the Yugoslavia Communist Government.

Now, more than 30 years after their rescue, a group of American airmen have organized themselves into a National Committee of American Airmen Rescued by General Mihailovich and have launched a movement to build a memorial in Washington, D.C., dedicated in gratitude to the man who saved their lives.

It is my understanding that the monument will be a simple one, bearing on one side a plaque listing the names of 500 American airmen rescued by General Mihailovich, and on the other side the text of President Truman's citation in awarding the Legion of Merit to General Mihailovich.

I want to pay particular tribute to a former colleague who has shown special interest in General Mihailovich, my good friend, former Senator Frank J. Lausche of Ohio, a son of Yugoslavian immigrant parents.

Mr. President, Senator Lausche wrote a foreword to a recent book about General Mihailovich, and I ask unanimous consent to include it in the RECORD at

the conclusion of my remarks, as it sets into historical perspective the great debt we owe General Mihailovich.

Mr. President, I also want to thank the cosponsors of this bill: Senators CANNON, HUGH SCOTT, HATHAWAY, DOMENICI, STEVENS, FANNIN, and GOLDWATER. I also want to pay particular tribute to the distinguished chairman of the Rules Committee (Mr. CANNON), who was of great assistance in moving this matter through committee.

Mr. President, I urge my colleagues to support this most worthy piece of legislation.

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

FOREWORD

(By the Honorable Frank J. Lausche)

(NOTE.—The Honorable Frank J. Lausche, the son of a Slovenian immigrant, has been a man of almost legendary stature in modern American politics. His qualities of leadership and statesmanship are reflected in his record as an elected representative of the people of Ohio for over 36 years.

(As a judge, he served 9 years in the municipal court of the City of Cleveland, and in Cuyahoga County Court (1932–41). He then served two terms as Mayor of Cleveland, from 1941 to 1944.

(Elected Governor of Ohio in 1945, he served through five terms in this office. This remarkable record of public trust in an elected office was unexampled in the history of Ohio—since the founding of the Republic no other governor has served more than three terms. When General Mihailovich was captured in March 1946, Frank J. Lausche, as Governor of Ohio, not only joined the Committee For a Fair Trial to Draza Mihailovich, but, at his own request, for the purpose of displaying his concern and indignation, he served on the Board of Directors of the Committee.

(Elected to the United States Senate in 1956, Senator Lausche served with distinction for 12 years, making a mighty mark both in the Senate chamber and in the Senate Foreign Relations Committee, of which he was a member. Sometimes described as a maverick, Senator Lausche has been a man whose absolute independence and integrity has commanded the respect of his foes as well as his friends. When he left the Senate in 1969, one of his many friends in the Senate said that it was "as though a mighty oak has fallen.")

In bringing together this historical documentation on General Draza Mihailovich, I believe the Serbian National Committee is serving the cause of history, the cause of America, and the larger cause of world freedom, as well as the cause of the Serbian people.

I was, therefore, honored by the invitation to write a brief foreword to the record that appears in the following pages.

I write this foreword out of a sense both of duty and of shame.

As an American, I bow my head in shame whenever I think of the terribly mistaken policy which led the Allied leaders in World War II to abandon General Draza Mihailovich and throw their support instead to the communist cohorts of Marshal Josio Broz Tito. It was an unbelievable aberration of policy and of justice perpetrated by the Allies.

Mihailovich was the first insurgent in Europe. It was he who first raised the flag of resistance to the Nazi occupier—and by his action he inspired the formation of resistance movements in all the subjugated countries.

He resisted the Nazis at the time when the Soviet Union and the communists were still collaborating with them—and his early resistance, by slowing down the Nazi timetable, was probably responsible for preventing the fall of Moscow.

The contributions of Mihailovich to the Allied cause were the subject of tributes by General Eisenhower, General De Gaulle, Field Marshall Lord Alexander, Admiral Harwood, Anthony Eden, President Truman, and, at later date, of President Richard Nixon. For example, on August 16, 1942, three top ranking British officers, Admiral Harwood, General Auchinleck, and Air Marshal Tedder, sent the following joint wire to Mihailovich "With admiration we are following your directed operations which are of inestimable value to the Allied cause."

Today no informed person takes seriously the communist charges that Mihailovich collaborated with the Germans, or the proceedings of the communist show trial in Belgrade which resulted in his execution. The communists made the nature of their justice clear when they announced, in advance of the trial, that Mihailovich would be executed after a fair trial. And they also made it clear when they refused to take the evidence of the American officers who served with him or of the American airmen who were rescued by him.

Colonel Robert H. McDowell, chief of the American mission to General Mihailovich, and perhaps the most experienced intelligence officer to serve with either side in Yugoslavia during World War II, took the time after the War to go through the German intelligence files on Yugoslavia. Not only did he find no evidence that Mihailovich collaborated with the Nazis, but he found numerous statements establishing that Hitler feared the Mihailovich movement far more that he did the Tito movement.

The communists also feared Mihailovich more than they did any other man. And that is why, when they executed him, they disposed of his shattered body in a secret burial place, so that those who followed him and revered him would not be able to come at night to drop tears and flowers on his grave and tenderly offer a few words of prayer in gratitude to General Mihailovich for his heroism and sacrifice.

But despite all of the abuse and all the precautions of the communists, the truth about Mihailovich—now grown to the proportions of a legend—still persists among the Serbian people. Evidence of this is the remarkable article on Mihailovich which Mihaijo Mihajlov wrote for The New Leader, just before Tito's courts sentenced him to seven years at hard labor in early March of this year.

I think that it is fitting that we in the free world who are aware of the truth should also do everything in our power to set the record straight and to bring about the ultimate vindication before the bar of history—of one of the noblest figures of World War II.

Draza Mihailovich, in addition to being an outstanding soldier and a great national leader was a man who stood for everything that we in America believe in, He was a true believer in the rights enshrined in our own Declaration of Independence—the right to think and speak and pray in accordance with one's own religious, political, economic and social beliefs, without government restraint or repression.

The publication of this historical documentation is a first step in the direction of historical vindication. The next logical step—and one which, it seems to me, is dictated by simple decency—is that the United States Congress should accede to the petition of the American airmen that they have been authorized to erect in Washington, with publicly subscribed funds, a monument which they would dedicate, in gratitude, to "General Draza Mihailovich, Savior of American Airmen."

Beyond this, there is still a larger debt which the free world owes to the memory of General Draza Mihailovich. It is my hope that this debt will some day be repayed in full through the liberation of his people from communist tyranny.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

REMOVAL OF LIMITATION ON APPROPRIATIONS

The Senate proceeded to consider the bill (S. 2946) to amend the act of July 2, 1940, as amended, to remove the limit on appropriations, which had been reported from the Committee on Rules and Administration with an amendment at the beginning of line 5, strike out "striking the phrase ", not to exceed $350,000,"." and insert "striking out "$350,000," and inserting in lieu thereof "$600,000,"."; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the Act of July 2, 1940 (20 U.S.C. 79e), as amended by Public Law 89–280, be further amended by striking out "$350,000," and inserting in lieu thereof "$600,000,".

SEC. 2. The amendment made by the first section of this Act shall become effective on October 1, 1977.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ORDER INDEFINITELY POSTPONING CONSIDERATION OF S. 3712 AND S. 3727

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 1167, S. 3712, a bill authorizing the extension of the American Canal at El Paso, Tex., and for other purposes, and Calendar No. 1168, 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, both be indefinitely postponed.

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the executive calendar under New Reports.

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

The ACTING PRESIDENT pro tempore. The nomination will be stated.

DEPARTMENT OF DEFENSE

The second assistant legislative clerk read the nomination of David Robert Macdonald, of Illinois, to be Under Secretary of the Navy.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

(Later the following occurred:)

Mr. GRIFFIN. Mr. President, earlier today the Senate voted to confirm David Robert Macdonald to be Under Secretary of the Navy. As in executive session I ask that the President be notified of the Senate's action.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senate minority leader is recognized.

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

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

MISMANAGEMENT OF THE FEDERAL ENERGY ADMINISTRATION'S REGULATORY PROGRAMS

Mr. RIBICOFF. Mr. President, the Government Operations Committee has recently completed a review of the activities of the Federal Energy Administration to determine whether to extend the agency's mandate. The resulting legislation—the Energy Conservation and Production Act—extended the agency for a period of 18 months. During the course of our review, the committee uncovered some disturbing evidence of mismanagement of the FEA's regulatory programs.

As I am sure my colleagues well remember, the FEA was established at the time of the Arab embargo—a crisis which threatened the economic well-being and security of this Nation. The ramifications of the embargo were far reaching. The Nation needed an agency to implement programs to alleviate the impact of the shortage on the people of this country and to assure them that there would be equitable distribution and pricing of the available energy supplies. Thus, the FEA was established—its primary role was regulatory.

The Federal Energy Administration was to implement regulatory programs to assure the Nation of adequate energy supplies in the short term and long term. The problems inherent in the FEA's regulatory programs, however, cast serious doubts about their effectiveness in meeting the energy goals which were set by Congress. The FEA has the responsibility to develop regulations, implement regulatory programs and resolve regulatory cases.

There are two major problems in the Federal Energy Administration's program implementation and both problems stem from a lack of leadership and serious commitment by the present Administration. First, FEA's procedures and processes for the development of its regulations are confused at best, and are arbitrary, capricious and deliberately slow at worst.

Second, the FEA has experienced severe problems in the enforcement and compliance area of its regulatory programs. The FEA has inadequate enforcement procedures and guidelines; has misdirected a limited number of staff; has confused and obscured the lines of authority and communication; has issued unclear and confusing regulations; and has mismanaged the regulatory caseload.

The problems in the agency's compliance efforts have resulted in a weak enforcement program. There has been little uniformity in enforcement policy and practice; the agency has been discriminatory in its enforcement actions—overzealous in its efforts toward smaller firms. The agency has made it extraordinarily difficult for industry to comply with its regulations, because of completely incomprehensible language and procedures, which are constantly being revised. The agency has a notorious reputation for lengthy delays in processing exceptions and appeals cases. FEA has been charged with conducting superficial and inadequate audits—at all levels of review.

Let us examine, as one example of mismanagement by the agency, FEA's auditing record. Shortly after the agency was established the General Accounting Office prepared for the Government Operations Committee several reports on this important matter. The GAO reported that the FEA had conducted almost no direct audits of crude oil producer operations. GAO found that the FEA had concentrated its audits at the retail level, in spite of evidence of significant violations at the wholesale level where little audit effort had been directed. FEA's audits of refiner operations were found to be uncompleted. GAO found that substantive issues relating to the adequacy of regulations were unresolved which necessitated constantly changing regulations. Finally, the GAO reported that organizational disputes within FEA hindered the refinery audit effort.

One year later the Subcommittee on Administration Practice and Procedure held hearings on FEA's enforcement of petroleum price regulations. The subcommittee hearings revealed the FEA had done little to correct serious problems in the development and implementation of its enforcement programs. The subcommittee's report stated:

> FEA's compliance efforts as of the time of the subcommittee hearings must be characterized as woefully inadequate, confused, and and ineffective.

In the subcommittee's judgement, FEA's enforcement program was so overwhelmed by problems that it was rendered virtually ineffective. In effect, the FEA was still not doing an adequate job of investigating and processing the audit requirements of price regulation.

Government Operations Committee's review—1 year later—confirmed that many of the weaknesses of FEA audit activities still exist. The agency continues to demonstrate that enforcement of price regulations is a low priority by failing to correct the administrative and programmatic difficulties which the programs have experienced since their initial implementation. Further, the agency has never allocated adequate personnel to do an adequate job.

It is important for us to look at who suffers, because of this mismanagement and lack of concern by the Federal Energy Administration. Most of the policies established by Congress, which the FEA is required to enforce, were enacted in order to promote stability in energy prices for consumers and to assure consumers that unreasonable profits would not result from supply shortages. The inadequate enforcement of regulations assures no one that the oil industry is playing by the rules.

The Federal Energy Administration is an agency to which Congress has given critical responsibilities. These responsibilities affect the economic well-being and security of this Nation. The proper implementation of these responsibilities is crucial to the Nation's energy future. Without proper management and serious commitment to solving our energy problems, this Nation will remain in the position of struggling for its energy independence.

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

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

MISMANAGEMENT, FRAUD, AND ABUSE IN MEDICAID AND MEDICARE

Mr. MOSS. Mr. President, the American people will be deciding over the next 6 weeks what kind of leadership our country will have, both in the Congress and in the White House. We do not need a crystal ball to tell us what the future holds if one party or the other is chosen to forge the policies that will lead America next year. An examination of the record is all we need—past performance is a good indicator of future directions.

But even before specific policy is set, there is a very important part of the ability to lead, and that is the ability to provide sound management.

We on this side of the aisle are the perennial targets of the administration when it comes to spending and wisely administering programs. They claim it is they who are the most knowledgeable in sound management, but Mr. President, this is a myth, for the present administration has set a clear record of mismanagement for the American public to see.

Mr. President, today my distinguished colleague Senator RIBICOFF has spoken and Senator HATHAWAY and Senator

CHILES will follow in talking about the administration's record of mismanagement in a wide range of areas—health care, energy, budget and management, and alcoholism and drug abuse. I think it is very important to point to the record, for in it the public will see a better picture of the clear choice of leadership that is before it.

As chairman of the Subcommittee on Long-Term Care of the Senate Special Committee on Aging, I have been acutely aware of the need for important reforms silmilar to those introduced by Senator TALMADGE last week in his Medicare and Medicaid Antifraud Act.

The record has been all too clear. Since July of 1969, my subcommittee has conducted some 27 hearings dealing with fraud and abuse in the nursing home field. We have drafted the bulk of a 12-volume report with our recommendations, which we have presented to Congress.

Since last September, we have had a number of hearings which investigated fraud and abuse in areas of the medicare and medicaid programs associated in one way or another with long-term care. From all of these hearings, it is my conclusion that fraud and abuse are present in both these programs and rampant in the medicaid program. But even more important is the fact that the reprehensible system of dual-track medicine, which provides one standard of care for the rich or comfortable and another for the poor, still exists. Yet medicare and medicaid were enacted precisely for the purpose of making quality health care available to all Americans regardless of their age, their location, or their economic status.

Federal responsibility for mismanagement, fraud, and abuse in the medicaid program has been of continuing concern to several committees of the Congress. My own subcommittee has been critical of the enforcement of nursing home standards by the Department of Health, Education, and Welfare, and has chided the department for its failure to head off fraud and abuse among clinical laboratories. The Oversight Subcommittee of the House Interstate and Foreign Commerce Committee, under the chairmanship of Representative JOHN MOSS of California, has been critical of the department's failure to withhold funds from those States which have not established effective utilization review procedures. Senator TALMADGE, of course, has expressed his concern with his recent introduction of a Medicare and Medicaid Antifraud Act which proposes to create a central fraud and abuse control unit and increase the department's ability to prevent and prosecute fraud. Senator SAM NUNN, as chairman of the Oversight Subcommittee of the Senate Government Operations Committee, has also revealed his misgivings about the administration of some aspects of the medicaid program. Finally, Representative L. H. Fountain and his Subcommittee on Intergovernmental and Human Resources of the House Government Operations Committee have studied this matter in detail.

Not surprisingly, all of these groups have had findings with much in common. The management of the medicaid program leaves much room for improvement. Michigan, New Jersey, California, and a few other States seem to be doing an excellent job. Most States, however, are not. HEW has been either unwilling or unable to require these States to meet their responsibilities under the medicaid law, which places responsibility for policing fraud and abuse squarely on the shoulders of the States themselves.

These problems are not new. In fact, the operation of New York State's medicaid program alone has been the subject of more than 100 reports in the last 10 years. These reports have been largely ignored on both the Federal and State levels, and the weaknesses they detailed have continued or progressed. The Division of Social and Rehabilitation Services of the Department of Health, Education, and Welfare has taken the position in the past that the States should be acting to detect and prosecute fraud and abuse. However, a report of the General Accounting Office, issued in April of 1975, correctly pointed out that HEW has responsibilities of its own. Specifically, the Department can withhold funds, or, under certain conditions, impose less severe monetary penalties if States do not comply with Federal requirements.

The GAO report added the following facts. First, between October 1, 1969, and September 30, 1974, HEW regions reported 2,300 cases in which States failed to comply with medicaid requirements. However, HEW had yet to impose any monetary penalty against any State. Second, 20 States had never referred a suspected medicaid fraud case to State or Federal law enforcement agencies for appropriate action. The report noted that improved coordination of State medicaid fraud and abuse investigations with medicare was necessary. A combined medicare-medicaid investigative unit, it concluded, would improve HEW's ability to investigate fraud and abuse in both programs.

In January of this year, Representative FOUNTAIN's subcommittee released its findings based on lengthy hearings held in April, May, and June of 1975. Among the conclusions cited in the report were the following:

First, that HEW is currently responsible for about 300 separate programs involving annual expenditures exceeding $118 billion. Because of the size and complexity of its activities and the lack, in many instances, of direct control over expenditures, HEW's operations present an unparalleled danger of enormous loss through fraud and abuse;

Second, that HEW officials responsible for detention and prevention of fraud and abuse lack reliable information concerning the extent of losses from such activities;

Third, that fraud and abuse in HEW programs are undoubtedly responsible for the loss of many millions of dollars each year;

Fourth, that HEW units whose responsibility it is to detect and prevent fraud and abuse are not organized in any coherent pattern designed to meet the overall needs of the Department;

Fifth, that personnel in most fraud and abuse units of HEW lack necessary independence and are subject to potential conflicts of interest, because they report to officials directly responsible for managing the programs those units are investigating;

Sixth, that under current organizational arrangements, there are little or no guarantees that the Secretary will be kept informed of serious fraud and abuse problems, or that action necessary to correct such problems will be taken;

Seventh, that the resources HEW devotes to prevention and detection of fraud and program abuse are extremely inadequate. I should add here that I am not impressed by the recent decision of our well-meaning Secretary to employ the bulk of the some 100 new medicaid investigators in a series of lightning raids on various States to root out evil and then move on. I suggest that we need an aggressive and continuous pressure exerted against those who would abuse the system rather than this kind of transitory foot patrol.

Finally, the Fountain report concluded that there are serious deficiencies in the procedures used by HEW for the prevention and detection of fraud and program abuse. The subcommittee's investigation disclosed instances in which it took as long as 5 years or more for HEW to take corrective action after deficiencies in its regulations became known. Part of the blame can be attributed to cumbersome procedures for changing regulations; however, some delays were so lengthy as to indicate the almost total lack of any sense of urgency.

In February of this year, the General Accounting Office issued another relevant report, this one analyzing the factors behind the rising costs in the medicare and medicaid programs during their 10-year history. The report stated that—

> Congress passed two important acts to help control Medicare and Medicaid costs—the 1967 and 1972 Amendments to the Social Security Act. HEW has been slow in issuing regulations and carrying out many of the provisions of these acts.

The current administration's record on medicare and medicaid has been singularly unimpressive. Despite repeated criticism of HEW from a wide variety of sources, no action has been taken. With regard to medicare, the President, in his 1976 state of the Union message, proposed to the Congress a program of catastrophic health insurance for the elderly. Essentially, the proposal called for increasing the out-of-pocket payments of medicare beneficiaries. Senator FRANK CHURCH, chairman of the Special Committee on Aging, noted in his response that the President's plan would add nearly $1.3 billion to the out-of-pocket payments of aged and disabled participants. He also pointed out that the overall impact of such a proposal would serve

to benefit less than 3 percent of the users of the medicare program.

Dr. Mary Mulvey, vice president of the National Council of Senior Citizens, told a Senate hearing that the President's catastrophic proposal—

. . . imposes upon the elderly $2 billion more than they are paying now, and provides a paltry $500 rebate in the form of catastrophic coverage, the result being a Federal budget savings of $1.5 billion at the expense of the elderly, sick, and disabled. Implications are that the Federal budget will be balanced on the backs of the elderly, sick, and poor.

I think it is time to change this pattern of inaction, of shirking responsibility, of "passing the buck." We are talking about health care for millions of Americans. An estimated 28 million are eligible for benefits under medicaid alone. We can no longer tolerate administrative attempts to place the burden of a faulty system on those who should be receiving the benefits of that system. The medicare and medicaid plans were supposed to make certain that all Americans received the finest health care possible regardless of their age or their ability to pay for that care. To date, they have not done so. We must see that they do so in the future.

Mr. President, I think that the programs that we authorize in Congress and for which we appropriate money should be managed with efficiency and dispatch and with care. I think we have not been having that sort of management in the health care field, or the health care for the elderly field. For this reason, I think there must be a change made in the administration so we can get that kind of efficient management.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. CHILES. 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.

The Senator from Florida is recognized.

THE ADMINISTRATION'S MANAGEMENT PROBLEMS

Mr. CHILES. Mr. President, we hear a lot of talk today about big government and bureaucracy running wild. The issue I want to address is, "What is the Ford administration doing about these management problems?"

We all know how important the continuing pressure for efficiency from the President's management arm can be in controlling the tendency of individual Federal agencies to grow and balloon at the expense of everybody else and the Government as a whole.

Increasingly, I hear from the Nation's Governors, the mayors, the State and local officials—including those in my home State of Florida—that President Ford's management arm, the White House Office of Management and Budget—OMB—

Is not managing;

Is not coordinating; and

Is not controlling the way different Federal agencies go about sticking duplicative regulations and redtape requirements on Federal assistance programs.

Repeatedly, the question I hear asked is, "Where is the "M" in President Ford's OMB?"

I think I know the answer—it is being suffocated. And if Congress does not keep up its diligent oversight, it will be abandoned completely. Effective management requires a strong Executive at the top, and that is something we are sorely lacking in this administration.

Mr. President, the Federal Government now spends over $60 billion a year in Federal grants to State and local governments to meet a wide range of national objectives—in law enforcement, civil rights, environmental protection, transportation, education, housing, and health.

The programs now number over 1,000.

With increased spending and number of programs comes increased bureaucracy. It is this piecemal, never-ending, incremental growth of bureaucratic actions that produces regulations, promotes redtape, and overwhelms our citizens.

Some regulation is necessary for accountability purposes. But the seemingly uncontrolled irrationality that we have today is unreasonable. It is a major cause for cynicism and distrust of government. Steps have been taken to restore confidence.

This is a theme that both Presidential candidates are taking. I noted last January that Mr. Ford talked to the Mayors Conference about the benefits of consolidating categorical grant programs.

He told the Governors at the Governors Conference last February:

We must clarify and we must simplify the complex, frustrating and inefficient regulations in categorical grant rigidity that invite abuses and rip-offs.

The President is proposing block grants as the whole answer. In theory, we all think the concept of block grants is good. State and local managers do need more flexibility to meet local needs. The categorical nature of many grant programs is one problem.

But there is so much more that can be done. We must go beyond the surface approach of saying, "Consolidate programs and all your problems will be solved."

The essential need, the gut question, is executive leadership and better governmentwide management. In Mr. Ford's White House, there is little central management concern with the discretionary action of Federal bureaucrats in the executive branch that promote much of the incredible redtape we see in both block-grant and categorical programs. Instead we have confusion, complexity, and chaos with no guiding light to lead us out of the morass.

Let me give an example of what I am talking about. In recent hearings before my Subcommittee on Federal Spending Practices, I asked a number of State witnesses from different Governors' offices whether they found themselves still stuck with unnecessary redtape and regulations under block-grant programs.

The unequivocal answer from each of them was—

Yes, we continue to struggle with same types of problems we have in categoricals.

Governor Askew has showed me the stack of regulations for the "block-grant" law enforcement program, LEAA. The stack goes clear to the ceiling.

The State witnesses stressed the need to have the Federal Government, the executive branch, manage itself and not to have the different agencies going off in their own divergent ways.

Their message was clear: Mr. Ford's OMB does not have any interest in taking a leadership role in managing the Federal agencies.

That is what is needed to cut the redtape and headaches that our State and local governments face. That is why our citizens feel overburdened with Federal grant programs. Lack of leadership translates directly as unresponsive government.

Let me quote what one of our Nation's Governors—Gov. Phil Noel of Rhode Island—said in testimony before this Congress:

I would like to point out what I believe may be the root of the continuing problem: That is, the general lack of concern on the part of the U.S. Office of Management and Budget for actually managing the Federal Government . . . after years of talking about the problem with the establishment of the Office of Management and Budget, and a Federal Government-wide effort to identify and correct duplicative, burdensome, and unnecessary red tape, we still see:

No evidence of a concern for on-going management oversight of the agencies by OMB.

Lack of follow-up or enforcement of already existing Federal management directives.

No evidence of a central clearance point for approval and coordination of new procedures, rules and regulations.

No apparent system to make use of the numerous study reports and management recommendations published from time to time by the General Accounting Office.

Let me quote further from a recent newspaper column written by Mr. Neil Pierce, entitled "Recolonizing America:

Most of the State and cities criticism of Washington is attributable to the Federal Government itself—a product of the inertia in the bureaucracy and Federal mismanagement of the intergovernmental affairs.

Mr. Ford's OMB has the authority to correct this mismanagement problem. Under his leadership, it is not being done—and the Governors and mayors of this country know it, the people sense it.

It sounds like whether there is an "M" in OMB is a political issue in a campaign year. What is going on in the Ford administration is a classic example of, "Listen to what we say but don't watch what we do."

Mr. Ford cannot have it both ways. When he campaigns on bureaucratic inefficiency and the need to cut redtape and simplify grant programs to State and local governments it is time we remind him about what is not getting done

in his own house. The voters in this country want results, not rhetoric.

Mr. President, Mr. Ford's mismanagement of intergovernmental affairs and the $60 billion-plus grant program to our State and local governments is just one case.

In the $70-billion-a-year Federal procurement program, where Federal agencies buy for their own use items that range from paperclips to multibillion dollar weapon programs, it was this Democratic Congress which insisted on putting an "M" in OMB. By legislation which the White House opposed, kicked, and screamed about, the 93d Congress created an Office of Federal Procurement Policy in OMB and laid out a set of reform objectives for the Administrator. Through oversight hearings and the pressure exerted by this Democratic Congress some genuine progress is being made in—

Controlling the Federal agencies;

Eliminating bureaucratic duplication;

Cutting redtape; and

Saving the taxpayer money.

Steps have been taken to modernize purchasing specifications, enhance competition, and improve the Federal Government's behavior toward its private sector suppliers—it should not take, as it does today, 2 pounds and 120,000 words worth of specs to sell Uncle Sam a mousetrap.

Steps have been taken to combine the domestic and defense procurement regulation systems into one streamlined system—the businessman should not have to deal with two overlapping systems.

Most importantly, steps are being taken to reform the buying of our major system acquisitions, such as our multibillion dollar weapon systems. We are going to require the bureaucracy to play by a set of rules that will—

Let the Congress in on the front end of decisionmaking before commitments get made;

Require better hardware competition; and

Make for fewer escalating cost overruns.

The potential for savings here is in the billions.

If it were not for the Congress, which passed the law, created the mandate, and pressured for action, none of these steps would be taken.

Much remains to be done. But we need an administration that does more than just talk about "management"—we need one that understands what it is and moves forward with ability and leadership.

The present administration displays neither. Instead, the "M" in Mr. Ford's OMB is being ignored unless we push.

It is time for a Chief Executive who makes management a priority.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order, the Senator from Maine (Mr. HATHAWAY) is recognized for not to exceed 15 minutes.

ALCOHOLISM AND DRUG ABUSE

Mr. HATHAWAY. Mr. President, I am certain that all of my colleagues on this side of the aisle have noted with pride and gratitude the periodic efforts of our distinguished majority leader, Senator MANSFIELD, to summarize the achievements of the 94th Congress. We are all the more grateful to him, because so many of those achievements have been attained precisely because of this expert leadership and guidance. He will be sorely missed by all of us who have served with him in the past—and perhaps even more so by those who will not begin to serve in this body until after he has retired.

At this stage in the 94th Congress, I believe it is incumbent upon more of us to take a moment out of our schedules to follow the example of the distinguished Senator from Montana and to summarize for our colleagues and for the public those things which have transpired legislatively in our own particular areas of expertise.

This becomes increasingly true because of the impending election, the brief, but intense, flurry of charges and countercharges that mark a Presidential campaign more often tend to distort genuine governmental accomplishments than to extoll them. When the person making the charges is the President of the United States, then reality too often disappears forever in the tangled undergrowth of political rhetoric. And when that President has attempted to rule by political rhetoric for his entire term in office, it is time for an angry Congress to stand up to him and remind him of a few facts.

It is for that reason I have agreed to participate in this ongoing colloquy this morning.

The subject matter for my brief remarks will be the fields of alcoholism and drug abuse. At the beginning of this Congress, I assumed chairmanship of the Subcommittee on Alcoholism and Narcotics of the Labor and Public Welfare Committee. At that time, I had no idea that this area was such a prime subject for political and rhetorical abuse. As I said in my first appearance before Senator MAGNUSON'S Labor-HEW Appropriations Subcommittee, I came to this field with considerable enthusiasm, in the belief that "the quality of a society may be measured in terms of its attention to its least fortunate members." Within a matter of months, however, I became disabused of any such illusions.

For it rapidly became apparent that this administration was adept at talking out of both sides of its mouth on both issues—alcoholism and drug abuse—and that the recent history of administration policy leadership in both fields has been a dismal one.

With regard to drug abuse, for example, both the Nixon and Ford administrations had made many of the right moves and decisions—but for all the wrong reasons.

"Crime in the streets" and addiction and drug abuse among returning Vietnam veterans—also, indirectly, a crime-fear issue—were cited as the two principal reasons for the greatly increased attention to drug abuse treatment by Nixon in the early 1970's. Thus, the approach taken to treatment, research, and education against drug abuse was predicated from the beginning upon fear, rather than upon concern for an individual's health.

This resulted in a scare-tactic, law-enforcement approach to drug abuse treatment that remains the administration's policy today, even though it has been substantially discredited in other quarters.

This approach was summarized last September in the President's own Domestic Council White Paper on Drug Abuse, which said:

> The availability of treatment gives the drug user who finds drugs becoming scarce and expensive an alternative. The problems this creates for users by high prices, impure drugs, uncertain doses, arrests, and victimization by other drug users can be reduced by making a range of treatment easily available to users.

Treatment needs are defined largely in terms of fallout resulting from stricter enforcement. The result is a thinly disguised bias toward the criminal approach—a bias that even the White Paper's authors admit was discredited in the 1950's and 1960's.

Most recently, that approach has been discredited still another time in the State of New York, whose tough, enforcement oriented law was the clear model for the President's current policy. Only 3 days ago, the Washington Post, in a tough nononsense editorial, said:

> Little by little, evidence is accumulating that harsh penalties for drug addicts and low level street sellers is not the answer some had hoped it would be to the narcotics problem.

In point of fact, far from discouraging drug users, such laws seem only to thrust them into positions of greater defiance of social and legal norms. Continues the Post editorial:

> Even if a jurisdiction could sweep all its addicts into jail, the experience suggests that another generation of thrill-seekers and reality-escapees would find its way to this insidious drug.

Indeed, one recent study would seem to bear this out, by isolating this alarming fact: In addition to the estimated 400,000 heroin addicts present in the country today, there also appear to be upward of 4 million individuals who buy and use heroin regularly without becoming physically addicted, much as individuals have come to use drugs like cocaine or hallucinogens.

Yet notwithstanding evidence piling up of the inadequacy of an enforcement-

biased drug abuse policy, the President—out of political expediency—presses ahead with his effort to sell bits and pieces of this policy, such as the mandatory minimum penalties bill he is promoting at this time.

I ask that the full text of the Post editorial be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HATHAWAY. Meanwhile, actual drug abuse treatment policies are themselves treated to a healthy dose of the bureaucratic mumbo-jumbo which marks the reality, rather than the rhetoric, of this administration's approach.

While the Drug Abuse White Paper admitted that "conditions are worsening, and the gains of prior years are being eroded," for example, and called for "increased efforts on every front," the actual solution proposed was to achieve "greater efficiency" in managing drug abuse treatment programs and to achieve a greater commitment of—and I quote—the "enormous potential resources" of State and local governments to this area.

I do not know which State or local governments Ford has been visiting recently—but none in my experience have access to what I would even remotely call enormous potential resources. And in fact, the opposite is more often the case—particularly in our largest cities, where the drug abuse problem is worst.

That recommendation is only the most obvious example of the vacuum that exists in effective drug abuse policy leadership in this administration. Yet congressional recommendations for filling that vacuum have fallen on deaf ears. They have been met with the obdurate response that it is sufficient to leave things as they are—with a fractious profusion of Cabinet committees and task forces and strategy councils, responsive neither to Congress nor to the public, with hard policies made ultimately by low-level functionaries in OMB, with red pencils and pocket calculators.

Congress has chosen not to accept the perpetuation of this system, in which drug abuse policy is made and carried out by individuals with no degree of personal accountability.

Congress has chosen instead to require the President to set up an Office of Drug Abuse Policy, to provide centrally accountable coordination of both the drug supply and drug abuse demand reduction efforts. This is no large-scale bureaucracy we have set up—it is intended instead to produce a system where policies are made in the daylight, and are argued and debated and discussed by, with and for the people who would be legislating those policies—as well as the people in State and local governments, who would ultimately be carrying them out.

We had such an office—the Special Action Office for Drug Abuse Policy—SAODAP—until it went out of existence last year, at the insistence of President Ford. But while we agree that there is no need in the Office of the President for the type of programmatic administration SAODAP had, the recent lack of response to congressional decisionmakers of current OMB and Domestic Council drug abuse policy personnel led us to the inescapable conclusion that a new, publicly responsible leadership—

One which can be called before Congress to explain his activities;

One which cannot sit in a back room at the White House refusing to come out—as the authors of the white paper have done since last October when the Committees on Labor and Public Welfare and Government Operations jointly demanded that they come and testify on their white paper report.

So Congress proceeded to enact such an office last spring, as part of legislation extending our federally funded drug abuse treatment programs. But while the President signed that measure, he made it clear that he wanted no part of this increased accountability for his policy measure. In what sounded to me suspiciously like an unlawful item veto, Ford announced that he would not implement the congressional mandated office.

And when Congress actually appropriated money for that office, in its final 1976 supplemental appropriations bill, the President simply refused to spend it, sending instead a rescission message to reiterate his obstinacy. And that is where the situation stands today—with Congress thus far refusing to permit the rescission—but, as a practical matter, with enlightened, coordinated drug abuse policymaking dead for the remainder of this administration.

Mr. President, I realize that I am exceeding the time allotted to each Senator for participation in this colloquy this morning, even with this relatively brief summary of administration mismanagement of Federal drug abuse policy. Thus, while I had intended to explore mismanagement of alcoholism programs in this statement as well, I will limit myself to a brief statement on this subject at this time. I have made many statements on this subject this year. I refer my colleagues more specifically to my statements in the RECORDS of March 29, at page 8395, and June 29, at page 21243.

If this administration's approach to drug abuse policy has been marked with inconsistency, its efforts to contend with the far wider health problem of alcoholism has been more a product of callous indifference.

Federal alcoholism treatment, prevention, and research programs have only been in existence since the early 1970's—and they only came about at that time through the stubborn persistence of my distinguished colleagues, including Senators HAROLD HUGHES, JACOB JAVITS, and HARRISON WILLIAMS.

But while there are many more alcoholics and alcohol abusers than drug addicts in America today, there has been even less support and greater mismanagement of these programs within the central White House policymaking bodies than there has in drug abuse. I cannot help but ask cynically whether this might not be due to the greater "sex appeal" of drug abuse as a campaign issue, rather than to any consciously coordinated decision to highlight drug abuse and downgrade alcoholism.

Briefly, alcoholism treatment, prevention, and research has been funded over the past 5 years only with the greatest reluctance by this administration. Budget requests in this area have averaged over $50 million less than actual appropriations in each of those years. In fiscal 1972, for example, the President's budget request was $34.7 million, while the final appropriation was $84.6 million. In fiscal 1973, the budget request was $75.8 million, while the final appropriation was $156.4 million.

The escalations in both categories were due, not to any fiscal irresponsibility on the part of either branch of Government, but rather to the wide-eyed amazement of the Federal Government at the breadth and scope of this terrible health problem.

By 1973, the administration had further compounded its mismanagement by unlawfully impounding a huge chunk of the HEW alcoholism budget. When Congress, through lawsuits, finally forced the expenditure of that money, it was with the requirement that it all be spent quickly, making effective policy direction even more difficult, and creating management problems that persist even until today.

This roller-coaster funding approach has taken its toll on the effectiveness of our Federal alcoholism efforts. The development of alcoholism prevention programs has been effectively sidelined for lack of consistent support. Research has been downgraded and exiled to a medical Siberia in a broken-down, unaccredited mental hospital, with a total annual budget less than 1 percent the size of the budgets for the other two leading medical problems in the Nation—cancer and heart disease.

And this lack of support is evident in budget requests made as recently as last week, when the President asked for just $100 million to fund programs budgeted at $155 million during the previous fiscal year. Ford's theory in presenting this request is that the rest of the support is expected to come from his thoroughly discredited health block grant proposal, which stands no chance at all of congressional enactment.

Mr. President, I ask that an earlier statement I made regarding the inadequacy of this block grant proposal be inserted in the RECORD at this point.

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

[From the RECORD of March 29, 1976]

One major proposal considered and rejected by the committee was put forward by administration witnesses and involved the incorporation of funding for alcoholism activities into a $10 billion block grant to States. The purpose of this proposal is to consolidate many health programs currently administered by the Federal Government into one lump sum block grant to the States.

Alcoholism programs would be funded from the 5 percent of the grant required to

be set aside for a number of community and environmental health programs, including mental health, maternal and child care, rat control, lead-based paint programs, venereal disease programs, and others.

The administration testified that their block grant proposal "will include the present alcoholism program with a number of other categorical authorities as part of a single administration initiative in the health care area. It would seem reasonable that—the States and localities are ready and able to deal with the problem at their levels—in the context of the regular community care system, through the financial assistance for health care program."

The administration pointed to the success of the NIAAA as a reason for shifting responsibility to State and local governments. Stated Deputy Assistant Secretary for Health, James F. Dickson III:

"The accomplishments listed above reinforce our belief that States and localities are ready to assume responsibility for addressing the problem, especially since the stigma associated with alcoholism has decreased. States have enacted the Uniform Act and treatment and rehabilitation programs have greatly expanded."

There is an element of irony in the administration's glowing assessment of NIAAA accomplishments, since for the past 3 years this same administration has sought vigorously to destroy the Institute through impoundments, understaffing, and starvation level budget requests. As the committee report states, we are relieved to hear that the long congressional struggle to keep the Federal alcoholism effort alive has finally convinced the administration that there have been Federal successes in this area. The committee hopes that future administration support for the Institute and its programs will reflect this new found enthusiasm.

Mr. HATHAWAY. Fortunately, Mr. President, Congress has consistently rejected the administration's efforts to shortchange alcoholism treatment, prevention, and research. This year, for example, we wrote legislation extending Federal programs for 3 years, and improving them in several major ways—as we did last spring for drug abuse treatment. And with alcoholism, as with drug abuse, the President once again had no choice but to sign the legislation, despite his apparent opposition to an adequately funded program. And notwithstanding the wholly inadequate budget request, I believe Senator MAGNUSON, who chairs the Labor-HEW Appropriations Subcommittee, will continue to do the fine job he has always done in insuring that these programs will not shrivel and die, as they would if Ford and his OMB henchmen get their way.

EXHIBIT 1

[From the Washington Post, Sept. 11, 1976]

DRUG ABUSE AND DRUG LAWS

Little by little evidence is accumulating that harsh penalties for drug addicts and low-level street sellers is not the answer some had hoped it would be to the narcotics problem. In September 1973 Vice President Rockefeller, then governor of New York, signed into law the harshest anti-drug statute in the country. Its mandatory life sentence for persistent pushers was the provision that made the headlines. But the law was rich in other punitive provisions. Today, three years later, the New York drug law appears to have had no effect on New York's drug traffic; indeed, the tentative conclusions of the most careful study of the law available suggest that its enactment may have made things worse. There are fewer people being convicted for drug offenses in New York today than there were before the law was passed. It has cost $55 million so far to administer. And its greatest impact appears to be on addicts who are going before the courts for the first time.

The New York Drug Law Evaluation Project, which has been studying the impact of the law, says there have been "fewer dispositions, convictions and prison sentences" for drug violations since the law was enacted. With a bit of ballyhoo, New York State set up a special court system to deal with drug crime. Now, according to the staff of the drug evaluation project, the productivity of those drug courts is below that of the courts whose notorious overcrowding they were created to avoid.

The reason is that given the nature of the law—no plea bargaining allowed, fixed sentences upon conviction—practically everyone prosecuted under it insists on a jury trial. The demand for jury trials in the drug courts has more than doubled over such demands under the old laws. And defendants' court appearances have risen 50 percent, with most defendants now appearing 20 times between indictment and disposition. Because the defendants know that conviction means a certain—and harsh—prison sentence, they use every tactic of delay at their disposal.

There has to be a better way to cut the demand for drugs than by resort to draconian remedies, especially since they don't appear, on the basis of this record anyway, to work especially well. Even if a jurisdiction could sweep all its addicts into jail, the experience suggests that another generation of thrill-seekers and reality-escapers would find its way to this insidious drug. A better place to focus attention would be on the sources of supply. There are those who doubt the efficacy of such an effort, but no one can doubt that going after supply makes more sense than spending $55 million to put away people who have been arrested for the first time on drug charges.

For many years, public officials have been promising a crackdown on the "major sources of supply," as it is often put. But so far there has been no plan put into effect that touched those "kingpins" who import the heroin, wholesale it and make the huge profits. Until that very large element of profit has been removed from the drug trade, addicts will flock to the dealers and to the jails, and nothing will change.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. 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. ALLEN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Would it be in order to move that the Senate adjourn sine die at this time?

The PRESIDING OFFICER. It would be in order.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

HOUSE CONCURRENT RESOLUTION 745—CORRECTING THE ENROLLMENT OF S. 327

Mr. MANSFIELD. Mr. President, I ask that the Chair lay before the Senate a message from the House on House Concurrent Resolution 745.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

House Concurrent Resolution 745, correcting the enrollment of S. 327.

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

There being no objection, the concurrent resolution (H. Con. Res. 745) was considered and agreed to.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The unfinished business is H.R. 13367.

ORDER TO VITIATE REMAINING SPECIAL ORDER

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the remaining special order be vitiated.

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

ROUTINE MORNING BUSINESS

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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 1 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 1 p.m.

There being no objection, the Senate, at 11:49 a.m., recessed until 1 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ALLEN).

The PRESIDING OFFICER. The Chair, acting in his capacity as a Senator from the State of Alabama, suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATHAWAY. 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. HATHAWAY. Mr. President, what is the pending business?

MESSAGES FROM THE PRESIDENT

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

APPROVAL OF BILLS

A message from the President of the United States announced that on September 13, 1976, he approved and signed the following bills:

S. 5, an act to provide that meetings of Government agencies shall be open to the public, and for other purposes.

S. 2862, An act to authorize appropriations for the Federal Fire Prevention and Control Act of 1974.

INCREASE IN DEFERRAL—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, and Finance:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I report a net increase of $11.1 million in the amount previously deferred for the Social Security Administration's limitation on construction account.

The details of the revised deferral are contained in the attached report.

GERALD R. FORD.

THE WHITE HOUSE, *September 14, 1976.*

MESSAGES FROM THE HOUSE

At 11:02 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 15194) making appropriations for public works employment for the period ending September 30, 1977, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MAHON, Mr. BOLAND, Mr. EVINS of Tennessee, Mr. SHIPLEY, Mr. ROUSH, Mr. TRAXLER, Mr. BAUCUS, Mr. STOKES, Mrs. BURKE of California, Mr. CEDERBERG, Mr. TALCOTT, Mr. MCDADE, and Mr. YOUNG of Florida were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the following bills and agreed to the following concurrent resolution in which it requests the concurrence of the Senate:

H.R. 3605. An act to amend section 5051 of the Internal Revenue Code of 1954 (relating to the Federal excise tax on beer);

H.R. 13615. An act to amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, and for other purposes;

H.R. 15276. An act to amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same cost-of-living adjustments in the basic compensation of officers and members of the United States Park Police force as are given to Federal employees under the General Schedule and to require submittal of a report on the feasibility and desirability of codifying the laws relating to the United States Park Police force; and

H. Con. Res. 745. A concurrent resolution correcting the enrollment of S. 327.

At 1:15 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3052) to amend section 602 of the Agricultural Act of 1954.

The message also announced that the House disagrees to the amendment of the Senate to the 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 or World War II.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 14260) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PASSMAN, Mr. LONG of Maryland, Mr. ROUSH, Mr. OBEY, Mr. BEVILL, Mr. CHAPPELL, Mr. KOCH, Mr. CHARLES WILSON of Texas, Mr. MAHON, Mr. SHRIVER, Mr. CONTE, Mr. COUGHLIN, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

ENROLLED BILLS SIGNED

At 2:10 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 13655. An act to establish a five-year research and development program leading to advanced automobile propulsion systems, and for other purposes.

H.R. 14262. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

REPORT OF THE COMPTROLLER GENERAL

A letter from the Deputy Comptroller General informing the Senate that no legal atcion is forthcoming relating to the release of budget authority proposed for rescission in the President's tenth special message for fiscal year 1976; referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, and Labor and Public Welfare, and ordered to be printed.

REPORT OF THE SECRETARY OF DEFENSE

A letter from the Secretary of Defense transmitting, pursuant to law, a report entitled "Reductions in Fiscal Year 1977 Civilian Manpower" (with an accompanying report); to the Committee on Armed Services.

PUBLICATIONS OF THE FEDERAL POWER COMMISSION

A letter from the Chairman of the Federal Power Commission transmitting copies of the following publications: "Gas Turbine Electric Plant Construction Cost and Annual Production Expenses, 1973"; "Hydroelectric Plant Construction Cost and Annual Production Expenses, 1973"; and "The National Power Survey, The Adequacy of Future Electric Power Supply: Problems and Policies" (with accompanying reports); to the Committee on Commerce.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General transmitting, pursuant to law, a report entitled "Assessement of U.S. and International Controls over the Peaceful Uses of Nuclear Energy" (with an accompanying report); to the Committee on Government Operations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations, without amendment:

H.R. 14973. An act to provide for acquisition of lands in connection with the international Tijuana River flood control project, and for other purposes (Rept. No. 94-1237).

TAX REFORM ACT OF 1976—CONFERENCE REPORT (REPT. NO. 94-1236)

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the conference report on H.R. 10612, a bill to reform the tax laws of the United States, along with the joint statement of the managers, be printed.

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

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:

Melissa F. Wells, of New York, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau, and to the Republic of Cape Verde.

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Melissa Wells.
Post: Guinea-Bissau.
Contributions; amount; date; and donee:
Self: Melissa Wells, none.
Spouse: Alfred Wells, none.
Children and spouses: Christopher Wells, none; Gregory Wells, none.
Parents: Miliza Korjus Shector, none; Kuno Foelsch (deceased).
Grandparents: Deceased.
Brothers and Spouses: Ernest Foelsch, none; Jacque Foelsch, none. Richard Foelsch, none.
Sisters and Spouses: None.

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

MELISSA WELLS.

Ronald D. Palmer, of the District of Columbia, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Togo.

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.
Nominee: Ronald D. Palmer.
Post: Lome.
Contributions; amount; date; and donee:
Self: None.
Spouse: None.
Children and Spouses: None.
Parents: None.
Grandparents: None.
Brothers and Spouses: None.
Sisters and Spouses: None.

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

RONALD D. PALMER.

Davis Eugene Boster, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Guatemala.

POLITICAL CONTRIBUTIONS STATEMENT

As requested in reftel, following is new completed form regarding political contributions which I have certified in the presence of the acting head of our consular section, Ronald E. Hagen, acting in his capacity as a notary:

Nominee: Davis Eugene Boster.
Post: Amembassy Dacca, Bangladesh.
Contributions; amount; date; and donee:
Self: none.
Spouse: Mary S. Bosten. Children and spouses: Barbara A. Roster, none; Mr. and Mrs. Davis E. Boster, Jr. none; Mr. James Boster, none; Mr. Thomas Roster, none; Mr. and Mrs. Robert Curtis, none.
Parents: deceased.
Grandparents: deceased.
Brothers and spouses: none.
Sisters and spouses: none.
Wife's brothers and sisters-in-law:
Mr. and Mrs. William Shilts, $125, 1973, Ohio Republican Party.
Mr. and Mrs. William Shilts, $125, 1974, Ohio Republican Party.
Mr. and Mrs. William Shilts, $125, 1975, Ohio Republican Party.
Mr. and Mrs. William Shilts, $125, 1976, Ohio Republican Party.
Mr. and Mrs. Edgar F. Shilts, none.
Mr. and Mrs. Allan R. Shilts, none.
Wife's sister and brother-in-law: Mr. and Mrs. Jack Fursey, none.

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

DAVIS EUGENE BOSTER.

Walter J. Stoessel, Jr., of California, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Germany.

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Walter J. Stoessel, Jr.
Post: Bonn.
Contributions; amount; date; and donee:
Self; none.
Spouse: Mrs. Walter J. Stoessel, Jr., none.
Children and Spouses: Katherine, none; Suzanne, none; Christine, none.
Parents: Mrs. Walter J. Stoessel, Jr., none.
Grandparents: not living.
Brothers and Spouses: Mr. and Mrs. James H. Stoessel, James H. Stoessel, $10, 1972, Republican National Committee; $5, 1974, Republican Committee California; $10, 1975, Republican National Committee.
Sisters and Spouses: Mr. and Mrs. Charles Embree, none.

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

WALTER J. STOESSEL, Jr.

Francois M. Dickman, of Wyoming, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Arab Emirates.

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.
Nominee: Francois M. Dickman.
Contributions; amount; date; and donee:
Self: none.
Spouse: none.
Children and Spouses: none.
Parents: Henriette L. Dickman, Adolphe J. Dickman (deceased).
Grandparents: (deceased).
Brothers and Spouses: none.
Sisters and Spouses: none.

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

FRANCOIS M. DICKMAN.

T. Frank Crigler, of Arizona, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: T. Frank Crigler.
Post: Kigali.
Contributions:
Self:
April 26, 1976, Udall '76 Committee, $25.
February 16, 1976, Udall '76 Committee, $25.
August 8, 1974, McGovern for Senate, $10.
August 8, 1974, Arlington Dem. Campaign Committee, $10.
October 22, 1973, Howell for Governor, $10.
October 22, 1973, Arlington Cty. Dem. Committee, $10.
July 20, 1973, Sam Ervin Fan Club, $10.
October 20, 1972, Udall Campaign Committee, $15.
October 20, 1972, McGovern for President, $25.
August 31, 1972, McGovern for President $25.
June 10, 1972, McGovern for President, $25.
Spouse: Bettie Ann Crigler, none.
Children and Spouses: Jeffrey, Lauren, and Jeremy Crigler, none.
Parents: Mrs. Elsie M. Crigler, none.
Grandparents: None.
Brothers and Spouses: Robert R. (and Shirlie Lynn) Crigler, Jr.—Unknown (on extended business trip at present; supplementary information will be submitted when available).
Sisters and Spouses: Alice E. (and Edwin A.) Richards, none.

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

FRANK CRIGLER.

Charles A. James, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Niger.

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.
Nominee: Charles A. James.
Contributions; amount; date; and donee: (If none, write none)
Self: None.
Spouse: None.
Children and Spouses: Jane James, none; Donald James, none; Dennis James, none; Peter James, none; Karen James, none.
Parents: None.
Grandparents: None.
Brothers and spouses: None.
Sisters and spouses: Gladys Hawes and Ernest Hawes, none.

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

CHARLES A. JAMES.

Patricia M. Byrne, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mali.

POLITICAL CONTRIBUTION STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar

year of the nomination and ending on the date of the nomination.

Nominee: Patricia M. Byrne.

Post: Bamako, Mali.

Contributions; amount; date; and donee: (If none, write none).

Self: None.

Spouse: N/A.

Children and Spouses: N/A.

Parents: N/A.

Grandparents: N/A.

Brothers and Spouses: N/A.

Sisters and Spouses: None.

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

PATRICIA M. BYRNE.

Julius L. Katz, of Maryland, to be an Assistant Secretary of State.

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

HOUSE BILLS REFERRED

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

H.R. 13615. An act to amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, and for other purposes; to the Committee on Armed Services.

H.R. 15276. An act to amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same cost-of-living adjustments in the basic compensation of officers and members of the U.S. Park Police force as are given to Federal employees under the General Schedule and to require submittal of a report on the feasibility and desirability of codifying the laws relating to the U.S. Park Police force; to the Committee on the District of Columbia.

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. PACKWOOD (for himself and Mr. RIBICOFF):

S. 3811. A bill to amend the Internal Revenue Code of 1954 with respect to amounts received on certain loans of securities. Referred to the Committee on Finance.

By Mr. MONTOYA:

S. 3812. A bill to grant a Federal charter to the American GI Forum of the United States. Referred to the Committee on the Judiciary.

S. 3813. A bill to authorize the Administrator of Veterans' Affairs to pay to female veterans of World War II and the Korean conflict certain educational benefits on the same basis that such benefits were paid to male veterans. Referred to the Committee on Veterans' Affairs.

S. 3814. A bill for the relief of T. Sgt. Herman F. Baca, U.S. Air Force. Referred to the Committee on the Judiciary.

By Mr. MOSS:

S. 3815. A bill providing for reinstatement and validation of U.S. oil and gas leases Nos. U-12871, U-12872, U-12874, U-12875, U-12876, U-12877, U-12878, and U-12881. Referred to the Committee on Interior and Insular Affairs.

By Mr. MONTOYA:

S. 3816. A bill to amend the Internal Revenue Code of 1954 to allow a credit for amounts which are paid for natural gas used for farming purposes and which are attributable to the recent increase in rates for natural gas established by the Federal Power Commission. Referred to the Committee on Finance.

By Mr. HATFIELD:

S. 3817. A bill for the relief of Robert E. Saries and Alice J. Saries of Merlin, Oreg. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 3811. A bill to amend the Internal Revenue Code of 1954 with respect to amounts received on certain loans of securities. Referred to the Committee on Finance.

LOANS OF SECURITIES BY TAX EXEMPT ORGANIZATIONS

Mr. PACKWOOD. Mr. President, this bill changes the unrelated business income tax to provide that exempt organizations will not be taxed on income from securities loans. The purpose of the bill is to help exempt organizations increase the yield from their investments, and to facilitate the mechanical aspects of buying and selling securities. The Department of the Treasury and the Securities and Exchange Commission favor this legislation.

CURRENT SITUATION

Frequently, a securities dealer is committed to deliver a block of stocks, corporate bonds, or U.S. bonds on a fixed date. For example, the dealer may sell stocks or bonds on the owner's instructions, but the owner fails to deliver the property to the dealer in time for him to deliver it to the market or purchaser to whom he sold it. In such case, the securities dealer is obligated to "borrow" an identical block of stock from a bank or other large fund.

The lender with the largest volume of securities loans is the Federal Reserve Board. In addition, the Comptroller of Currency allows national banks to make securities loans, and has held that such loans are proper activity for trust accounts managed by national banks.

The lending of securities does not cause any material risk of loss to the lender. This is because borrowers post collateral with fair market value equal to that of the securities loan, with adjustments of collateral required on a daily basis. The loan arrangements also provide the loan may be terminated by a lender at any time on 5 days notice, and that in the event of failure of return on demand, the borrower is liable for the amount that the purchase price of the replacement securities and commissions exceed the value of the collateral. The borrower is paid at a rate of 1½ to 3 percent annual rate—for the use of the securities. It continues to receive any interest or dividends paid on the securities during the time the securities are loaned.

PROBLEM

Exempt organizations, such as charities and pension funds are discouraged from engaging in securities loans because of the risk that they will be subject to the tax on unrelated business income. If income from lending securities is "dividends, interest and royalties" the exempt organization would not be subject to tax. If, in contrast, it is the conduct of an unrelated trade or busines, they would be subject to income tax. The Internal Revenue Service has not ruled on this issue.

PACKWOOD AMENDMENT

This amendment provides that the "rental fee" from loans of securities is to be treated like "interest, dividends, and royalties" and exempt from the tax on unrelated business income. This amendment applies only if the securities loan is fully collateralized as described above. The amendment makes some technical changes as well, such as to provide that if the organization making securities loans is a private foundation, that the income from the securities loans is to be subject to the tax on investment income, like other investment income received by a private foundation.

REVENUE EFFECT

Apparently, the Internal Revenue Service has never applied the unrelated business income tax to income paid for securities loans. This means there is no actual loss of revenue.

ADMINISTRATION POSITION

Treasury and the Securities and Exchange Commission support this amendment.

Mr. President, I request unanimous consent that a copy of this bill and the letter from the Treasury Department be printed in the RECORD.

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

S. 3811

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 512(a) of the Internal Revenue Code of 1954 (relating to the definition of unrelated business income) is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR PAYMENTS ON SECURITIES LOANS.—The term 'payments on securities loans' shall include all amounts received in respect of a security (as defined in section 1236(c)) loaned by the owner thereof to another person, whether or not title to the security remains in the name of the lender, including amounts in respect of dividends or interest thereon, fees computed by reference to the period for which the loan is outstanding and the fair market value of the security during such period, income from collateral security for such loan, or income from the investment of collateral security provided that the agreement between the parties provides for:

(a) reasonable procedures to implement the obligation of the borrower to furnish collateral to the lender with a fair market value on each business day during the period the loan is outstanding at least equal to the fair market value of the security at the close

of business on the preceding business day, and

(b) termination of the loan by the lender at any time on notice of no more than five business days, whereupon the borrower is required to return certificates for the borrowed securities to the lender."

(b) Section 509(e) of the Internal Revenue Code of 1954 (relating to the definition of gross investment income) is amended by inserting "payments on securities loans (as defined in section 512(a)(5))," after "dividends,".

(c) Section 512(b)(1) of the Internal Revenue Code of 1954 (relating to modifications of the definition of unrelated business taxable income) is amended by striking out "and annuities," and inserting in lieu thereof "annuities, and payments on securities loans (as defined in paragraph (5) of subsection (a)),".

(d) Section 851(b)(2) of the Internal Revenue Code of 1954 (relating to limitations on the definition of a regulated investment company) is amended by inserting "payments on securities loans (as defined in section 512(a)(5))," after "interest,".

(e) Section 4940(c)(2) of the Internal Revenue Code of 1954 (relating to the definition of private foundation gross investment income) is amended by striking out "and royalties," and inserting in lieu thereof "royalties, and payments on securities loans (as defined in section 512(a)(5))," .

(f) EFFECTIVE DATE.—The amendments made by this Act shall apply to amounts received after December 31, 1975.

DEPARTMENT OF THE TREASURY,
Washington, D.C., September 14, 1976.

Hon. BOB PACKWOOD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PACKWOOD: You have requested our views on the attached draft bill, which would allow exempt organizations to lend their securities certificates to brokers and other persons and not subject the income that such organizations would receive from such loans to the unrelated business income tax.

To qualify for such treatment, the lender would have to require the borrower to provide collateral equal to the full fair market value of the loaned securities, and supplement it with sufficient additional collateral on any business day when the value of the securities rose above the value of the collateral currently on hand. In addition, the loans would have to be subject to termination on five business days notice. Under those circumstances, the fees that the lender would receive for loaning the certificates, as well as the income paid over by the borrower to the lender during the period of the loan, would be treated as passive income exempt from the unrelated business income tax. In the case of private foundations, however, this income would be subject to the 4% excise tax on its net investment income.

The bill would afford similar treatment to regulated investment companies, allowing them to pass through the fees and other income that they receive from such loans to their shareholders tax-free.

The draft bill would provide such passive income treatment for amounts received by exempt organizations and regulated investment companies after December 31, 1975.

Such a bill would allow exempt organizations to maximize the income that they could derive from their portfolio investments without jeopardizing these investments. We understand that the safeguards required in the draft bill for such loans are the same as those required by the Securities and Exchange Commission for such loans when they are made by a regulated investment company. Since these loans are fully secured, we think that they constitute an appropriate investment activity for exempt organizations, and one that should be encouraged. Furthermore, such loans are less speculative than the granting of options on portfolio securities, and Congress recently allowed exempt organizations to engage in the latter activity without incurring any unrelated business income tax. In the case of both exempt organizations and regulated investment companies, the income from such loans should be treated the same as other investment income.

In addition, we understand that the SEC would support such a draft bill because it would help relieve the chronic shortage of securities certificates, by encouraging pension funds and other institutional investors to loan their securities certificates to brokers. Brokers frequently need to borrow certificates to cover short sales and the failures of sellers to make timely delivery of certificates they have sold. The securities currently being borrowed from customers' margin accounts are apparently not sufficient to meet current needs, and institutional investors, who hold a large percentage of securities, are reluctant to loan out their certificates because they are concerned about the potential adverse tax consequences. The draft bill would eliminate such adverse tax consequences where the loans contain adequate safeguards.

The revenue effect of this draft bill is expected to be negligible.

The Treasury Department would support such a draft bill. However, the committee reports should make clear that no inference is to be drawn with respect to the active or passive classification of income from securities loans that lack the prescribed safeguards, both for purposes of the unrelated business income and for other income tax purposes, e.g., personal holding company income.

The Office of Management and Budget has advised the Treasury Department that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely yours,

CHARLES M. WALKER.

By Mr. MONTOYA:

S. 3812. A bill to grant a Federal charter to the American GI Forum of the United States. Referred to the Committee on the Judiciary.

THE AMERICAN GI FORUM OF THE UNITED STATES

Mr. MONTOYA. Mr. President, I am today introducing a bill which would grant a Federal charter to the American GI Forum of the United States. My good friend, Congressman EDWARD R. ROYBAL of California, is introducing an identical measure in the House of Representatives.

The American GI Forum was created to combat discrimination against Spanish-speaking veterans. It has been in existence since March 26, 1948, when it was first granted a charter from the State of Texas. Today there are 30 chartered States across the country, including chapters in Germany and England. The GI Forum has reached international prominence for their work to bring equality to all citizens. The granting of a Federal charter would insure that the GI Forum receives further recognition and, most importantly, enjoys continued success in promoting civil rights for Spanish-speaking groups.

We have put much emphasis on cultural heritage and history in this Bicentennial year. There is a changing spirit in America and in the Spanish-speaking minority. The concept of Americans as a homogenized people with one culture and one history is fading. Instead, there is an accent on the value of variety as each group is encouraged to develop its own cultural heritage.

The American GI Forum has led the way in creating a recogniton of the needs of the Spanish-speaking. The Forum has fought and continues to fight for equal employment, equal educational opportunities, and equal representation in government. These are the principles on which our country was founded. Therefore, I urge swift consideration of this bill as a way of recognizing that Spanish origin Americans, and especially the American GI Forum of the United States, are a vital part of our Nation.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 3812

A bill to grant a Federal charter to the American GI Forum of the United States

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

INCORPORATION

SECTION 1. Orlando Romero, Phoenix, Arizona, Joe Avila, Pico Rivera, California, Ivan Vasquez, Loveland, Colorado, Mario Lugo Baez, Bridgeport, Connecticut, Miss Maria Nina Hall, Pensacola, Florida, Antonio Ochoa, Caldwell, Idaho, Jesse Perez, Moline, Illinois, John Rivera, Fort Wayne, Indiana, Augustine Olvera, Davenport, Iowa, Jesse Magana, Kanapolis, Kansas, Thomas Tellez, Silver Spring, Maryland, Skip Alvarado, Detroit, Michigan, Herman Davila, Kansas City, Missouri, Clemente Aguilar, Lincoln, Nebraska, Carlos E. Mares, Las Vegas, Nevada, Pedro F. Jimenez, Santa Fe, New Mexico, Fortino Guerra, Port Clinton, Ohio, John Gonzales, Oklahoma City, Oklahoma, Manuel Casanova, San Antonio, Texas, Rick Martinez, Salt Lake City, Utah, Wayne Aragon, Tacoma, Washington, Alex Cruz, Racine, Wisconsin, Jess Frescas, Cheyenne, Wyoming, Eduardo Perrones, Washington, D.C., Mrs. Calvin W. McGhee, Atmore, Alabama, Frank Johnson, Fort Smith, Arkansas, Jose Garza, Alexandria, Virginia, and their associates and successors, are created a body corporate by the name of the American GI Forum of the United States and by such name shall be known and perpetually succeeded. The corporation shall have the powers and be subject to the limitations established by this Act.

COMPLETION OF ORGANIZATION

SEC. 2. Any individual named in section 1 may, in person or by written proxy, engage in any act necessary to complete the organization of the corporation.

PURPOSE OF CORPORATION

SEC. 3. The purposes of the corporation shall be—

(1) to preserve and advance religious and political freedom, equality of social and economic opportunity, and other fundamental principles of democracy for all United States citizens;

(2) to secure and protect for veterans of active United States military, naval, or air service discharged under conditions other than dishonorable, and the families of such veterans, regardless of race, color, religion, sex, or national origin, the rights and privileges granted to them by the Constitution and laws of the United States;

(3) to advance understanding among United States citizens of differing national origins and religious beliefs in order to develop an enlightened citizenry and a greater Nation;

(4) to develop the leadership abilities of United States citizens of Mexican origin or ancestry by encouraging their participation in community civic and political affairs;

(5) to combat juvenile delinquency by teaching discipline, good sportsmanship, the value of teamwork, and respect for law and order and by encouraging participation in the Youth GI Forum program operated by the corporation;

(6) to assist students desiring to attend institutions of higher learning through the award of scholarships;

(7) to uphold and maintain loyalty to the Constitution and flag of the United States;

(8) to preserve and defend the United States from all enemies; and

(9) to assist needy and disabled veterans of active United States military, naval, or air service discharged under conditions other than dishonorable.

CORPORATE POWERS

SEC. 4. Except as otherwise provided by this Act, and subject to any applicable law of the United States, or of any State in which the corporation conducts any activities, the corporation may—

(1) sue and be sued and complain and defend in any court of competent jurisdiction;

(2) adopt, alter, and use a corporate seal, badge, and emblem;

(3) adopt, alter, and amend a constitution and bylaws not inconsistent with the charter granted by this Act;

(4) enter into contracts and other agreements;

(5) acquire, control, hold, lease, and dispose of such real, personal, or mixed property as may be necessary to carry out any corporate purpose;

(6) choose any officer, manager, agent, or employee necessary to carry out any corporate purpose;

(7) incur debt for any corporate purpose, issue bonds in connection with such debt, and secure such debt by mortgage or otherwise.

(8) establish, regulate, and dissolve subordinate State and regional organizations and local chapters of the corporation;

(9) publish a newspaper, magazine, or other publications; and

(10) take any other action necessary to carry out any corporate purpose.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and any rights and privileges of such membership shall, except as provided by this Act, be as provided by the constitution or bylaws of the corporation.

GOVERNING AUTHORITY OF CORPORATION

SEC. 6. (a) The Corporation shall have a national board of directors, which shall be constituted as provided by the constitution or bylaws of the corporation. The first board of directors shall be: Antonio G. Morales, National Chairman, Fort Worth, Texas, Exequiel Duran, Vice Chairman, Albuquerque, New Mexico, Louis P. Tellez, Executive Secretary-Treasurer, Albuquerque, New Mexico, Jessie Flores, Women's Chairperson, El Paso, Texas, Paula Martinez, Youth Chairperson, Denver, Colorado, Tom Zuniga, Sergeant at Arms, Saginaw, Michigan, Jose Ramos, Veterans' Officer, Fort Worth, Texas, Jose Cavazos, Jr., Communications and Development Officer, Detroit, Michigan, The Rev. Msgr. Erwin Jurascheki, Chaplain, Falls City, Texas, and all of those listed in Section 1 of the Act.

(b) The manner of selection and qualification of directors on the board, the terms of office of such directors, and the powers and responsibilities of the board and such directors shall be as provided by the constitution or bylaws of the corporation.

OFFICERS OF CORPORATION

SEC. 7. The officers of the corporation, and the manner of election, terms of office, powers, and responsibilities of such officers, shall be as provided by the constitution or bylaws of the corporation.

PRINCIPAL OFFICE; SCOPE OF ACTIVITIES; DISTRICT OF COLUMBIA AGENT

SEC. 8. (a) The principal office of the corporation shall be in Fort Worth, Texas, or in any other place the corporation may determine, but the activities of the corporation may be conducted in such locations as may be necessary to carry out any corporate purpose.

(b) The corporation shall maintain at all times in the District of Columbia a designated agent authorized to accept service of process for the corporation. Service upon, or notice mailed to the business address of, such agent shall be considered service upon, or notice to, the corporation.

USE OF INCOME; LOANS TO OFFICERS, DIRECTORS, OR EMPLOYEES

SEC. 9. (a) No part of any asset or income of the corporation shall inure to any member, officer, or director or be distributable to any such person during the life of the corporation or upon its dissolution or final liquidation. Nothing in this subsection shall be construed to prevent the payment to any corporate officer of reasonable compensation or reimbursement for actual necessary expenses in any amount approved by the board.

(b) The corporation shall not make any loan to any member, officer, director, or employee of the corporation.

NONPOLITICAL NATURE OF CORPORATION

SEC. 10. The corporation and any officer or director of the corporation, as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

LIABILITY FOR ACTS OF OFFICERS, EMPLOYEES, AND AGENTS

SEC. 11. The corporation shall be liable for any act of any officer, employee, or agent of the corporation which is within the scope of the authority of such officer, employee, or agent.

PROHIBITION AGAINST ISSUANCE OF STOCK OR PAYMENT OF DIVIDENDS

SEC. 12. The corporation shall not have the power to issue any share of stock or to declare or pay any dividend.

BOOKS AND RECORDS; INSPECTION

SEC. 13. (a) The corporation shall keep books and records of account and shall keep minutes of any proceeding of the corporation involving any member of the corporation, the board, or any committee having authority under the board. The corporation shall keep at its principal office a record of the name and address of any member entitled to vote.

(b) All books and records of the corporation may be inspected by any member entitled to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 14. The provisions of sections 2 and 3 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1102, 1103), shall apply with respect to the corporation.

USE OF ASSETS UPON DISSOLUTION OR LIQUIDATION

SEC. 15. Upon dissolution or final liquidation of the corporation, after discharge or satisfaction of any outstanding obligation or liability of the corporation, any remaining asset of the corporation may be distributed in accordance with any determination of the board in compliance with this Act, any other applicable Federal or State law, and the constitution and bylaws of the corporation.

EXCLUSIVE RIGHT TO NAME, EMBLEMS, SEALS, AND BADGES

SEC. 16. The corporation shall have the exclusive right to use the name American GI Forum of the United States and any emblem, badge, or seal adopted, altered, or used by the corporation under section 4(2).

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 17. The right of the Congress to alter, amend, or repeal the charter granted by this Act is expressly reserved.

DEFINITIONS

SEC. 18. For purposes of this Act—

(1) the term "corporation" means the American GI Forum of the United States;

(2) the term "board" means the national board of directors of the corporation which is required to be established under section 6; and

(3) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

By Mr. MONTOYA:

S. 3813. A bill to authorize the Administrator of Veterans' Affairs to pay to female veterans of World War II and the Korean conflict certain educational benefits on the same basis that such benefits were paid to male veterans. Referred to the Committee on Veterans' Affairs.

EDUCATIONAL BENEFITS FOR FEMALE VETERANS

Mr. MONTOYA. Mr. President, today I am introducing a bill to make retroactive payments to female veterans of World War II and Korea, who were not treated equally with their male counterparts.

At the present time, Veterans' Administration education assistance benefits for both male and female veterans are paid on the same basis. However, this was not always the case. Just within this past year, the Veterans' Administration administratively granted retroactive payments back to June 1, 1966.

This bill gives the VA the authority needed to go back even further than 1966 and finish the job. I am sure my colleagues will agree that female veterans, who served their country well and when needed, should not have been discriminated against. My legislation corrects this situation.

I ask unanimous consent that a letter from the Honorable Richard L. Roudebush, Administrator of the Veterans' Administration, and the text of my bill, be printed in the RECORD.

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

S. 3813

A bill to authorize the Administrator of Veterans' Affairs to pay to female veterans of World War II and the Korean conflict certain educational benefits on the same basis that such benefits were paid to male veterans

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any other provision of law, the Administrator of Veterans' Affairs is au-

thorized and directed to pay to any female veteran who pursued a program of education or training under part VIII of Veterans Regulation Numbered 1(a), the Servicemen's Readjustment Act of 1944, or the Veterans' Readjustment Assistance Act of 1952 and who was married at the time she was pursuing such program, but was not paid on education and training allowance based on having a dependent husband, shall, upon application made to the Administrator within one year after the date of enactment of this Act, pay to such veteran an amount equal to the difference between the amount of education and training allowance such veteran was actually paid and the amount such veteran would have been paid had her entitlement to such allowance been determined in the same manner and on the same basis as if she had been a male veteran.

(b) As used in subsection (a), the term "education and training allowance" includes subsistence allowance or other comparable payment made to eligible veterans by the Veterans' Administration while pursuing a program of education or training under one of the provisions referred to in subsection (a).

(c) Payments authorized to be made under this Act shall be made by the Administrator of Veterans' Affairs out of any funds available for the payment of educational assistance allowances under chapter 34 of title 38, United States Code.

VETERANS' ADMINISTRATION,
WASHINGTON, D.C., *July 12, 1976.*

Hon. JOSEPH M. MONTOYA,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONTOYA: In response to your letter of June 28, 1976, I am pleased to report that educational assistance benefits for female veterans are currently paid on the same basis as those granted male veterans.

Until the enactment of Public Law 92-540, effective October 24, 1972, the dependency allowance of a female veterans based on her husband could only be paid to her if her husband was incapable of self-maintenance and permanently incapable of self-support. This change in law was favored by the Veterans Administration. I would point out that they were always allowed benefits for their children. The limitation cited here only applied to the spouse.

It was recognized by the Veterans Administration that there were many female veterans who had previously been denied this dependency benefit and for that reason I had published in the Federal Register of July 1, 1975, a notice stating that it was the policy of the Veterans Administration to make retroactive payment of educational assistance benefits to such female veterans providing they filed an application within 1 year from that date. Claims were allowed retroactively as far back as June 1, 1966, the date the current educational program came into being.

Your interest in this matter is greatly appreciated.

Sincerely,

RICHARD L. ROUDEBUSH,
Administrator.

By Mr. MONTOYA:

S. 3816. A bill to amend the Internal Revenue Code of 1954 to allow a credit for amounts which are paid for natural gas used for farming purposes and which are attributable to the recent increase in rates for natural gas established by the Federal Power Commission. Referred to the Committee on Finance.

Mr. MONTOYA. Mr. President, recently, the Federal Power Commission made a change in the rate structure for interstate natural gas prices. The substantial increase will drastically and adversely affect all consumers in the United States, and it is, indeed, unfortunate that the Commission did not delay the introduction of this new rate structure until Congress had completed its work on pending natural gas legislation.

The impact of this natural gas price increase will be strongly felt by the farmers of this country. It will badly hurt farmers and ranchers in New Mexico who must use natural gas for irrigation.

This agricultural segment of our population has a direct effect on all Americans—and an important task to fulfill for all Americans. The task of providing an adequate amount of food for the American public is one our farmers have been accomplishing effectively, even though they have been hampered by rising production costs. With the increased price of natural gas, the farmers of America will be facing escalating energy and production costs that will either hamper production or set off a substantial increase in food costs to all citizens. We must relieve our farmers from these growing energy costs, not only for the benefit of American agriculture, but for the good of the total economy. Through any relief we can provide the farmers with energy costs—we will be holding back any additional production costs the farmer would pass through to the consumer.

For this reason, I have introduced this legislation to allow a tax credit for farm use of natural gas up to a limit of $500. The best available sources have computed the average cost farmers may face when the increased price for natural gas takes effect, and $500 is the figure suggested. By giving agricultural producers this energy credit, we will be easing the effect of the recent FPC natural gas rate increase on the average American farmer, protecting consumers at the same time. I urge my colleagues, here in the Chamber, and in committee, to take expeditious action on this legislation to enable the provisions of this bill to provide relief for farmers as soon as possible.

ADDITIONAL COSPONSORS

SENATE RESOLUTION 524

At the request of Mr. JAVITS, the Senator from Utah (Mr. GARN), the Senators from Delaware (Mr. ROTH and Mr. BIDEN), the Senator from South Carolina (Mr. THURMOND), the Senator from North Dakota (Mr. YOUNG), the Senator from Oregon (Mr. HATFIELD), the Senator from Arkansas (Mr. BUMPERS), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Connecticut (Mr. WEICKER), the Senator from Wisconsin (Mr. PROXMIRE), and the Senator from Missouri (Mr. EAGLETON) were added as cosponsors of Senate Resolution 524, a resolution relating to the terrorist attack at Istanbul Airport.

AMENDMENT NO. 2219

At the request of Mr. MUSKIE, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of amendment No. 2219, intended to be proposed to H.R. 14846, the military construction authorization bill.

SENATE CONCURRENT RESOLUTIONS 202 THROUGH SENATE CONCURRENT RESOLUTION 207—SUBMISSION OF CONCURRENT RESOLUTIONS OBJECTING TO PROPOSED SALE OF WEAPONS

(Referred to the Committee on Foreign Relations.)

Mr. NELSON submitted the following concurrent resolutions:

S. CON RES. 202

Resolved by the Senate (the House of Representatives concurring), That, pursuant to Section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of helicopters to Israel (transmittal number 7T-55), transmitted on September 13.

S. CON. RES. 203

Resolved by the Senate (the House of Representatives concurring), That, pursuant to Section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of aircraft to Israel (transmittal number 7T-56), transmitted September 13.

S. CON. RES. 204

Resolved by the Senate (the House of Representatives concurring), That, pursuant to Section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of howitzers to the Philippines (transmittal number 7T-53), transmitted on September 13.

S. CON. RES. 205

Resolved by the Senate (the House of Representatives concurring), That, pursuant to Section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of missiles to Spain (transmittal number 7T-54), transmitted on September 10.

S. CON. RES. 206

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of missile defense systems and missiles to Tunisia (transmittal number 7T-52), transmitted on September 10.

S. CON. RES. 207

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of armored personnel carriers to Kuwait (transmittal number 7T-57), transmitted on September 10.

Mr. NELSON. Mr. President, I send to the desk six concurrent resolutions of objection by the Congress to the proposed sales of weapons and defense articles to Kuwait, Tunisia, Spain, Israel, and the Philippines, pursuant to section 36(b) of the Arms Export Control Act.

Last Tuesday I submitted resolutions of objection to each of 37 foreign military sales proposed by the executive branch September 1. Notice of the Executive's intent to conclude these transactions was contained in a single packet of proposals which, in one fell swoop, obligates the United States to transfer over $6 billion worth of arms to 11 different countries. To put this dollar value in some perspective, approval of the administration's Labor Day packet would commit the equivalent of nearly 14 percent

of all foreign military sales made by the United States over the last 25 years.

Under section 36(b), the Congress may veto the proposed sale of any major defense equipment exceeding $7 million in cost, but must act within 30 calendar days of its notification. Unfortunately, these latest proposals came only within the last several days. There are only 18 days left to this 94th Congress, and of course the press of other legislative business is greatest right now.

In objecting to these additional proposals, I seek to add them to the overall group of 37 which I would hope will serve as subject matter for hearings of the Committee on Foreign Relations.

Mr. President, the administration continues to peddle our most sophisticated armaments to a great variety of countries, including those in the most sensitive areas on the globe. It does so at a rate exceeding the combined efforts of all other major arms suppliers. And such critical decisions are made without benefit of substantive policy guidelines—without even a basic statement of our goals and objectives.

The scope and magnitude of these foreign military sales raise serious foreign policy implications. The Congress has a fundamental oversight responsibility with regard to U.S. arms transfers. In my judgment, the Congress must act through this mechanism to develop responsible guidelines and examine our Nation's arms transfers in the light of stated policy objectives. It is time to slow down the runaway weapons train.

AMENDMENTS SUBMITTED FOR PRINTING

INVESTMENT ADVISERS ACT AMENDMENTS OF 1976—S. 2849

AMENDMENTS NOS. 2289 AND 2290

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

Mr. HRUSKA. Mr. President, I send to the desk two amendments to S. 2849, a bill 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.

I ask unanimous consent that they be ordered to lie on the table and to be printed, it being my intention to propose them in timely order upon consideration of this bill in the Senate.

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

Mr. HRUSKA. Mr. President, I ask unanimous consent also that the text of these amendments be printed at the conclusion of my remarks, in each instance to be accompanied by a brief explanatory statement of purposes.

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

AMENDMENT No. 2289

Beginning with page 13, line 3, strike out all through page 14, line 4.

On page 14, line 5, strike out "(d)" and insert in lieu thereof "(c)".

On page 14, line 19, strike out "(e)" and insert in lieu thereof "(d)".

On page 15, line 13, strike out "(f)" and insert in lieu thereof "(e)".

On page 15, line 14, strike out "(c), (d), and (e)" and insert in lieu thereof "(c) and (d)".

EXPLANATION OF AMENDMENT No. 2289

This Amendment would delete Section 10 (c) of this bill appearing on Page 13 of the bill. The SEC has advised Committee staff Members that it, the SEC, may conduct whatever studies it wants whenever it wants. Therefore, this Section is not necessary for the SEC to conduct a study of the subject matter set out in this Section.

The deletion of this Section, therefore, would indicate that Congress is not mandating a study, with the concomitant implication that the same is needed. However, the SEC would be free to make this study if they deemed it advisable.

A study for the purpose of determining whether the "umbrella should be enlarged" is essentially a study to see whether lawyers, bankers, accountants, insurance agents, and other persons whose investment advice is incidental to their business should be regulated by the SEC pursuant to the provisions of this Bill. Such an inclusion has serious implications, not the least of which are questions as to the point wherein the regulation of causal investment advisers contravenes First Amendment rights.

AMENDMENT No. 2290

On page 13, line 17, after "include" insert "(1)".

On page 13, line 24, before the period insert "; and (2) an analysis of the extent to which the inclusion of additional persons in the definition of 'investment adviser' will (A) add to the burdens and costs of doing business, (B) result in higher fees for the investment advisery client, (C) lessen competition by discouraging smaller businesses from continuing investment advisery services, or (D) attenuate the ability of such additional persons to provide complete and thorough service to their clients and customers if they should cease rendering investment advice because of an unwillingness or inability to meet the qualifications and standards established under this title and the rules and regulations of the Commission promulgated hereunder".

EXPLANATION OF AMENDMENT NO. 2290

It is not entirely clear what "additional persons" the SEC has in mind in requesting this study. However, it is feared that the enlargement of the regulatory umbrella will include such professionals as lawyers, accountants, life insurance agents, and bank trust departments. The SEC certainly does not deny it is leaning toward such an inclusion. This being the case, the added analysis set out in the above amendment would be most timely and useful to the Congress in determining whether added inclusions would be wise or prudent.

H.R. 8656—DUTY-FREE IMPORTATION OF LOOSE GLASS PRISMS

AMENDMENT NO. 2291

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

Mr. BARTLETT submitted an amendment intended to be proposed by him to the bill (H.R. 8656) to amend the Tariff Schedules of the United States in order to provide for the duty-free importation of loose glass prisms used in chandeliers and wall brackets.

S. 3421—EXCLUSIVE TERRITORIAL ARRANGEMENTS

AMENDMENTS NOS. 2293 THROUGH 2299

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

Mr. MANSFIELD (for Mr. ABOUREZK) submitted seven amendments intended to be proposed to the bill (S. 3421) to amend the Federal Trade Commission Act (15 U.S.C. 45) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful.

D.C. COMMITTEE HEARINGS

Mr. EAGLETON. Mr. President, the District of Columbia Committee wishes to announce that it will hold hearings on H.R. 14971, to continue Treasury borrowing authority for the District of Columbia, H.R. 10826, a bill to prohibit the unauthorized use of a motor vehicle, S. 3796 and H.R. 15276, bills to grant the U.S. Park Police the cost-of-living increase given other Federal workers, and S.3807, a bill to authorize the District government to pay over to colleges and universities any proceeds of revenue bonds which may be isued on behalf of such colleges and universities.

The hearings will take place on Wednesday, September 22, 1976, at 9:30 a.m. in room 6226 Dirksen Senate Office Building. Persons wishing to testify on any of these bills should contact Mr. Robert Harris, at the D.C. Committee office, 6222 Dirksen Senate Office Building by noon Monday, September 20, 1976.

ADDITIONAL STATEMENTS

U.S. AGRICULTURE

Mr. GARN. Mr. President, most of us are familiar with the humorously sage observation of the comedian, a few years ago, who said he had known poverty and he had realized wealth and could definitely assert to any remaining doubters that "being rich is better."

In a far more critical and totally unfunny area of concern—food—a similar choice faces much of the world today. It is the choice of having enough food or of starving. Incredible as it may seem, a great many well-intentioned but appallingly misguided people are seriously advancing policies which suggest, in effect, that "going hungry is better."

These people espouse in the extreme the appealing cause of environmentalism. They generally view themselves as idealists. Most of them apparently are convinced that they are campaigning, in the public interest, for the best interests of humanity. Not one of them, I am sure, would wish to be held responsible for the agony of the innocent whose bodies are deformed, whose minds are warped or whose lives are irreparably shortened and lost every day by the awful pangs of hunger.

Yet, Mr. President, these overzealous, avowed advocates of consumerism, champion every restraint and interference with the growth of our capacity to

meet the escalating demands for energy and food. They utilize every forum to prevent the use of new technology. They employ every legal device and the current activism of some of our courts to delay, to regulate, to deny us the means to cope with the rising demands on agriculture and industry. In the alleged public interest, they advocate negative programs which, unchecked, may lead to the ultimate catastrophe of mass starvation among millions of the world's least fortunate people.

In the process of trying to save our environment and natural resources for posterity, they are making an impossible mockery of our very real capability to save those who are the only guarantors that there will even be a posterity.

In particular, some of these self-proclaimed environmentalists are frustrating both the effort and will of those most apt to be the "last, best hope" for preserving the future for all of us: America's farmers and ranchers. What we see is a substantial number of supposedly intelligent citizens of our country literally biting the hands that feed them.

Do they know what an impact their eagerness and enthusiasm for preventing progress in energy resource development is having on American agriculture? Do they even appreciate the magnitude of their activities with respect to undermining the marvel of our agriculture? I prefer to think they do not. Otherwise one must conclude that their definition of the "public interest" is that the public be damned.

The United States is, in fact, the bread basket of the world. We not only produce ample quantities of food, fiber and forestry products in the greatest variety and finest quality sufficient to meet domestic requirements. We also supply a vitally significant percentage of the world's needs.

Seventy percent of what the people of the world eat is derived from grain. Ninety percent of the food consumed is produced where the food is consumed; but the vital 10 percent that may well represent the margin of survival is derived from surplus-producing countries; and 80 percent of the exportable surplus of grain comes from the United States and Canada.

Between 1965 and 1973, American farmers supplied 80 percent of all food assistance to the needy countries of the globe. In that period, we donated $8.8 billion worth of food, four times the amount contributed by all other developed countries combined. Many of the nations which live precariously on the edge of a food-deficient disaster are dependent on the farming know-how and success of producers in our American corn and wheat belts.

Dire scientific predictions that a weather change is in the making which would sharply reduce growing seasons in the more northern grain producing regions of China, Russia, and Canada by the year 2000, are coupled with projections that world population will double, probably even triple or quadruple present-day levels in another 50 years or less. There are some experts who now believe the only world surplus grain producer available by year 2000 may be the United States.

Whether or not such an ominous prospect actually develops, there is every reason to believe that international dependence on U.S. agriculture will steadily increase in the last decades of the century and the first years of the next. It is, therefore, very much in the public's interest, that we not tamper with or endanger the productive capacity of American agriculture.

Agriculture, including forestry, is our Nation's biggest industry. From production input to the ultimate sale to consumers, it employs more than a fifth of our work force—some 18 to 20 million people. Remarkably, less than 5 million of that total are actually engaged in production. On 2.8 million farms are 3.3 million farm operators and family workers plus a million hired hands. A half million more are engaged in forestry and miscellaneous agricultural pursuits.

This phenomenally low manpower requirement and high degree of efficiency is made possible by the fact that U.S. agriculture is the most energy-intensive industry in the world. No other nation uses so much energy in its food production system.

The National Council of Farmer Cooperatives recently noted that between 1940 and 1973, while the U.S. population increased by 60 percent, on-farm employment declined by 6½ million people. In the same period, the number of workhorses and mules dropped from 14½ million to an inconsequential fraction of that number and the number of acres required to sustain animal power declined from 43 million to less than 1 million. The substitute for both human and animal power was, of course, energy. Between 1940 and 1972, tractor horsepower jumped sixfold, on-farm fuel consumption climbed fourfold, and petroleum expenditures rose fivefold. By 1975, America's farmers were spending $3 billion a year on fuel.

At the same time, farmers became heavily dependent on agricultural chemicals for the protection of their production and on fertilizers for soil-building nutrients. The source of 95 percent of all nitrogen fertilizers is anhydrous ammonia which is produced from natural gas. Some 450 billion cubic feet of gas is used to produce the 12 million tons of anhydrous ammonia required by American agriculture annually. The fertilizer thus made available is considered to be responsible for up to 30 percent of all farm output. Many of the 300 basic pesticide chemicals are synthesized from petroleum, and many more use petroleum products as a delivery medium.

On the Btu basis, petroleum products and natural gas provide 90 percent of the energy need of our food and fiber industries. In contrast, the United States as a whole relies on these two sources for 75 percent of its energy. Fifteen percent of America's energy supplies are consumed each year by agriculture. Of that, 22 percent is for farm production, 28 percent for processing, 20 percent for input manufacturing, 18 percent for marketing and distribution, and 12 percent for farm family living.

Don Paarlberg, Director of Agricultural Economics for the U.S. Department of Agriculture, has testified that American farmers use "more energy than the total petroleum imported in 1974." He asserted quite validly that:

> Agriculture's energy needs must continue to be supplied if this industry is to maintain its vital role as supplier of the basics of life to U.S. consumers and its secondary role of generating foreign exchange to permit continued imports of such products as petroleum.

It should be noted that in 1974, agricultural exports of food, fiber, and forest products amounted to over $26 billion, or a billion more than the cost of our petroleum imports. Some 8 billion gallons of fossil fuel per year presently produce our food and fiber. This is accounted for by 3.5 billion gallons of gasoline; 2.6 billion gallons of diesel fuel; 1.7 billion gallons of liquified petroleum—LP—gas, half of which is used in crop drying; 140 billion cubic feet of natural gas, primarily for power for irrigation pumps; and 42 billion kilowatt-hours of electricity for pumping irrigation water.

However, Mr. President, the most critical need farmers have for energy is assurance of its constant availability. Agriculture is not an industry that can withstand cutbacks or curtailments of energy—even for relatively short periods. It is unique in this regard. Agriculture simply must be able to produce when the climate is suitable during the growing season. If energy supplies are interrupted, production collapses and will not resume for another year. There is no way to recover lost time in planting, tilling, and harvesting. By the same token, crop and livestock products must be promptly processed for consumption. They are perishable and cannot be set aside pending the outcome of a court decision or a hearing examiner's evaluation of a regulatory decision.

Furthermore, farmers require adequate leadtime for planting. So many variables are involved that it is almost impossible to mak last minute readjustments to comply with a halt in the use of a fertilizer or pesticide or an injunction on the use of available water supplies.

In addition, farmers are committed to exceedingly long and difficult hours of work. They cannot be expected to spend additional time in extensive paper work beyond the recordkeeping, accounting, and form filing they are presently obliged to do. The bureaucratic workload imposed by the myriad Government programs and regulations now in effect already poses a staggering burden on farm producers.

Just one example is provided by the profile prepared by a member of the staff of the American Farm Bureau Federation:

> Today's farmer is required, as a minimum,

to comply with the following direct paper work requirements:

He needs to secure a National Pollution Discharge Elimination System permit (NPDES) for each of his point sources of water pollution. The requirement to secure this permit and comply with its conditions is imposed by the Environmental Protection Agency (Section 402 of the Federal Water Pollution Control Act.)

If the farmer engages in any soil moving activity in a low-lying section of his farm, he is required, thanks to a "public interest lawsuit" which forced expanded application of the Act, to obtain a "dredge or fill" permit from the Army Corps of Engineers (Section 404 of the Federal Water Pollution Control Act). Each of these individual permits must be obtained prior to the initiation of such activities as drainage ditch construction, stream bank maintenance and improvement, pond construction, flood water diversion practices, dike construction and fish stream improvement. Fifty to sixty thousand such activities are conducted annually in the United States.

If the farmer wishes to control pests on his farm, and essentially all farmers do, he must become a "certified applicator of restricted use pesticides," in accordance with the requirements of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, implemented by EPA. Obtaining such a permit, in addition to the filing fee, would necessitate attendance at a mandatory training session, or completion of a test, or some equivalent procedure.

Under authority of the same law, EPA also requires each farmer who intends control of "nontarget pests" (i.e., to use a pesticide on a crop for which it is labelled against a pest not (specifically named on the label) to obtain written permission and retain record thereof from a knowledgeable expert. Following application of that pesticide, under EPA authority, the farmer must post each field as having been sprayed or otherwise warn his employees of any reentry risk.

Additionally, any farmer is required to register with the Department of Labor and file reports as required by the Farm Labor Contractor Registration Act in conjunction with agricultural employment.

Workers Compensation posters must be prominently displayed.

Social Security taxes must be withheld and reported and, of course, they must meet the comprehensive requirements of the Internal Revenue Service.

Records must be maintained showing either compliance with minimum wage requirements or justifying an exemption.

Agricultural census reports must be completed and returned.

Complying with the reporting requirements may be the smallest part of the federal burden placed on farmers and ranchers. All farmers with employees are subject to the requirements of the Occupational Safety and Health Act. As a minimum this requires the display of an OSHA poster and the filing of accident reports with OSHA. OSHA requires, in addition to the display of the poster, that each farmer be familiar with the technical language of the OSHA regulations with relation to rollover protection standards, machinery guarding, farm labor housing and other requirements which occupy dozens of pages in the Federal Register, a publication with which farmers are not intimately familiar.

The farmer must be available to accompany an OSHA inspector at any time as he tours the farm looking for violations of these technical regulations. It has been estimated that the publication by OSHA of reporting requirements, rules, regulations, explanations, etc., would create a file 17 feet tall. It is absurd to imagine that any farmer might be familiar with those portions of that 17 foot file with which he must legally comply.

EPA requirements imposed on agriculture under the Federal Water Pollution Control Act and the FIFRA are equally complex and technical.

Mr. President, American agriculture is currently swamped by environmental controls and regulations. Depending, of course, on geographical location, farmers may be subject, for instance, to the provisions of the Federal Water Pollution Control Act—already alluded to—the Migratory Marine Game Fish Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Environmental Policy Act, the Coastal Zone Management Act and the Fish and Wildlife Act of 1956.

Farmers, in the manner of all good citizens, wish to be law abiding. Each of these laws with which agriculture must comply, taken singly, probably has merit. The Nation's farmers and ranchers could and would comply with any of them. However, taken collectively, they become so complex and so numerous that there is neither time nor the will for total compliance.

Mr. President, as that brief summary suggests, we are literally smothering the agricultural producer in paperwork.

Some of you may be familiar with the carefully documented case of the Washington State potato farmer who decided to combine a piece of desert land with his water supply and, through irrigation, make his desert land productive. This highly laudable goal was accomplished with the help of experts. In the process, however, that potato farmer had to obtain 47 permits and spend $87,000 to reach his objective of helping to keep us well fed.

Do the Members of this great Senate of the United States believe that progress, the public interest, or the environment are served by requiring 47 permits to irrigate desert land where potatoes may be grown? Talk about the waste of energy and the misuse of our resources. Mr. President, we have passed so many acts, authorized so many regulations and controls and witnessed so many additional restraints by activist environmentalists and activist courts that the very future of the agriculture to which we owe so much is actually in jeopardy today.

Let me cite another example of how the obstructionists of environmentalism are impeding our food producers. On July 25, 1975, the Corps of Engineers of the United States launched a comprehensive regulatory program under section 404 of the Federal Water Pollution Control Act.

The objective of the act is commendable. It seeks to restore and maintain the integrity of our waters. As explained by former U.S. Senator Allen Ellender of Louisiana, the long-time chairman of the Senate Agriculture Committee, section 404 "simply retains the authority of the Secretary of the Army to issue permits for the disposal of dredged materials." This seemed quite acceptable since the Army Secretary is responsible for the maintenance of our navigable waters and the improvement of channels for commerce in our waterway systems.

When the Water Pollution Act was approved by Congress, the Corps of Engineers was regulating some 50,000 centerline miles of river and 50,000 miles of lake shoreline. Until the filing of a so-called "public interest," lawsuit, there was no suggestion that Congress wanted to change that situation. However, such a suit was filed against the Corps of Engineers which the corps and the Justice Department vigorously fought. The suit demanded that the Corps of Engineers be responsible for policing every Department of Agriculture conservation program activity by requiring that a corps permit be obtained in each instance.

As a result, the corps was forced to issue regulations providing that:

First. Corps of Engineers' responsibility is escalated to cover 3.5 million miles of river centerline and 4.7 million miles of lake shoreline. In terms of river miles that amounts to a 70 fold increase; in lake shore miles, a 90 fold increase.

Second. Congress, which never authorized funding or increases in corps manpower for such an expansion of regulatory authority must, presumably, now find an additional $5.3 million for an added 1,750 corps employees.

Third. Such an expansion of authority, never intended by Congress, and never requested by the Corps of Engineers, will require an estimated 60,000 more permits annually, based on USDA calculations of conservation program activity.

Fourth, It will take 6 months to a year to process each conservation program permit, meaning of course that the very pollution problems conservation programs are intended to abate will be aggravated by delays resulting from the bureaucratic red tape required.

The obvious burdens on smaller agricultural units caused by these proposed regulations produced a call for legislative action, and proposals were introduced in both houses of Congress to correct the misinterpretation the courts had put on the Water Pollution Control Act. The House of Representatives did act to correct the situation, but unfortunately, the Senate, by one vote, refused to follow suit. What the Senate did is accept what has been billed as a compromise, but which is actually the worst of all possible worlds. Under the "compromise" voted by the Senate, the Corps of Engineers has been relieved of authority over smaller streams, but the Environmental Protection Agency will be in charge. It is not immediately clear that that is an improvement. At this point we can only hope that the House position will prevail in conference.

At the outset of this statement, I cited the dependence of the American agriculture on energy. The issue has become crucial with the proposed divestiture legislation which would break up vertically integrated firms in the petroleum industry.

Farmers are convinced such legislation would be ruinous to their business—perhaps even catastrophic. It is obvious that the forced separation of functions in the petroleum industry which would be required by legislation reported by the

Judiciary Committee, could cause chaos in the oil business. It would certainly be likely to cause a disastrous upheaval in the present, relative stability of the farming business. In the first place, any separation of production, refining, transportation and marketing functions would inevitably lead to major supply and distribution problems. That would be a certainty over the short term. It would be likely to continue over the long term.

Farmers maintain an on-farm storage capacity of 32 million barrels of gasoline, diesel fuel, and kerosene. Even if this storage was full at planting time, many farmers would require added supplies, to get in the harvest.

Any divestiture-caused disruption to the availability of supplies would not only have an extremely adverse impact on the farm. It would severely upset the entire food and feed marketing system and the chain reaction would ultimately lead to skyrocketing Consumer Price Index. This, in turn would trigger sharply increased demands for higher wages and pensions.

I have heard no advocate of divestiture seriously argue that the proposed legislation would improve oil deliveries or secure them at lower prices. I have seen no evidence that such legislation could be enacted without disrupting the normal pattern of farm production and marketing.

Agriculture's energy consumption by 1980 is expected to be between 10 and 20 percent greater than it was in 1970. Every knowledgeable indication is that divestiture will interrupt growth in the petroleum industry, and that means farmers could not expect the larger fossil fuel supplies needed to meet their consumption requirements.

The seven largest oil companies today supply about one-third of all on-farm fuel sold in the United States. Farmer cooperatives supply a similar amount. The coops buy 85 percent of their crude oil and 30 percent of their refined needs from other oil companies which would be affected by divestiture. Thus, tampering with major petroleum companies and their supply lines would clearly work a hardship on the farm producers and their cooperatives.

A conservative estimate has been made that divestiture would so discourage capital expenditures and exploration risk investments in the oil industry that domestic production would decline by 2.5 to 4 million barrels a day. Based solely on today's consumption levels, agriculture's energy needs will require added imports in 1985 of $15 billion worth of foreign oil—if the price remained constant with today's levels.

Without such an additional investment in imported petroleum, energy supplies for America's farms will decline by 5 percent in less than a decade. Iowa State University researchers tell us a 5 percent energy reduction in agricultural production means a 13-percent increase in food costs. It is hard for me to believe, Mr. President, that the American consumer is so anxious to break up the vertical integration of the oil industry that he would willingly spend 13 percent more for the week's groceries.

But then, of course, the people who so readily advocate such programs of industry dislocation as divestiture probably never stopped to consider the effect on a specific industry, such as agriculture.

According to the National Council of Farmer Cooperatives, since onfarm fuel sales represent only 3 percent of the total domestic market, no rural market enjoys more than two to four major suppliers. Divestiture might very well persuade the "majors" to withdraw from rural markets where distribution costs reduce profit margins as compared with many urban outlets. This would greatly exacerbate the farmer's problem in maintaining a steady source of fuel supplies.

In yet another area, that of nuclear power development, there is a persistent campaign by activist environmentalists to retard or scuttle development. The National Rural Electric Cooperatives Association is particularly alarmed. NRECA, in the same critical search for less expensive and more efficient generating power that private utilities are conducting, is concerned lest the rising power consumption so vital to agriculture be frustrated and curtailed, NRECA, for so long the champion of getting the power to the farmsteads of America where private utilities hestitated to go, finds its own future capacity to meet agriculture's needs in serious jeopardy if the antinuclear power lobby prevails in its delaying and crippling tactics. Where then, Mr. President, will farmers turn?

Where, in fact, may farmers now look for assistance in supporting the lifelines of agriculture? Who is there to help counter the blindly obstructionist, causebent, activist-dominated campaign to stop progress in the name of protecting the environment?

It is quite obvious that a proliferating number of activists in the public interest arena have determined that political issues should be made legal issues and that our judicial establishment is a most convenient and obliging substitute for the traditional legislative and executive arms of our system of government. This is the process that Paul H. Weaver, editor of Fortune, has characterized as "adversary government."

In a speech before the board of directors of the National Association of Manufacturers last February, Mr. Leonard Theberge, president of the National Legal Center for the Public Interest, diagnosed the problem confronting both agriculture and industry and, I would add, the real public interest of the people of the United States.

He noted that traditional political disputes are now being treated as legal issues, that the normal processes for effecting policy, the legislative and executive branches of government, are being bypassed, and that the judiciary has become the convenient and obliging tool for frustrating both public policies and private initiatives which, together, spell progress.

He said that in the past decade the number of groups and organizations working on our system through the courts has exploded. An estimated 500 attorneys are now engaged in public interest activism.

Such efforts are supported by private foundations, wealthy individuals, corporations, some well-meaning citizens, and even taxpayer dollars. Total funding in this area amounts to more than $25,000,000 each year to litigate against the development of our natural resources and for restricting economic growth.

For some time neither business nor agriculture knew just how to respond to the challenge. Now, thanks to men such as Mr. Theberge, an alternative to the challenge has been found.

That alternative is, in fact, provided by the very organization Mr. Theberge heads—the National Legal Center for the Public Interest and its affiliated regional foundations of truly responsible public interest lawyers.

Though NLCPI considers itself as playing the role of providing "last resort" assistance, certainly it may help counter some of the ills that presently plaque our farmers.

The National Legal Center for the Public Interest had its genesis, in a sense, in a memorandum to the U.S. Chamber of Commerce in 1971. The memo was written by attorney Lewis F. Powell, Jr., prior to his being named to the Supreme Court of the United States. He advised the chamber:

> Under our Constitutional System, especially with an activist-minded Supreme Court, the Judiciary may be the most important instrument for social, economic and political change. Other organizations and groups, recognizing this, have been far more astute in exploiting judicial action than American business. Perhaps the most active exploiters of the system have been groups ranging in political orientation from liberal to the far left. Their success, often at business' expense, has not been inconsequential.

The California Chamber of Commerce heeded the warning and named a task force to study creation of an organization to combat extremists in the courtroom. Out of this emerged, in 1973, the Pacific Legal Foundation, the first public interest law firm in the Nation to advocate a balanced view of the environment and government action. Of particular interest to U.S. agriculture is the fact that one of PLF's most noteworthy initial successes was in arguing for the use of DDT to combat the tussock moth in the timber-producing stands of the Pacific Northwest.

PLF, as a result of this and other victories, convinced many clearheaded Americans that public interest action on the side of reason and responsibility should be undertaken more extensively across the Nation. In April 1975, the NLCPI was established in Washington, D.C., to expand the effectiveness of responsible public interest law.

NLCPI is a nonpartisan, privately funded and not-for-profit corporation. It seeks to represent traditional American values as opposed to collectivism, favoring the individual and supporting limited constitutional government, private property, the competitive free enterprise system and the protection of individual freedoms with responsibility. I might add that it is especially reassuring to me, as it should be to the other Mem-

bers of this Senate, to have someone in the field of public interest law stress the importance, constantly, of the terms "responsible" and "responsibility." Many of the most active public interest groups seem to have dropped these terms from their lexicon.

NLCPI has been instrumental in setting up the Mid-America Legal Foundation in Chicago, the Southeastern Legal Foundation in Atlanta, and is now organizing the Great Plains Legal Foundation in Kansas City under the direction of Mr. Arch Booth, retired president of the U.S. Chamber of Commerce.

Next year, plans call for additional litigation foundations in the Rocky Mountain, Middle Atlantic and Northeastern regions of the Nation. Such a network would then provide every State and community with access to a sound, sane, responsible and effective public interest law group. Such a group may then counter the cacophony of extremists in legal activist circles whose efforts are designed to vitiate our vitally important growth in the private sector and to defeat efforts both by government and private industry to achieve a reasonable degree on energy independence.

NLCPI is as dedicated as any of us to the intelligent protection and utilization of our national environment and natural resources. But unlike many in the public interest arena, it wants to maintain an equilibrium between resource development, agricultural and industrial growth and consumer demand. In the manner of blind justice balancing the scales, NLCPI, offers Americans a reasonable and effective alternative to extremism and potential disaster.

Farmers and ranchers, so long harassed, threatened and demoralized by efforts among extremists and regulatory bureaucrats which might cripple their unparalleled ability to feed us, may now take hope.

AMERICAN JOURNALISM AND MAO'S DEATH

Mr. GOLDWATER. Mr. President, with the death of Mao, we have seen an example of American journalism at one of its darkest hours, at least in the opinion-building centers of the east coast. The press in its major news articles related to the death of Mao has thus far failed completely in its task of informing the public. It has spread a mantle of darkness across the news in one of the most blatant efforts of historical revisionism I have ever come across.

To give just one example will prove my point. How any member of the press could fail to condemn Mao's censorship of the press itself and fail to defend the writer's own institution is beyond me. And yet, in not one of several long articles following the death of Mao did I see a specific reference to the lack of freedom of speech and the press in Mao's China.

Mr. President, I cannot be strong enough in expressing my disappointment with the way major American newspapers have presented the death of Mao to the American people. The utterances of the press in this case have been totally removed from fact. Their glorification of Mao has run to massive extremes.

Mr. President, one prominent article in the Washington Post of September 12 informs the American public that Mao restored the "dignity" of the Chinese. The same article asserts, under the heading, "A Moral Community," that Mao possessed "well-known concerns with education, with culture, with creating a moral community."

Now, this is turning truth on its head as much as it can be. The answer of how Mao can be credited with seeking a moral society and with commanding a "moral force" is in the never-never land of some writer's mind and certainly does not exist in reality.

How can the utter lack of respect for human life by the Mao regime be called moral? How can the execution of millions upon millions of innocents be called moral? How can the cruel suppression of all religion be called moral?

Mao is the man who obliterated religion across the most heavily populated area of the world. Imagine the immensity of this deed. In a land of some 800 million persons, Mao has for all practical purposes accomplished the complete wiping out of all Christianity, of all Buddhism, of all Taoism, indeed of all open profession of faith in a Divine and good Supreme Being.

Oh, some temples are kept in operation—for secular meeting places. Yes, there is one active Catholic Church in Communist China, with one weekly service. In fact, it is usually attended by as many as 30 persons—mostly foreigners. This means that a church which in 1949 had 3.2 million active believers has now been reduced to some 30 worshippers—most of them non-Chinese.

The truth is that Mao has created a giant swath across a quarter of the population of the globe where devotion to God is punishable as a crime—where priests and clergy have been brutally tortured and exterminated—where symbols of goodness are banned and the mere possession of a cross may give cause for criminal punishment or for being treated as insane. And yet, in the American press, Mao is hailed for his efforts to create a "moral community."

Mr. President, the evil of Chairman Mao is virtually unparalleled in scope in the entire history of mankind. Perhaps, Adolph Hitler and Joseph Stalin may be considered in the same terms, but one would be hard put to think of other figures of the 20th century who visited such terror, human suffering and tragedy upon enormous numbers of human beings.

But where in the press is the voice of sanity? Where can we find the voice of God in the writings of the Mao apologists?

Turning to another of Mao's alleged accomplishments, that of education, let us examine what kind of education we are talking about. For we are most certainly not talking about education as we know it, a process for helping youth to think critically and independently. It is not an education where children are taught to seek knowledge for the sake of knowledge. It is not an education where persons are educated to develop their own God-granted abilities to the fullest potential.

No, under Maoism, one is educated to believe that individual freedom is a selfish indulgence. One is taught to submit his will to the dictates of the party rulers. A Maoist education is one in which the entire educational process from infancy to death is politicized.

Indoctrination is the hallmark of education as Mao imposed it. Political reliability is the criteria for advancement, not personal skills. Obedience at every step of the way and conformity to the arbitrary and changing directions of Communist party rulers are the route to advancement, not one's intellect or true abilities. One must have a very distorted definition of education, indeed, to claim that Mao's ambition was to produce a better educated youth.

Next, let us look at the claim that Mao brought "dignity" to the Chinese people. The only kind of dignity that Mao brought to the Chinese is that of the grave. The number of persons murdered by the Communist Chinese under Mao is on the order of 50 to 60 million human beings.

Graves have been plowed up in the Maoist attack on the veneration of ancestors. Members of families are taught to denounce each other for lack of complete acceptance of the party line. Truck loads of individuals, who have dared to display a spark of self-independence, have been herded like animals to public execution grounds where large crowds have been mobilized to applaud their slaughter. Upwards of 30 million innocent Chinese are being arbitrarily imprisoned today as political prisoners in so-called "Reform Through Labor" and "Education Through Labor Camps," both of which are nothing short of being slave labor institutions.

Such is the substance of the "dignity" which Mao has given the Chinese!

But wait. The accomplishments of Mao are virtually unlimited, according to the press. We are told in the Washington Star of September 9 that Mao "provided the spark that lifted almost a quarter of the world's people from the stagnant, weak and divided wreckage of imperial greatness to vital, strong and united international power."

Now here is a collosal example of rewriting history if there ever was one. Imagine Mao being attributed as leading the Chinese from centuries of imperial dominance. I had always thought that it was the 1911 revolts which brought an end to the imperial system and the collapse of rule by the Manchus. Have today's journalists never heard of Sun Yat-sen, the great intellectual and activist leader of the real Chinese revolution?

It was Dr. Sun's revolution that succeeded in 1911, not Mao's. And it was Chiang Kai-shek who extended Dr. Sun's revolution, not Mao. For it was President Chiang who assumed leadership after the death of Dr. Sun and who achieved the political unification of China.

It is Mao who betrayed the true Chinese revolution. It is Mao who interferred with the courageous Chinese defense against the Japanese invaders and who

brought a tragic civil war upon the Chinese people.

What a cruel joke on history to acclaim Mao for the achievements of Dr. Sun and Chiang Kai-shek, achievements which were undermined by Mao. It was always Dr. Sun's deep faith that the entire modern world would benefit by the rejuvenation of China, but Mao sidetracked this goal by imposing an oppressive tyranny over the Chinese living on the Mainland.

Mr. President, the list could go on and on, but I will not go into any further details of the terrible distortions of truth which have appeared in news reports following the death of Mao. I can only regret that there appears to be a disease in the press, a sickness in which truth is reversed 180 degrees whenever Communist China is concerned. I just hope that the writers who have thus far failed to put an accurate, historical perspective into their stories on China will correct their error before the press loses credibility in the eyes of the American people.

PHI SIGMA DELTA DANCERS AGAINST CANCER MARATHON

Mr. BAYH. Mr. President, the Phi Sigma Delta fraternity of the University of Maryland will sponsor their seventh annual dance marathon this fall. Proceeds of this year's event will go to the American Cancer Society. The dedicated members of this fraternity donated the $108,000 raised during the last three marathons to the society. Their efforts have contributed to the fight against cancer, a disease which strikes one out of every four Americans and kills more than 350,000 citizens each year. As an individual who is intimately familiar with the ravages of cancer, I wholeheartedly congratulate Phi Sigma Delta for assisting in the fight to end this dreaded disease.

The fraternity has also contributed to efforts to conquer muscular dystrophy. The $93,000 raised during the first three dance marathons went to the Muscular Dystrophy Association of America. The 325 chapters and 96 clinics of this organization help many of the 200,000 people who are afflicted by muscular dystrophy. Two-thirds of these individuals are between 3 and 13 years of age. The organization also sponsors $2 million worth of research every year. Phi Sigma Delta's efforts on behalf of the Muscular Dystrophy Association should be commended.

I am pleased to applaud the Phi Sigma Delta Andrew Estroff Dancers Against Cancer Marathon. I hope my colleagues will join me in hoping for the success of this effort.

LIFE ON MARS

Mr. GOLDWATER. Mr. President, one of the most exciting events that has ever occurred in the history of man was when *Viking 1* landed on Mars. I do not believe it is possible for the average American to even comprehend the almost impossible problems that faced this venture. Imagine trying to place a manmade device from Earth some place on Mars and landing it with a pressure of only a few ounces on its landing pedestal. Imagine the ability to make the electronic devices work after so long in space in reaching the target. These are truly remarkable tributes to our scientists and to those who actually engaged in the construction of the Viking and its concept. We hope that sometime around 1980 a third Viking can be launched to do further exploration on Mars. There is ample evidence that water has been on this planet and may be there yet, and what we need to do is provide more experiments so that we can make better decisions. I believe the whole subject of space is now beginning to enthrall the American people, and I believe that the moneys that we have invested in space will come back many, many times to help the Americans who so gladly financed these hazardous, seemingly almost impossible ventures. I ask unanimous consent that an editorial from the New York Times of Tuesday, August 31, be printed in the RECORD.

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

[From the New York Times, Aug. 31, 1976]

LIFE ON MARS

When Viking 1 was sent on its long journey to look for life on Mars, there were few who took this goal seriously. Indeed, many viewed the exploit as a waste of the billion dollars the project required.

Even late last month, after the Viking 1 lander had arrived on Mars and begun its planned explorations, it was easy to get estimates among scientists working on Viking that the odds against finding life on Mars were at least 1 million to one.

Now, all has changed. Sensible people have stopped quoting long odds against finding life on Mars. Viking Project scientists are actually urging the public to understand that there is yet no proof that life has been found on Mars, while they themselves cannot entirely resist the temptation to wonder whether the impossible has not happened, whether the very first effort to detect life on Mars has not been incredibly successful.

The reason for this remarkable reversal is that the instruments in the Viking lander's ingenious, compact laboratories have sent back the most improbable news. The biologists now concede that Martian soil is unexpectedly "active." They stress, however, that the chemical tests sent to Mars to detect life could, under some circumstances, be fooled by non-biological factors. Moreover, the data obtained up to now are in part seemingly contradictory.

The fascinating mysteries posed by the first results of Viking's biochemical experiments for the moment remain just that. All that is now clear is an appreciable possibility that Martian life has been discovered, even if perhaps not life as inhabitants of Earth understand it.

Viking 1 will undoubtedly produce additional valuable results, but Viking 2 is already circling Mars and this week will send down its lander. The issue is no longer a blind search for possible life of Mars, but rather checking whether life has actually been found there, and the area where that may have happened is well known.

The need now is for a program to follow up the challenge of a historic triumph. The Viking rover, a mobile machine that might cover many miles and make many tests, is the logical next step in the exploration of Mars. Scientists used to call exobiology—the study of non-Earth life—a science in search of a subject. Now, there is a real possibility—though still no certainty—that exobiology may have found its first subject.

THE GENOCIDE CONVENTION AND "MENTAL HARM"

Mr. PROXMIRE. Mr. President, article II of the Genocide Convention, which lists those acts constituting genocide, states that the crime of genocide shall include acts "causing seriously bodily or mental harm" to members of a group, with the intent to destroy, in whole or in part, a national ethnical, racial or religious group.

One objection often raised by opponents of the convention is the alleged vagueness of the term "mental harm." In order to allay any misconceptions about the meaning of these words, the Committee on Foreign Relations has recommended to the Senate the understanding to this article:

That the U.S. Government understands and construes the words "mental harm" appearing in article II(b) to mean permanent impairment of mental facilities.

The implementing legislation recently introduced by the Senator from Pennsylvania (Mr. HUGH SCOTT) further defines "mental harm" as:

The permanent impairment of the mental faculties of members of the group by means of torture, deprivation of physical or physiological needs, surgical operation, introduction of drugs or other foreign substances into the bodies of such members, or subjection to psychological or psychiatric treatment calculated to permanently impair the mental processes, or nervous system, or motor functions of such members.

There can no longer be any doubt as to the meaning of the term "mental harm." One need only recall the atrocities of Nazi Germany to find deplorable examples of mental torture. We must act now to prevent a recurrence of these crimes against humanity. I urge swift approval of the Genocide Convention.

A BRUTAL ACT

Mr. THURMOND. Mr. President, our Nation recently experienced a tragic shock when two U.S. Army officers, while supervising a tree-pruning task, were brutally murdered in an unprovoked attack by North Koreans in the demilitarized zone.

This blatant and inhumane act was another of many grim reminders since 1953 that the Korean war has not really ended. The reckless and premeditated barbaric actions by North Korea are designed in their irrational minds to sustain tensions and embarrass the United States to force our withdrawal. In reality, such actions reinforce our resolve to resist their aggressions.

Americans everywhere were not only united in their condemnation of this cowardly attack, they shared the grief of the families, friends, and relatives of Lt. Mark T. Barrett of Columbia, S.C., and Maj. Arthur G. Bonifas of Newburgh, N.Y. The U.S. Army and the Defense Department made an all-out effort to bring these dedicated officers home with honor and dignity to help ease the burden and despair of their loved ones.

Mr. President, I had the honor of meeting Mrs. Mark T. Barrett at the funeral

of her fine husband. She is a brave and courageous lady. Her recent letter to the Honorable Martin R. Hoffmann, Secretary of the Army, reflects her strong character and a dedicated spirit equal to her husband's.

During a period of unbearable bereavement, Mrs. Barrett took the time on August 26, 1976, to write Secretary Hoffmann to express her sincere appreciation for the way the Army brought Lieutenant Barrett home with "honor and dignity." Her spirit and her letter, which Secretary Hoffmann provided to me, impressed me very much. Mrs. Barrett did not object to my sharing her thoughts with my distinguished colleagues and others whose hearts went out to her and Mrs. Bonifas.

Mr. President, I ask unanimous consent that the letter from Mrs. Mark T. Barrett to Secretary Martin Hoffmann, dated August 26, 1976, be printed in the RECORD.

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

AUGUST 26, 1976.

MARTIN R. HOFFMANN,
Secretary of the Army,
Pentagon, Washington, D.C.

DEAR MR. HOFFMANN: I would like to express my deepest appreciation to the Department of the Army for its assistance to me during this time of tragedy. My heart aches to think that my Mark, a kind and gentle man, died on foreign soil in such an inhuman manner.

Nothing can bring him back to me. Nothing can ease my pain. Nothing can quell my sobs. I cannot understand the "why" of it all, and I doubt that I ever will. But the support and aid that I have received from Captain John Usher, Major General Richard Prillaman, and so many others from the Fort Jackson community have lessened the burden of the necessary business matters. I am grateful to the Army for bringing Mark home to me with dignity and honor, and I know that he too would thank you for helping me through this sad and difficult time. Truly, it can be said that the Army "takes care of its own."

Mark's murder and the murder of Major Bonifas are beyond my comprehension. I feel only the grief and despair of my own personal loss. But I know that the confidence and pride that Mark had in the United States was not unfounded. Mark loved his country deeply. He joined the Army out of a sense of duty and responsibility to me and to all Americans. I do not understand the United States' involvement in Korea. But Mark did. He was proud to serve with the United Nations Command; and I was proud of him.

I hope with all my heart that this conflict which is not called a "war," but which kills like "war" will be resolved before another husband or son or brother returns to us in a flag draped coffin. I pray that my husband's cruel death was not in vain, and that it will serve as a catalyst to an honorable resolution to what I understand is a difficult political situation. May God guide those to bear the responsibility for making meaningful decisions so that a senseless tragedy like this will never happen again.

Again, thank you for your kindness.

Sincerely,

MRS. MARK T. BARRETT.

AN EXTRAORDINARY PUBLIC SERVICE BY SENATOR MOSS AND STAFF

Mr. CHURCH. Mr. President, I wish to commend two members of the Capitol Police Force who performed outstanding service while assigned temporarily to the Senate Special Committee on Aging within recent months.

Their assignment was to work with temporary investigators and other staff of the Senate Committee on Aging in a recent investigation and hearings related to medicaid fraud and abuse in New York and in three other States. Their specific responsibility was undercover work as "shoppers" at medicaid mills in New York City and in cities in three other States.

Their findings were so startling that Senator FRANK MOSS, chairman of the Subcommittee on Long-Term Care of the Committee on Aging, decided to see for himself. After visits to three medicaid mills in New York City, he confirmed that the practices described by the investigators were alarming, costly, and intolerable.

As chairman of the Committee on Aging, I take a great deal of pride in the achievements which earned such widespread attention at hearings on August 30 and 31.

The two Capitol Hill policemen who participated in the investigation are Privates James A. Roberts, Jr., and Darrell R. McDew. At this point I would like to give my personal thanks to Police Chief James C. Powell and Senate Sergeant-at-Arms F. Nordy Hoffmann for making it possible to assign the two officers for this work. Privates Roberts and McDew visited more clinics than anyone else in the investigation, gave more blood for "tests," and bore up doggedly despite the wide number of illnesses diagnosed for them. I might add that they had received a complete physical and were pronounced physically fit before the shopping began.

Mr. President, the investigation in which the two police officers participated was significant not only for the specific wrongdoings they uncovered, but also for its ramifications as to the entire operations of medicaid. In an editorial, the New York Times called the investigation—and in particular, Senator Moss' personal role in it—"an extraordinary public service." I agree with that estimate. I also ask that the Times editorial, along with several other commendatory editorials from other newspapers, be printed at this point.

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

[From the New York Times, Aug. 31, 1976]

MEDICAID SCANDALS—THE NEW YORK STORY

Rumors and suspicions about abuses of Medicaid funds have been rampant for so long that the public, expecting the worst, may not react with adequate anger and disgust to disclosures by the Senate Subcommittee on Long-Term Care. Without the outrage these findings so clearly call for, there is small hope that the revelations will be quickly followed, not only by essential reforms but by criminal prosecution of those who have enriched themselves at the expense of the taxpayers and of the poor for whom the funds are intended.

High on the agenda of any prosecution of Medicaid profiteers ought to be the recovery of the stolen money and its return to the local, state and Federal treasuries. At the same time, every effort must be made to prevent Medicaid abuses from generating popular and political opposition to the sound and necessary concept of Medicaid—the vital Federal-state program that provides medical aid payments to the aged, blind and disabled.

Senator Frank E. Moss, Democrat of Utah, as the subcommittee's chairman, and other members of his staff performed an extraordinary public service by personally posing as indigent patients as they sought to uncover widespread Medicaid irregularities. What they found is a catalogue of flagrant breaches of the law and medical ethics. The compendium of thievery, which resembles more nearly the kind of revelations ordinarily associated with the Mafia than with members of a respected profession, includes the following carefully documented charges:

Individual physicians collected huge Medicaid payments, as illustrated by a list in New York State that cites more than 100 physicians whose Medicaid payments last year ranged from $100,000 to nearly $800,000.

Medicaid "mills" are flourishing in poverty areas, designed to defraud rather than serve the poor, while fly-by-night operators share the profits with greedy doctors.

Unnecessary diagnostic tests and X-rays are being routinely administered for only one discernible purpose—to enrich the laboratories, cooperating physicians and pharmacists, the latter in payment for unnecessary and therefore possibly harmful prescriptions.

A high incidence of false diagnoses arising from these practices poses a ready threat of physical damage to unsuspecting patients. Senator Moss himself displayed evidence in the form of bruises he suffered in the course of batteries of blood tests.

Although New York figured prominently in the Senate investigation of Medicaid abuses, the study, which also dealt with operations in Newark, Passaic and Paterson, N.J., Chicago, Detroit, Los Angeles and Oakland, leaves no room for doubt that the scandal is nationwide. The New York experience nevertheless provides, against the background of the state's and the city's strained finances, a particularly poignant insight into the nature and the impact of these crimes.

At issue is not the sort of rip-off that might be explained away as growing pains of a relatively new program. By conservative estimate, a one-year $300 million loss in public funds has been identified by New York State authorities, much of it concentrated in New York City. The misappropriation of that much money has thus contributed directly to the city's and the state's fiscal plight, which in turn led to the firing of thousands of municipal employees.

By calling in more than 1,000 of the city's physicians to discuss questionable billings and referrals, the State Department of Social Services has hinted at the start of a massive clean-up. Here and elsewhere, the Moss committee's disclosures ought to be followed up quickly with a variety of essential actions. These include legislation to tighten the administration of Medicaid and eliminate loopholes which made it too easy to exploit a highly desirable social program; effective auditing at all levels; prosecution of those who have illegally enriched themselves or are otherwise guilty of unlawful medical practices; and efforts to recover the misappropriated funds.

Organized medicine has a special responsibility to give support to administrative and legal actions against unscrupulous practitioners. Spokesmen for medical associations are technically correct in pointing out that existing laws stand in the way of more effective self-policing by the professions; but whatever obstacles prevent the direct imposition of sanctions against unethical physicians ought not to deter the medical profession from cooperating to the fullest in governmental and judicial efforts to rid its ranks of practitioners who, by their disregard of law and ethics, have forfeited the protection and respect of their peers.

[From the Miami Herald, Aug. 31, 1976]

MEDICAID BECOMES A RACKET AND BILLION-DOLLAR RIPOFF

Members of a U.S. Senate panel working to draft reforms of the Medicaid program have their work cut out for them.

Medicaid could have been the model for a workable system of national health care, something that has steadily gained support as medical costs have soared beyond the means of average working folk. But in just 10 years, the program has been racked by massive fraud.

Investigators for the Senate subcommittee reported after a four-month study that as much as one-half of the program's $15 billion annual cost is wasted through fraud and mismanagement.

Fueled by greed for easy government money, a whole new industry grew up around Medicaid, the investigators found. Doctors, dentists, optometrists and chiropractors made working partnership with real estate and land interests and created money-mill clinics.

Perfectly healthy federal undercover agents who visited hundreds of these clinics were run through what they called "ping pong" testing, being bounced from one office to another, as the bills mounted. Despite their complaints about suffering only minor colds, the "patients" wound up being given—and billed for—electrocardiograms, hearing tests, blood examinations and TB exams. They got "bushels" of costly pills.

Sen. Frank Moss of Utah, who chairs the subcommittee, went undercover to see the problem for himself. In addition to getting the unneeded exams and prescriptions, Sen. Moss wound up with bruises all over his arms from inept blood testing. He called the situation "maddening."

Obviously, the findings are a chilling indictment of the lack of decency among a segment of the business and medical communities. Criminal action has already been taken against thieves in the profession and it should be continued.

There is an even greater danger to the public good in the negative image the frauds have created. They've done enormous harm to the hope that a government-run program of health delivery services could bring aid to the poor and elderly at reasonable cost.

What is "maddening" to Sen. Moss, and ah outrage to us, is that the program is being sabotaged not by bureaucratic fumbling but by deliberate lying, cheating and stealing. In their report, investigators cited "kickbacks, finders fees" and other ripoffs as the major source of losses, even greater than ineptitude.

Columnist James Kilpatrick recently demanded to know why the American Medical Association isn't outraged and doing something to police its members. It's a question worth repeating.

If the Moss panel's report isn't enough to get the AMA outraged enough to take action, we can't imagine what it will take.

[From the Santa Barbara News-Press, Aug. 31, 1976]

MEDICAID RIPOFFS EXPOSED

The reports of blatant fraud in the nation's medicaid program in five states including California, where it is called medi-Cal, are shocking and disgraceful. The report by a U.S. Senate team headed by Sen. Frank Moss (D-Utah) would be even more shocking had not teams of investigative reporters for the press and television already conducted investigations that pointed to the same abuses.

During eight months Sen. Moss and his investigators visited more than 200 welfare clinics. They posed as patients and, in most cases, told the doctors that they "had a cold." Their experiences were so ludicrous that they evoke a bitter chuckle. One of the undercover agents, a woman who complained of the customary cold, received a three-minute inspection from a physician and was billed for $46. Another woman went to a clinic in Los Angeles, bearing a mixture of soap and cleaning powder, which she said was a sample of her urine. The clinic, after purportedly testing it, told her that it was "normal." Sen. Moss, posing as a skid row medicaid patient with a cold, was given a battery of tests and referred to several specialists.

All told, the investigators made more than 200 visits to doctors, most of whom were operating in conjunction with what is known as "medicaid mills." They took their "colds" and sore throats to 85 practitioners and were given 100 x rays and, in their own words, "bushels of prescriptions." All of the investigators, of course, had received a clean bill of health from honest doctors before they went fishing in the polluted waters of the medicaid mills. The investigators concluded that rampant fraud and abuse exist among the physicians, dentists, chiropractors, pharmacists and other health-care professionals who participate in the medicaid program. The investigation was conducted in Chicago, Detroit, New York, Los Angeles, Oakland and three cities in New Jersey.

Despite complaining of minor ailments such as the colds, the investigators were given almost every test in the book. They were tested for glaucoma, tuberculosis, poor hearing and brain disease. They received 18 electrocardiograms and came away with seven pairs of eye glasses. Of all the doctors that they saw, only one told one "patient" that there was nothing the matter with him.

The five populous states were chosen because doctors and clinics in those states receive half or more of the $15 billion a year that the nation spends for medicaid and medi-Cal, which is the federal-state program that provides health care to low-income families and individuals. The investigating committee estimated that medicaid mills, which are often shabby store-front clinics in low-income districts, are receiving 75 percent of the $3 billion paid by medicaid yearly to dentists, doctors, pharmacies and laboratories.

In fairness to doctors and health-care personnel in general, it should be stressed that the investigations were conducted in metropolitan areas. Even so, all doctors and professional health-care workers should be concerned about this cancerous sore on their professional escutcheon.

The trouble with medi-Cal and medicaid as we see it is that both state and federal governments have been running a loose ship, tolerating abuses that should not be too hard to curb. In New York City alone, the Moss committee estimated that taxpayers are being ripped off to the tune of $300 million by medicaid fraud.

Sen. Moss and his team deserve credit for this official investigation. Our only fear is that, scandalous as it is, the bureaucrats and the medicaid mills will weather the storm and still be doing business at the same old stand or one around the corner.

[From the San Francisco Chronicle, Aug. 31, 1976]

MEDICAID FRAUDS

The medicaid program has been found by investigative patients from Senator Frank E. Moss's Special Committee on Aging to be a good deal sicker than anticipated. A quick diagnosis based on the scabrous sort of evidence they exposed would designate the ailment as a desperately wasting and debilitating one. On a less medical level "ripoff" would aptly sum up the situation.

That investigators from the Utah Democrat's committee were able to find some fraud in the program was no surprise. It was the extent of the mismanagement, waste and fraud—all those needless, badly-executed tests, that continual flouting of medical ethics—that had a numbing effect. The store-front clinics, known as "Medicaid mills," where most of the fraud occurs, receive 75 per cent of the $3 billion paid by Medicaid each year.

New York City's fiscal crisis was attributed, in part at least, to the sapping effect of such malfeasance. New York State, which accounts for one of every four Medicaid dollars, loses $444 million in Medicaid fraud each year—with $300 million of that drained out of New York City. Had the city taken prudent steps against abuse, as suggested over the last 10 years, the committee said New York's economic plunge might have been avoided.

The waste in prescribing questionable tests—electrocardiograms for a suspected cold, or urine readings that don't discriminate between soapsuds and the real thing—is appalling, both in dollars down the drain, as well as general prostitution of the aesculapian code. But what is truly shocking is the damage to health and risk of life that are concomitants of the monetary fraud.

For along with all the rapacious money-grubbing, the investigators said they saw "patients with very real and obvious medical problems that were going untreated." That is an unconscionable situation and the Moss committee has provided a valuable service in bringing it to our attention.

[From the Salt Lake City Tribune, Sept. 2, 1976]

MEDICAID ABUSES CHALLENGE HEALTH CARE PROFESSIONS

In 1955 President Johnson told Congress that, "We can—and we must—strive now to assure the availability of and accessibility to the best health care for all Americans, regardless of age or geography or economic status."

Congress responded by creating a Medicaid program for the needy and Medicare to aid the aged.

Some 10 years later, according to Utah's Sen. Frank E. Moss, Medicaid is so riddled by fraud and overutilization that 25 percent of its $15 billion budget is wasted.

Instead of providing needed health care the Medicaid money is enriching unscrupulous doctors, pharmacists, chiropractors and real estate operators. Worse still, says Sen. Moss, the federal government's attempt to end the abuses has been "singularly unimpressive."

Fraud in Medicare has not been documented as thoroughly but there is every reason to believe that waste and overutilization are rampant in that program, too.

Sen. Moss and staff members of his subcommittee of the Senate Committee on Aging, visited clinics in several states disguised as Medicaid beneficiaries. The subcommittee's findings reflect the sordid conditions they found which siphon off billions of dollars of health care funds each year.

Medicaid abuses spring from several sources. One is pure greed and dishonesty of the practitioners involved. Another is the nature of medical care itself which conditions a patient to meekly do what the doctor says. Enormous size of the Medicaid program, with the mountains of paperwork involved, makes strict policing almost impossible.

All of these are contributing factors. But the basic trouble with Medicaid—and we hate to say it—is that the responsibility for providing treatment is left to profit-motivated individuals and businesses. Medicaid is being stolen blind because its services are dispensed by private doctors and pharmacists instead of salaried, government employed doctors and pharmacists.

Sen. Moss is sponsoring legislation to create a central fraud and abuse unit in the Department of Health, Education and Welfare and an office of inspector general to co-

ordinate anti-abuse efforts. The approach emphasizes treating the symptoms rather than the underlying causes.

A peer review system, pioneered in Utah and passed into law at the urging of former Utah Sen. Wallace F. Bennett, has trimmed costs and eliminated much unnecessary service in Utah. But its implementation nationally has been hampered by legal challenges and less than avid support by the health care professions in some parts of the country.

A federally-funded and administered system of health care for the needy patterned, for example, on the Veterans Administration, might produce only average quality treatment. But it would have the advantage of permitting the people, who actually put up the money, to also have firmer control over how it is spent.

Unless the health care professions can come up with a workable plan for controlling their shady and greedy practitioners, a system of government operation is inevitable. The Moss findings vividly document the challenge facing the professions.

[From the Lewiston Morning Tribune, Wednesday, Sept. 1, 1976]

THE MEDICAID MILLS

The Medicaid mills uncovered by the Senate Committee on Aging are unconscionable on two counts: The phony treatments ordered by the clinics bilk the taxpayers. And they drive up the price of a program that is already costing the patients far more out-of-pocket cost than they can afford.

Clinic operators who become wealthy at the expense of the indigent aged are on the same moral plane with cancer quacks. It is time for the Department of Health, Education & Welfare to clean up its act. The department, which is supposed to police abuses of the medical care system, has a crime wave on its hands.

HEW Secretary David Mathews was quoted by White House Press Secretary Ron Nessen as having charged Aging Subcommittee Chairman Frank Moss of Utah with "grandstanding." Nessen said Mathews contends he is "well ahead of Moss in identifying the problem and solving it."

In what way? Where are the HEW reports to the public on these abuses? What are the solutions Mathews has in mind, and when will they be instituted?

With Mathews and HEW dodging their responsibility, it is fortunate that someone is grandstanding on the issue. Because of Moss, the other committee members and the remedial legislation they propose, the problem has been identified and some of the solutions are on the way, no thanks to HEW.

Mr. CHURCH. My commendation is directed at Privates McDew and Roberts, but I think that a few additional words are in order as to the contributions made by Senator Moss, temporary investigators and other staff of the Committee on Aging, and volunteers and internes who took part in the total effort.

The Senator from Utah, as I indicated earlier, decided to go to New York City because earlier visits by investigators had yielded reports so startling that TED Moss had to see for himself.

Working with law enforcement authorities, Senator Moss obtained a medicaid card, put on the oldest clothing he could find, and entered two "health centers" and complained of a rather mild health problem. In each case he was "ping-ponged," or directed to one specialist after another for treatment he did not need, having been pronounced in fine physical shape just a few days before. Then, after all the examining, he was given prescriptions he did not need. All of this normally would be charged to the taxpayer. All of this took place in a city where large numbers of older persons who really need prescriptions have to do without them because medicare does not cover them and medicaid is too cumbersome or foreboding to attract them.

Senator Moss also visited a third "mill," catering to the addict community, so atrocious and unsavory that his unseen escorts on the streets outside were concerned about his safety.

The Senator's visit was dramatic, but he has stressed that it was just one event in a long and arduous effort involving many others:

Mr. Val Halamandaris, Associate Counsel of this committee, who organized the entire investigation and who made personal visits in New York City to several clinics and who maintained close working relationships with agencies and law enforcement officials in the four States—New York, California, Michigan, and New Jersey—which were visited.

Committee Investigator William Halamandaris, who bore a heavy responsibility for field operations during the "shopping" and other investigatory activities. He was assisted in this work by temporary investigator David L. Holton, who also spent many hours backing up shoppers and in related activities. They received considerable support from the home office by temporary committee staff member Thomas G. Cline.

Patricia G. Oriol, chief clerk of the Senate Committee on Aging, volunteered at the outset to become a "shopper" when it became known that all prior "shopping" conducted by medicaid regulatory agencies failed to include women among the shoppers. It was felt by Mr. Halamandaris that she could make a special contribution, and she did, visiting "mills" in all four States.

Catherine Hawes, temporary committee investigator enlisted for "shopping" about mid-way in the investigation and performed valuable service.

Volunteers Suzanne Kaufman, Debbie Galant, Edward U. Murphy and summer internes Arcola Perry and Stephanie Fidel worked around the clock at the home office on occasion to examine records and perform other tasks which made interpretation of field work findings feasible.

Here was a relatively small group of persons, including a few seasoned Senate employees and several persons very new to Capitol Hill. They improvised, performed drudge labor when it was required, and kept their poise when difficult situations arose.

In doing so, they made the point—more dramatically than it has ever been made before—that medicaid fraud, abuse, and decadence is so widespread and costly that it can no longer be tolerated. Senator PERCY, ranking member of Senator Moss's Subcommittee on Long-Term Care, made that important point more than once during the hearings; and I heartily agree with him.

Mr. President, I will not go into great detail on the scope and findings of the investigation here. A fine staff report called "Fraud and Abuse Among Practitioners Participating in the Medicaid Program," was issued in conjunction with the hearings; and it gives full information.

I will, however, say that the shopping investigation was merely one element, an important one to be sure, in far more extensive effort which resulted in the report's findings. Among the other elements were: Examination of more than 100 reports about fraud or waste in medicaid, review of the records of law enforcement authorities in New York and Michigan, manual evaluation of computer records compiled from payment records of the New York City Department of Social Services, interviews and written interrogatories to dozens of public officials in New York and interviews with more than 60 physicians in the same city; conversations with would-be sellers of a health care facility, and monitoring of the operation of a storefront medical clinic established last December by Chicago's Better Government Association.

All of this effort is interwoven with long-standing and ongoing projects by the Subcommittee on Long-Term Care, including hearings and reports on nursing home problems and achievements, development of so-called alternatives to institutional care, and the overall objective: development of effective and efficient community-based "spectrums of care" to provide appropriate care to older persons in need of it.

I personally commend Privates Roberts and McDew and all concerned for the latest service they have performed for the Congress and for the people of the United States.

COMMENDATION OF CAPITOL HILL POLICE

Mr. WILLIAMS. Mr. President, I join with Senator CHURCH in commending Privates Darrell McDew and James Roberts for their dogged and resourceful undercover investigations of medicaid fraud.

As Senator CHURCH has said, the two police officers demonstrated courage as well as skillful investigatory techniques during a long and often trying assignment with the Senate Committee on Aging.

I take special pride in the fact that I recommended Private Roberts to his appointment with the Capitol Police Force. He is a fine man and a good law enforcement agent. His parents in Montclair, N.J., and all his friends in other parts of New Jersey join with me, I know, in that sense of pride.

Mr. President, I ask unanimous consent that an article writen by Myron Struck for the current issue of Roll Call be printed in the RECORD. Called "Daring Officers Go Undercover," this excellent story gives a vivid and informative account of the many difficulties encountered during the investigation. I would also like to have printed my statement at the August 30 hearing at which the investigation was discussed.

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

DARING OFFICERS GO UNDERCOVER

(By Myron Struck)

"There were times when I felt no more human than a dog," said the 34-year-old black man. He is testifying before the Senate Special Committee on Aging's subcommittee on Long-Term Care. "I was sent from doctor to doctor, test to test, without so much as an explanation."

The man is Pvt. Darrell R. "Scotty" McDew, a soft-spoken pencil-thin member of the United States Capitol Police corps. For the past four months, he—and colleague James A. "Jimmy" Roberts, Jr.—were detached from official active duty to participate in an undercover investigation with the subcommittee.

The officers, and two other subcommittee staffers, visited approximately 200 "Medicaid mills" in New York, Michigan, New Jersey and California hoping to determine the degree of fraud and abuse perpetrated by practitioners receiving $100,000 or more in the Medicaid program.

"The filth and stench in a large majority of the facilities I visited was disgusting," Pvt. McDew testified. "I found it very upsetting to see cockroaches crawling on the floor of a medical office—the walls were dirty, cigarette butts littered the floors and ashtrays were overflowing."

The participation of the Capitol Police officers was unprecedented—and it proved to be an activity that they both enjoyed "as an experience," and an effort that they believe "contributed to the reform of an abuse of a bureaucratic system."

The project was conceived in the wake of a February, 1976 study of "Fraud and Abuse among Clinical Laboratories," that focused on Chicago and was featured on a CBS "60 Minutes" segment.

Pvt. Roberts, who saw the show, offered congratulations shortly thereafter to the subcommittee's counsel Val J. Halmandaris. The counsel showed his "appreciation" by explaining a "half-baked idea" of getting a "couple of (experienced) police officers to go undercover with the investigators in Phase II."

Roberts thought about it, asked McDew to join him, and the two of them were off to "some hair-raising experiences."

The mission, Halmandaris explains, was to "present ourselves for treatment and see what they do to us." The two officers, Halmandaris and committee staffers Patricia Glidden Oriol and Catherine Hawes all underwent physical examinations. The officers, in fact, were examined by Dr. Freeman Carey, attending physician of the U.S. Capitol.

All were in "excellent health" with no medical infirmities of any kind, according to the staff report.

Through the course of the four months, the men and women entered 120 different clinics in New York, New Jersey, Michigan and California, making 200 visits. Only once was a prospective customer given a clean bill of health.

"I honestly feel that if I had a serious illness, it would remain undetected and untreated," Pvt. McDew said in his testimony. "I am saddened to think of the many people who have to endure this kind of treatment and conditions that I experienced during the investigations."

The acid test, though, was going into New York's lower east side. It's the bowels of New York where the garbage cans in "your backyard—here in Washington—are cleaner than the streets there," Roberts said.

"We were in sections of New York where I'm sure the cops wouldn't even go," Roberts continues. His usual procedure was to enter a clinic and proclaim an earache and a head cold.

The men, at all times, were under the watchful eye of the surveillance unit—composed of others in the group, plus David Holton. Using a commonplace blue van, Holton was equipped with a two-way radio, test equipment and photo equipment. During the New York portion of the probe undercover IRS agents offered additional back-up in other unmarked cars.

Holton, who is a Sam McCloud-like TV character, complete with Dennis Weaver mustache, boots and a background rooted in the Colorado Sheriff's department, explained the situations sometimes got a "little hairy."

After sitting around a Puerto Rican slum for about three hours and alternately tinkering with the carburetor and reading the paper, he noticed other "unusual characters" seemingly staking out the area. One of them leaned against the van, and he had to shut down the static-producing two-way radio. He didn't know, he says, if he was about to become a target for a mugging, a mobster or another undercover operation was going on in his presence.

Since Jimmy was still inside the 'clinic' he decided to hold the cover. "It wasn't too long before it looked like the entire New York City police department was swooping down, blocking off the street and raiding a place nearby," Holton explains. "I calmly walked up to one of the uniformed officers and showed him my Senate ID and explained the situation. Our cover remained intact."

The team found indications of ping-ponging (the unwarranted referral of patients from one practitioner to another with the facility), ganging (billing for multiple services) upgrading (billing for services more extensive than actually provided), steering (directing a patient to a particular pharmacy) and billing for services not rendered.

According to the staff report, "The key is volume. You have to have referrals and return visits. You have to get them to come back and bring their friends."

Pvt. Roberts says it another way: "Good medicine is bad business."

Throughout the four months, they did not have their cover blown once although the drug bust incident and several others were "close calls."

Roberts, a four-and-a-half-year veteran of the Capitol Police, is 29. He was appointed to his position from Montclair, N.J. by Sen. Harrison A. Williams, Jr., (D-N.J.)) He is short and sturdy, and far from being chubby. A muscular, stocky body would be more appropriate.

"We weren't scared, really," he says. "But, sometimes while we were being examined, we heard blood curdling screams.

His partner, Scotty McDew, has been on the force for 2-and-a-half years, and has in his educational background Prince George's Community College, 10 years in the Navy, and a stint as a corrections officer on the PG Sheriff's Department.

Their activities—known as "shopping"—were conducted without the intent to convince the unsuspecting practitioners that they were sick or ill. They claim they carefully said they "thought" they had a sickness or illness at all times. Often, they say, they were not even touched before medication was recommended.

Their visits averaged five minutes with a 'physician' and two to two-and-a-half hours in a waiting room.

Sen. Frank E. Moss (D-Utah), chairman of the subcommittee, was so impressed with the dedicated efforts of the investigators he personally donned a scruffy looking outfit for two days and paraded into several clinics himself.

His ID card: "F. Edward Moss" with an address that was their temporary home, the Statler-Hilton Hotel.

"When we had the Senator out there, we went into one place that had a gang war going on outside," McDew says.

Roberts adds that they had an unusual experience then, as well. Hilton was trying to take the photographs when a gang of "street dudes" came up to his van and inquired within.

"I did some quick thinking and told them I was taking stills for a prospective movie that Scotty McDew was going to star in." Holton said, "I'm sure they didn't really believe it, but they went over to Scotty and asked him." He breaks up laughing.

On September 15 the two officers—still the subject of jibes from their colleagues (although with a good bit of respect)—will go back to active duty on the 3 PM to 11 PM shift on the Senate side.

Secretary of Health, Education and Welfare David Mathews—as the situation of Medicaid mills was exposed—said Sen. Moss' filmed excursion and the efforts to show what went on in the 'mills' was "grandstanding."

A grim look crosses the faces of the officers, their colleagues and subcommittee staff director Bill Oriol at the mention of this skepticism.

"The fact that we could, with only a small amount of people, uncover this fraud is indicative that no one is doing anything," Oriol said. According to the staff report, the investigators grew to learn that most of the problems with the New York program at least were known for more than 10 years but a force of only four investigators with little funding and power, meant only a continuation of the status quo.

Besides the dramatic portrayal of the problems of the Medicaid system that have been given widespread attention, the case opened the doors to continued use of experienced law enforcement officers—like Pvts. Roberts and McDew—to aid with further investigations.

"I feel bad about what I saw," says Pvt. Roberts. "But we feel good about what we were able to do to correct a bad situation," said Pvt. McDew.

STATEMENT BY HONORABLE HARRISON A. WILLIAMS, JR.

Mr. Chairman: I am pleased to address this hearing by the Subcommittee on Long-Term Care. The hearings conducted by this Committee, chaired by Senator Moss, have been greatly informative. They have provided the Congress with valuable insights into fraud and abuse among nursing homes, clinical laboratories and other providers in the Medicaid program.

I expect today's hearings will serve the same end, that is providing the Congress with the information it needs with which to legislate.

I am proud that my State of New Jersey has been, over the years, one of the most active in terms of preventing fraud and abuse in the entire nation. According to HEW statistics, New Jersey is one of the three States with excellent "fraud detection" programs. I am glad to see that the New Jersey Special Commission on Investigation will testify today, sharing the results of their good work with this Subcommittee and with the Nation.

I think by now everyone knows my commitment to national health insurance and to expanding Medicare and Medicaid benefits for the aged, blind and disabled. I am troubled that hundreds of people may be going without the health care they need. But I am just as troubled by the increasing reports of fraud and abuse in these programs. I am hoping that these hearings will help us to redirect government moneys so as to eliminate waste and to provide greater benefits for the needy.

Finally, Mr. President, I would like to express my personal admiration for Senator Frank Moss, Chairman of the Committee's Subcommittee on Long-Term Care. While Chairman of the Committee on Aging, I had

a high regard for Ted Moss's work on behalf of better care and better protection of public funds in the nursing homes and other long-term care institutions of this Nation. More recently I have been impressed by his determination to end fraud and wasteful practices in the Medicare and Medicaid programs. The most concrete expression of that concern came when he personally visited Medicaid mills in New York City this year and saw for himself that undercover investigators had not exaggerated when they reported on the flagrant profiteering and terrible conditions existing in so many of the Medicaid mills which have sprung up in so many low-income areas of our Nation. We do need care for people in these areas, and some practitioners and groups of practitioners are trying to provide quality care without robbing taxpayers' dollars. But their efforts are overshadowed and even endangered by the spectacular misdeeds of the Medicaid profiteers. To Senator Moss, Privates McDew and Roberts, and staff and volunteers who participated in this outstanding effort, my heartiest congratulations.

COMMENDATION FOR PRIVATES ROBERTS AND M'DEW

Mr. MOSS. Mr. President, I join with Senator CHURCH in commending Privates James Roberts and Darrell McDew of the Capitol Police Force for their work with my Subcommittee on Long-Term Care of the Senate Committee on Aging.

Senator CHURCH, as chairman of that committee, feels as I do that these two police officers have performed a significant service not only to the Senate but to the entire Nation. They have made a distinctly personal contribution for much-needed reform of the medicaid program, displaying skill and courage as they did so.

I appreciate the kind words said here this morning about my role in the investigation of "medicaid mills" in New York City. I thought it was important that I have a firsthand look at the outrageous conditions reported to me and I visited three mills.

But Privates McDew and Roberts bore the brunt of the day-in and day-out undercover work which made the investigation so worthwhile. Provided with official medicaid cards from law enforcement sources, they visited dozens of medicaid mills and underwent any number of indignities, trying circumstances, drudgery, and hours and hours of waiting.

Their part in the investigation would not have been possible without the all-out cooperation of their police chief, James C. Powell, and the Senate Sergeant-at-Arms F. Nordy Hoffmann. A vote of thanks is also in order to the Senate Committee on Rules and Administration, which approved of several unusual arrangements necessary for the success of the investigation.

I would also like to express a personal word of appreciation to Val Halamandaris, who planned and conducted the overall investigation, and all committee staff, volunteers, and interns who worked with him. Their work was invaluable as was the contribution of Privates Roberts and McDew. Their commendation is well-earned, and I am proud to join Senator CHURCH in this effort.

COLUMBUS JEWISH FEDERATION: HALF CENTURY OF SERVICE

Mr. GLENN. Mr. President, on Sunday, September 19, a very significant dinner will take place in Columbus, Ohio, to commemorate the 50th anniversary of the Columbus Jewish Federation.

I am pleased to have this opportunity to call my colleagues' attention to this wonderful milestone. Since Columbus is my home, I have had the chance to witness firsthand how the federation has come to the assistance of community youth, families, the aged, the infirm, and many others who need a helping hand.

Its activities, while centering on Columbus, have been national and international in scope, as well, and a significant portion of the federation's budget has gone to helping Israel develop and defend itself. More than 3,500 citizens belong to the federation, and their contributions and active participation have played a major role in making the organization a valuable community asset. I have had the privilege of joining federation members at events in the past, and I have valued these opportunities very much. There is a contagious spirit of respect and service that pervades activities of the Columbus Jewish Federation.

I am sure that the 50th anniversary "Eyewitness to History" dinner on Sunday will follow in that tradition. The guest speaker is to be the honorable Philip Klutznick, president of the World Jewish Congress, and I am sure his message will be inspirational and worth noting by us all.

May I also take this opportunity, Mr. President, to note that Sunday's dinner marks the transition of the federation presidency and that Mr. Ernest Stern will be guiding the organization for the next 2 years, succeeding Mr. Sidney Blatt.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD at this point the two notifications I have just received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S-116 in the Capitol.

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

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 13, 1976.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover Transmittal No. 7T-56, concerning the Department of the Army's proposed Letter of Offer to Israel estimated to cost $9.1 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency, Deputy Assistant Secretary (ISA), Security Assistance.

TRANSMITTAL No. 7T-56

Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act.

a. Prospective Purchaser: Israel.

b. Total Estimated Value: $9.1 million.

c. Description of Articles or Services offered: [Deleted.]

d. Military Department: Army.

e. Date Report Delivered to Congress: September 13, 1976.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 13, 1976.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover Transmittal No. 7T-55, concerning the Department of the Army's proposed Letter of Offer to Israel estimated to cost $15.5 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency, Deputy Assistant Secretary (ISA), Security Assistance.

TRANSMITTAL No. 7T-55

Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act.

a. Prospective Purchaser: Israel.

b. Total Estimated Value: $15.5 million.

c. Description of Articles or Services Offered:

[Deleted.]

d. Military Department: Army.

e. Date Report Delivered to Congress: September 13, 1976.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unani-

mous consent to have printed in the RECORD at this point the notification I have just received.

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

DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE). OASD/ISA,
Washington, D.C., Sept. 13, 1976.

In reply refer to: I-8429/76.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 7T-53, concerning the Department of the Army's proposed Letter of Offer to the Philippines for Howitzers estimated to cost $13.2 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

Attachment.

[Transmittal No. 7T-53]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(B) OF THE ARMS EXPORT CONTROL ACT

a. Prospective Purchaser: Philippines.

b. Total Estimated Value: $13.2 million.

c. Description of Articles or Services Offered: Ninety-seven (97) 105mm Howitzers (M101A1) and repair parts.

d. Military Department: Army.

e. Date Report Delivered to Congress: September 13, 1976.

SENATE COMMITTEE JURISDICTION

Mr. CURTIS. Mr. President, the Senate select committee to study our committee system is at the point of considering overhaul of jurisdictional lines.

Three "starting points" have been developed by the staff of the select committee.

Starting point I would essentially retain the existing committee structure with some reapportionment of jurisdiction to equalize the workload among the committees.

Starting point II eliminates all joint, special, and select committees and reduces the number of standing committees to 12.

Starting point III is similar to starting point II except that the number of standing committees is reduced to five.

I believe the staff of the select committee has done a commendable job in preparing the "starting points."

Our colleagues have experienced considerable frustration under the existing committee system. Senators find they have to choose among several committees meeting at the same time. Moreover, sometimes there are conflicts between committee meetings and floor action further compounding the apparent chaos.

Today, the distinguished Senator from Utah (Mr. MOSS) and the distinguished Senator from Arizona (Mr. GOLDWATER) have offered a starting point IV. It differs in some particulars from the three developed by the committee staff.

This proposal recommends that there be established 15 standing committees organized into three categories—A, B, and C—with 100 committee assignments each for a total of 300. Each Senator would have three committee assignments, one in each category. At the beginning of each Congress, the Senate can decide how many members each of the 5 committees in a category will have, but the total in each category should equal 100.

Similarly, the number of subcommittees would be held to a maximum of 100, allocated on the basis of 25, 30, and 45 subcommittees to each of the categories A, B, and C, respectively. Again, the subcommittees need not be allocated equally among the committees in any particular category, but the total number of subcommittees should not exceed the maximum number permitted for that category in order to make this suggestion workable.

I submit this proposal can accomplish much of what the select committee has set out to do. It tends to equalize the workload among the committees and reduce the number of committees and subcommittee meetings. Moreover, a rational schedule for committee meetings is inherent in this type of organization. For example, A committees could meet on Tuesdays, B committees on Wednesdays, and C committees on Thursdays. Mondays and Fridays would be open for any committee meetings, as required.

Under this proposal, Senators would acquire something approaching equality in committee asignments—equality that has been difficult to achieve under the existing system.

I ask unanimous consent that the proposal submitted by Senator MOSS and Senator GOLDWATER be printed in the RECORD.

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

SENATE COMMITTEE ORGANIZATION: A PROPOSAL

(Offered by Senator FRANK E. MOSS and Senator BARRY GOLDWATER, September 13, 1976)

INTRODUCTION

Without question the staff of the Select Committee on Committees has done an excellent job in preparing three "Starting Points" for Senate committee jurisdiction. We believe another choice is desirable as a basis for thought and discussion. In this spirit, we offer "Starting Point" IV which can be viewed as a compromise between "Starting Points" I and II. "Starting Point" III, which provides for only five standing committees, we are inclined to view as too drastic in that the subcommittees would ultimately control legislation. Because of the breadth of the subject matter, full committee consideration of legislation under "Starting Point" III would closely resemble floor action on a bill or resolution.

Our proposal recommends that there be established 15 standing committees organized into three categories ("A", "B" and "C") with 100 committee assignments each for a total of 300. Each Senator would have three committee assignments, one in each category. At the beginning of each Congress, the Senate can decide how many members each of the five committees in a category will have, but the total in each category should equal 100.

Similarly, the number of subcommittees would be held to a maximum of 100, allocated on the basis of 25, 30, and 45 subcommittees to each of the categories "A", "B" and "C", respectively. Again, the subcommittees need not be allocated equally among the committees in any particular category, but the total number of subcommittees should not exceed the maximum number permitted for that category in order to make this suggestion workable.

We believe this proposal can accomplish much of what the Select Committee has set out to do. It tends to equalize the workload among the committees and reduce the number of committee and subcommittee meetings. Moreover, a rational schedule for committee meetings is inherent in this type of organization. For example, "A" committees could meet on Tuesdays, "B" committees on Wednesdays, and "C" committees on Thursdays. Mondays and Fridays would be open for any committee meeting, as required.

Under this proposal, Senators would acquire something approaching equality in committee assignments—equality that has been difficult to achieve under the existing system.

As is true with "Starting Point" II, our proposal would inevitably require more involvement of the leadership in preventing conflicts between committee action and floor action. The leadership might want to establish a rule whereby the Senate would convene at 1:00 p.m. from the opening of a session of Congress until March 31st. From April 1 to June 30th, the Senate would meet at noon. Thereafter, the work of the committees would be presumed to be largely accomplished and the Senate could meet earlier in the day.

While "Starting Point" IV does not specifically address the question of rotating committee assignments, it is easily adaptable to rotation, if that is the desire of the Senate. Under "Starting Point" IV Senators could be rotated within the three classes of committees.

From a purely arithmetical standpoint, 15 standing committees divided into three classes simplifies the making of committee assignments because 5 divides easily into 100, although the actual number assigned to any committee could be varied as long as the total number of assignments within any category did not exceed 100.

We invite any comments, modifications, or revisions.

FRANK E. MOSS
BARRY GOLDWATER.

SENATE COMMITTEE ORGANIZATION: A PROPOSAL

Under this proposal, 15 standing committees would be created and organized into three categories: "A", "B", and "C". Each category would have 100 committee assignments for a total of 300. Within a category, the number of Senators assigned to each committee could be varied. Senators would have three committee assignments, one in each category. The proposed committees, alphabetically arranged, are:

Committee and category

1. Agriculture and Rural Development—A.
2. Appropriations—C.
3. Armed Services and Veterans—C.
4. Banking, Housing and Small Business—B.
5. Budget—A.
6. Commerce, Transportation and Communications—C.
7. Finance—C.
8. Foreign Relations—C.
9. Governmental Affairs—A.
10. Intelligence—A.
11. Interior and Environment—B.
12. Labor and Human Resources—B.
13. Judiciary—B.
14. Rules, Standards and Ethics—A.
15. Science and Technology—B.

Committees by category

"A." Agriculture and Rural Development.
"B." Banking, Housing and Small Business.
"C." Appropriations.
"A." Budget.
"B." Interior and Environment.
"C." Armed Services and Veterans.
"A." Governmental Affairs.
"B." Labor and Human Resources.
"C." Commerce, Transportation and Communications.
"A." Intelligence.
"B." Judiciary.
"C." Finance.
"A." Rules, Standards and Ethics.
"B." Science and Technology.
"C." Foreign Relations.

This proposal assigns legislative jurisdiction according to major functional categories. It minimizes jurisdictional overlap among the committees and equalizes committee workloads. Most importantly, it will bring greater equity to the distribution of committee assignments among Senators. While committees are organized according to functional categories, it is proposed that each committee, except the Appropriations and Budget Committees, be given legislative jurisdiction over specific departments and agencies of the government to reduce the necessity of joint and sequential referrals.

Subcommittees

It is proposed the number of subcommittees be reduced from the 174 to a maximum of 100.

It is proposed that a maximum of 25 subcommittees be permitted in the "A" category, a maximum of 30 subcommittees be permitted in the "B" category, and a maximum of 45 subcommittees be permitted in the "C" category. This would permit an average of 5, 6, and 9 subcommittees for each committee in categories "A", "B", and "C", respectively; however, the actual number permitted each committee in a category can be established by the Senate at the beginning of each Congress. For example, the category "C" committees might be permitted maximum numbers of subcommittees as follows:

Appropriations	11
Armed Services	8
Commerce	11
Finance	8
Foreign Affairs	7
Total	45

It is proposed that a rule limiting the number of subcommittee assignments for each Senator be adopted and that subcommittee chairmanships be limited to a maximum of two for each Senator.

Under this system the number of committees and subcommittees would be greatly reduced and proliferation of committee and subcommittee assignments would be controlled. Also, very few joint or sequential referrals of legislation would be required.

Appropriations and budget process

No changes are necessary in the appropriations or budget processes. Both the Appropriations and Budget Committees would be retained, exercising the same jurisdiction as at present.

Committee legislative and oversight jurisdiction

Committee legislative jurisdiction is the authority of the committee to consider and report legislation to the Senate, which bill or resolution is then placed on the Senate calendar and considered by the Senate at an appropriate time.

Committee oversight jurisdiction (sometimes called review jurisdiction and formally called the investigative function of Congress) is the authority of the committee to review, investigate, study, hold hearings, and prepare reports on any subject over which the Congress has oversight jurisdiction, but the committee cannot under the authority of its oversight jurisdiction report legislation to the Senate floor.

However, the exercise of a committee's legislative and oversight jurisdictions cannot be treated as separate and distinct functions. When a committee exercises its legislative jurisdiction it exercises oversight at the same time. The authorization process, the appropriation process, the budget process, and the preparation of a piece of legislation to be reported by the committee to the Senate floor all require extensive oversight on the part of the committee. Consequently, the legislative jurisdiction of a committee is embedded in its oversight jurisdiction but the reverse is not necessarily true.

As a result of exercising its oversight jurisdiction, a committee may prepare a piece of legislation and submit it to the Senate, but the Senate will refer that legislation to the committee which has legislative jurisdiction over the matters covered by the bill.

Committees exercise oversight jurisdiction in various ways. It is a natural and inherent part of the legislative process. To conclude that Congress has not been exercising proper oversight is deemed a distinct overstatement. A look at the record shows the Senate has exercised its oversight power. The resignation of a President, the restructuring of our intelligence activities, the exposing of illegal campaign activities, and the exposing of bribery practices of multi-national corporations by the Congress argues against the conclusion that the Congress has not exercised oversight. The argument that had Congress been exercising oversight these practices and activities would not have occurred, is fallacious. Earlier or more Congressional oversight would not have prevented these activities. The Congress does not manage the government and it does not and should not act as a conscience for the individual.

Appropriations and budget process

No changes are necessary in the appropriations or budget processes. Both the Appropriations and Budget Committees would be retained, exercising the same jurisdiction as at present.

Committees retained

There would be no, or only minor, jurisdictional changes in the following committees: Appropriations, Agriculture and Forestry, Budget, Finance, Judiciary, Foreign Relations, Intelligence (Select).

Committees modified

The jurisdictions of these committees have been modified and the names changed to more accurately reflect their new functions:

Present name and new name

Aeronautical and Space Sciences—Science and Technology.

Armed Services—Armed Services and Veterans.

Banking, Housing and Urban Affairs—Banking, Housing and Small Business.

Commerce—Commerce, Transportation and Communications.

Government Operations—Governmental Affairs.

Interior and Insular Affairs—Interior and Environment.

Labor and Public Welfare—Labor and Human Resources.

Rules and Administration—Rules, Standards and Ethics.

Committees abolished

Under this proposal the following committees are abolished and their jurisdiction transferred to one of the 15 proposed standing committees: District of Columbia, Post Office and Civil Service, Public Works, Veterans Affairs, Select Committee on Nutrition and Human Needs, Select Committee on Small Business, Select Committee on Standards and Conduct, Special Committee on Aging, Joint Committee on Atomic Energy, Joint Committee on Congressional Operations, Joint Committee on Defense Production, Joint Economic Committee, Joint Committee on Internal Revenue Taxation, Joint Committee on the Library, and Joint Committee on Printing.

Oversight

It is proposed that all 15 committees be given a major responsibility for oversight over all activities covered by their functional jurisdiction, regardless of whether or not the activities are in a department or agency over which the committee has specific legislative jurisdiction. In other words, a committee's oversight jurisdiction would extend over a larger part of government activities than its legislative jurisdiction.

Broader oversight jurisdiction is necessary, because it is not possible to categorize similar activities distributed throughout the Government into the Committee legislative jurisdictional categories. Nevertheless, when conducting oversight a committee may find it necessary to look at the sum total of government actions in order to understand the interactions of these activities. Moreover, broad oversight jurisdiction tends to limit duplication in government programs and to stimulate cooperative efforts among the Departments and Agencies.

Each standing committee would have discretionary authority to handle its oversight responsibilities. For example, a committee could establish an oversight subcommittee or it could carry on the oversight activities within the subcommittee structure of the committee or by the full committee or by some combination. Under this proposal the Appropriations and Budget Committees would have oversight responsibilities.

Staffing

The professional and clerical staff of the committees would be employed under existing Senate rules and applicable statutes.

The major staff issue is how to merge the staff members of the existing committee structure into the new committee structure. Every effort should be made to accommodate staff who would be disrupted by the jurisdictional changes. Clearly, the staffs of the Appropriations, Budget, and Intelligence Committees are not directly affected.

Leadership

Inevitably, responsibility for keeping this system working smoothly would lie with the leadership. The leadership should be expected to oppose vigorously proposals for changes to the system that would add new committees; that would permit the Senators to serve on more than three committees (except on an ad hoc basis); or an expansion of the number of subcommittees beyond that allowed by the rule.

In addition, the leadership would have to exercise its authority to keep the number of joint and sequential referrals of legislation to a minimum. It is proposed that a procedure be developed which would make joint (either joint or sequential) referrals difficult. The matter of split referrals needs further consideration.

Characteristics of proposed committee system

Reduction of the present 31 standing, select, special and joint committees to 15 standing committees.

The 15 standing committees are organized into three categories of five committees each, with 100 committee assignments in each category.

Size of committees within each category to be decided by the Senate each Congress.

Committee jurisdictions are functionally and agency-based with minimum jurisdictional overlap.

No more than one full committee chairmanship per Senator.

Equalizes workload among committees.

A limit of three committee assignments for each Senator—one in each category.

Equitable distribution of committee assignments among Senators.

A maximum of 100 subcommittees.

A limit on the number of subcommittee assignments for each Senator.

A limit of two subcommittee chairmanships for each Senator.

Fewer meeting conflicts because of fewer committees and subcommittees.

Fewer joint and sequential referrals required because jurisdictional overlap is reduced.

The recommended functional legislative jurisdiction for each of the 15 committees is given on the following pages.

This part of the proposal requires further refinement and definition.

The functional legislative jurisdictions given here are taken from the staff report and therefore from the existing rules. Often this write-up does not state in a precise and concise way the legislative jurisdiction of the committee. An example is the Committee on Labor and Human Resources. The jurisdiction presented as transferred from the present Committee on Labor and Public Welfare deals almost entirely with labor; yet, the Committee's responsibilities to human resources other than labor are at least as great. These legislative functional jurisdictions must be sharply defined and reflect accurately the activities intended to be covered.

The departments and agencies of the Government over which a Committee will have legislative jurisdiction must be assigned to that committee.

For each of the committees, a statement defining the committee's oversight jurisdiction must be prepared.

Finally, the jurisdiction of each committee must be codified.

Agriculture and Rural Development (successor to Agriculture and Forestry)

Functional Jurisdiction—

From Agriculture and Forestry:

Agriculture generally.

Rural development generally.

Inspection of livestock, meat and agricultural products.

Animal industry and diseases.

Pests and pesticides.

Agricultural colleges and experiment stations.

Forestry.

Agricultural economics and research.

Human nutrition and home economics.

Plant industry, soils and agricultural engineering.

Farm credit and farm security.

Rural electrification.

Agricultural production, marketing and stabilization of prices.

Crop insurance and soil conservation.

Appropriations (successor to Appropriations)

Funtional Jurisdiction—

The jurisdiction of the present Appropriations Committee is transferred intact.

Appropriation of the revenues.

Recissions of Appropriations.

New spending authority.

New advance spending authority.

Armed Services and Veterans (successor to Armed Services)

Functional Jurisdiction—

From Armed Services:

Common defense generally.

Department of Defense, Army, Navy and Air Force generally.

Soldiers' and sailors' homes.

Benefits of members of the armed services.

Selective service system.

Size and composition of the armed forces.

Forts, arsenals, military reservations, Navy yards, and depots.

Maintenance and operation of the Panama Canal and Canal Zone.

Naval petroleum and oil shale reserves.

Strategic and critical materials.

Military aerospace matters.

From Joint Atomic Energy: National security aspects of nuclear energy.

From Veterans Affairs: Veterans' measures, generally.

Banking, Housing and Small Business (successor to Banking, Housing and Urban Affairs)

Functional Jurisdiction—

From Banking, Housing and Urban Affairs:

Banking and currency generally.

Financial aid to commerce and industry.

Deposit insurance.

Housing and community development.

Federal Reserve System and monetary policy.

Gold and silver.

Issuance and redemption of notes.

Valuation of the dollar.

Control of prices of commodities, rents or services.

Urban affairs generally.

From Foreign Relations: International financial and monetary organizations.

From Small Business: All proposed legislation primarily related to the Small Business Administration.

Budget (successor to Budget)

Functional Jurisdiction—

The jurisdiction of the present Budget Committee is transferred intact.

Concurrent budget resolutions.

Title III and IV of the Congressional Budget Act of 1974.

Congressional Budget Office.

Commerce, Transportation and Communications (successor to Commerce)

Functional Jurisdiction—

From Commerce:

Commerce generally.

Regulation of interstate common carriers: railroads, buses, trucks, vessels.

Communications.

Civil aeronautics other than aerospace activities.

Merchant Marine and navigation.

Coast Guard.

Panama Canal, other than maintenance and operation; interoceanic canals generally.

Inland waterways.

From Public Works:

Flood control and improvements of rivers and harbors.

Public works, bridges and dams.

Measures relative to the construction and maintenance of roads.

From Banking: Urban mass transit.

Finance (successor to Finance)

Functional Jurisdiction—

The Finance Committee's jurisdiction would be transferred intact.

Revenue (taxation) measures generally.

Bonded debt of the United States.

Deposit of public monies.

Custom.

Reciprocal trade, tariffs and quotas.

Transportation of dutiable goods.

Revenue measures regarding insular possessions of the United States.

Revenue aspects of tariffs and import quotas.

Revenue aspects of social security.

Foreign Relations (successor to Foreign Relations)

Functional Jurisdiction—

From Foreign Relations:

Foreign relations generally.

Treaties and executive agreements, except trade.

Boundaries of the United States.

Protection of U.S. citizens and businesses abroad.

Neutrality.

International conferences.

American Red Cross.

Intervention abroad and declarations of war.

Diplomatic service.

United Nations.

Foreign assistance, generally.

Acquisition of land and buildings for Embassies.

Measures to foster foreign trade.

Governmental Affairs (successor to Government Operations)

Functional Jurisdiction—

From the District of Columbia: All measures relating to the municipal affairs of the District of Columbia.

From Government Operations:

Except as provided in the Budget and Accounting Act of 1974, budget and accounting measures other than appropriations.

Study of governmental activities at all levels.

Reports of the Comptroller General.

Intergovernmental relations.

From Post Office and Civil Service:

Federal Civil Service, generally.

Status of officers and employees of the United States.

Postal service, generally.

Census and collection of statistics, generally.

National Archives.

From Public Works:

Public buildings and grounds.

Measures concerning purchase of sites and construction of post offices, Federal courthouses, and government buildings within the District of Columbia.

Measures relating to the parks within the District of Columbia.

Measures concerning construction, maintenance, and care of the Smithsonian Institution.

Intelligence (successor to Select Committee on Intelligence)

Functional Jurisdiction—

The jurisdiction of the present Select Committee on Intelligence is transferred intact.

Studies underway and continuing studies of intelligence activities and programs.

Central Intelligence Agency.

Director of Central Intelligence.

National Security Agency.

Defense Intelligence Agency.

Intelligence activities of all departments and agencies of the government, generally.

Interior and Environment (successor to Interior and Insular Affairs)

Functional Jurisdiction.—

From Interior:

Public lands generally.

Forest reserves and national parks.

Irrigation and reclamation.

Mining schools and stations.

Petrolum and radium conservation.

Mining and mineral lands and claims generally.

Geological Survey.

From Public Works:

Water power.

Environment generally.

From Joint Atomic Energy: Nuclear Regulatory Commission.

From Commerce:

Fisheries and wildlife.

Coastal zone management.

Oil and gas production and distribution.

Labor and Human Resources (successor to Labor and Public Welfare)

Functional Jurisdiction.—

From Agriculture and Forestry:

School breakfast program.

School lunch program.

Food Stamp program.

From Interior: Indian affairs generally.

From Labor and Public Welfare:

Education, labor and public welfare generally.

Mediation and arbitration of labor disputes.

Wages and hours of labor.

Convict labor.

Child labor.

Foreign labor.
Labor statistics
Labor standards.
School lunch program.
Vocational rehabilitation.
Railway labor and retirement.
Public health and quarantine.
Welfare of miners.

Judiciary (successor to Judiciary)

Functional Jurisdiction.—
The jurisdiction of the present Judiciary Committee is transferred intact.
Judicial proceedings generally.
Constitutional amendments.
Federal courts and judges.
Local courts in territories and possessions.
Revision and codification of U.S. statutes.
National penitentiaries.
Measures concerning restraint of trade and monopolies.
Holidays and celebrations.
Bankruptcy, mutiny, espionage and counterfeiting.
State and territorial boundaries.
Meetings of Congress; attendance of Members; incompatible offices.
Civil liberties.
Patents, copyrights and trademarks.
Immigration and naturalization.
Apportionment of Representatives.
Claims against the United States.
Interstate compacts generally.

Rules, Standards, and Ethics (successor to Rules and Administration)

Functional Jurisdiction—
From Rules and Administration:
Payments of money out of the contingent fund of the Senate.
Management of the Library of Congress and the Senate Library; art for the Capitol; and Botanic Gardens; monuments to individuals.
Smithsonian Institution management.
Federal Elections generally.
Presidential succession.
Credentials and qualifications of Members of Congress.
Senate rules and procedures.
Administration of the Senate generally.
Congressional Record.
From Standards and Conduct:
Recommendations of rules to insure proper conduct by Members, officers or employees of the Senate.
Receipt of complaints of improper conduct by Members, officers or employees.
Investigation of alleged violation of law or Senate rules by Members, officers or employees.
Recommendations of disciplinary action for violations by Members, officers or employees.
Consultative authority over the use of Senators of confidential documents.
Guidance, assistance and advice concerning franked mail.
Investigation of unauthorized disclosure of intelligence information, and recommending appropriate penalties for such disclosure when allegations are substantiated.
From Public Works—
Measures relating to the Capitol Building and the Senate and House Office Buildings.
Measures concerning construction, maintenance, and care of Botanic Gardens and the Library of Congress.

Science and Technology (successor to Aeronautical and Space Sciences)

Functional Jurisdiction—
From Aeronautical and Space Sciences: Aeronautical and space activities.
From Commerce:
National Oceanic and Atmospheric Administration.
National Bureau of Standards.
From Interior: Non-nuclear energy research and development.
From Joint Atomic Energy:
Development, use and control of atomic energy.
Energy Research and Development Administration.
From Labor and Public Welfare: National Science Foundation.
Other:
Office of Science and Technology Policy.
Federal Coordinating Council for Science, Engineering and Technology.

Mr. President, the Senator from Utah and the Senator from Arizona by no means claim that their proposal is chiseled in stone. On the contrary, they welcome refinements, suggestions, and modifications.

I submit their proposal deserves serious consideration by the select committee and the Senate because it is simplicity that takes into account the inner workings of the Senate.

I compliment Senator Moss and Senator GOLDWATER on their proposal, and I intend to support it as a rational "Starting Point."

AGRICULTURAL GRAIN RESERVES

Mr. BAYH. Mr. President, since 1972 American farmers have been subjected to considerable grain price variability. Fluctuation in feed grain prices has led to a great deal of variation in the price of hogs and beef cattle as well.

Mr. B. F. Jones of the Department of Agricultural Economics, Purdue University, recently authored a comprehensive publication on grain reserves—Station Bulletin No. 124, May 1976, Agricultural Experiment Station, Purdue University—in which he presented statistics on price variability. By comparing the price differences between low- and high-priced months he was able to estimate the variability within a given year. For the years 1968–71 the average percent change from the low- to high-price month was 27 percent for corn, 18 percent for soybeans, and 13 percent for wheat. Prices during the years 1972–74 were much more variable: the average percent change from low- to high-price month was 70 percent for corn, 111 percent for soybeans, and 90 percent for wheat. Hog and beef cattle price variation was also reported to be greater during the 1972–74 time period than during the 1968–71 time frame.

It has been suggested that grain price fluctuation could be reduced by the adoption of a grain reserve program. Several questions arise about the structure of such program. In Bulletin No. 124, Professor Jones identifies three questions which concern: First, the size of the reserve and its composition; second, the set of rules to be used in acquiring and releasing stocks; and three, who would own the stocks. Professor Jones discusses these questions in a general fashion in Station Bulletin 124 and goes on to analyze a specific grain reserve program in Station Bulletin 137—August 1976.

I would like to share these excellent publications with my colleagues. Therefore, I ask unanimous consent that Station Bulletins 124 and 137, published by the Department of Agricultural Economics, Purdue University, be printed in the RECORD.

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

GRAIN RESERVES IN AGRICULTURAL AND FOOD POLICY—STATION BULLETIN NO. 124

(By B. F. Jones)

INTRODUCTION

Since 1972, prices received by farmers for corn, soybeans, and wheat have been highly variable. One measure of the variability is the percentage change in the monthly average price measured from the low price month to the high price month within a given year. Table 1 shows the average annual change for selected prices for the 1968–71 period compared to the 1972–74 period. Monthly prices for corn varied an average of 27 percent within the year for the first period. From 1972–74, the average variation was 70 percent. Monthly prices for soybeans and wheat show larger variations than corn for 1972–74. Daily price variation for all three commodities within a year was even greater.

The increased variability of prices for corn, other grains, and protein meal has contributed to sharply fluctuating prices for hogs and beef cattle. Monthly average prices for hogs varied within a year by 55 percent for the 1972–75 period compared to 42 percent for 1968–71. Monthly average cattle prices varied by 31 percent in the second period compared to 17 percent during 1968–71.

Consumer food prices increased 50 percent from January 1972 to December 1975. Higher farm commodity prices contributed to this increase. Food prices, while rising over time, have fluctuated less than commodity prices. Processing and distribution margins, which make up about 60 percent of total food costs, are less subject to the type of variation exhibited by commodity prices. Food prices are more subject to continually increasing cost pressures. In addition, upward price pressure in the agricultural and food sector contributed to inflationary wage and price increases in other parts of the economy due to structural characteristics such as automatic escalator clauses which are built into various types of contracts.

World grain stocks have been reduced significantly since 1969 as a result of poor crops in certain areas of the world and sharply expanded world trade in grain (Table 2). World stocks of wheat and coarse grains declined from 188 million metric tons available at the beginning of the 1969–70 year to about 100 million metric tons in 1975–76. Likewise, U.S. stocks of wheat and coarse grains declined from 68 million metric tons in 1969–70 to 23 million metric tons in 1975–76. At the beginning of the period, the U.S. held about 65 percent of the world's stocks of grain. By 1975, this had dropped to about 25 percent.

TABLE 1.—PERCENTAGE CHANGE IN MONTHLY AVERAGE PRICES RECEIVED BY FARMERS FOR CORN, SOYBEANS, WHEAT, HOGS, AND BEEF CATTLE, 1968–74

Item	Price change, low to high month	
	1968–71 average percent	1972–74[1] average percent
Corn, per bushel: Year beginning, Oct. 1	27	70
Soybeans, per bushel: Year beginning, Sept. 1	18	111
Wheat, per bushel: Year beginning, July 1	13	90
Hogs, hundredweight[2]	42	55
Beef cattle, hundredweight[3]	17	31

[1] For grains, 1972–74 are included. For livestock, average is for 1972–75.
[2] Barrows and gilts, 7 markets.
[3] Choice steers, Omaha.

Note: Change is measured from low-price month to high-price month within a given year, then averaged over the year included.

TABLE 2.—STOCKS OF GRAIN ON HAND AT THE BEGINNING OF THE YEAR, 1960-61 TO 1976-77 [1]

	Million metric tons				Percent of total stocks held by the United States
	World total grain	United States			
		Total grain	Wheat	Coarse grains	
1960-61	164.0				
1961-62	176.7	115.4	38.4	77.0	65.3
1962-63	150.0	101.5	36.0	65.5	67.7
1963-64	153.2	91.0	32.5	58.5	59.4
1964-65	148.0	87.4	24.5	62.9	59.1
1965-66	151.3	71.9	22.2	49.7	47.5
1966-67	115.6	52.8	14.6	38.2	45.7
1967-68	144.6	45.3	11.6	33.7	31.3
1968-69	159.4	58.7	14.7	44.0	36.8
1969-70	188.1	67.8	22.2	45.6	36.0
1970-71	168.2	68.1	24.1	44.0	40.5
1971-72	130.5	50.7	19.9	30.8	38.9
1972-73	147.7	68.6	23.5	45.1	46.4
1973-74	108.1	42.0	11.9	30.1	38.9
1974-75	110.6	27.0	6.7	20.3	24.4
1975-76	101.9	23.2	8.7	14.5	22.8
1976-77 [2]	99.4	32.2	10.8	21.4	32.4

[1] Total grains include wheat, rye, barley, oats, corn, and sorghum. Coarse grains include all grains listed except wheat.
[2] Estimated.

Source: U.S. Department of Agriculture, FAS, "World Grain Situation," FG8-75, July 15, 1975 and FG16-75, Dec. 22, 1975

Smaller grain stocks available since 1972 have been a major factor contributing to grain and livestock price fluctuations. With smaller stocks relatively small changes in world grain production or changes in consumption patterns have caused large changes in grain prices over a short period of time. World grain production only 2 to 4 percent below trend has created great concern over food supplies and has contributed to sharply higher grain prices. The higher prices have (1) brought windfall gains to grain producers during some years, (2) resulted in severe capital losses to certain livestock producers and feeders, (3) depressed the income of dairy farmers who depend upon purchased grain, and (4) generated various forms of *ad hoc* governmental intervention into grain markets each year since 1972.

The higher average level of grain prices has increased the income of grain producers. The greater variability of prices associated with the higher level has increased the incomes of livestock and grain producers who are good at speculation on prices. But, the variability makes it more difficult for producers to plan their production to efficiently use resources. Furthermore, the threat of bankruptcy is increased for some producers.

THE PROBLEM

Various proposals have been made for decreasing price variability and uncertainty emanating from the grain sector. Since production cannot be maintained with certainty because of yield variability, the alternative frequently proposed is a grain reserve. Such a reserve or stock would provide grain for smoothing out the annual variations in production and consumption. Most proposals assume publicly held stocks.

Proponents of publicly held grain stocks base their arguments on the inherently unstable characteristics of grain production. They also believe that policy for agriculture should be consistent with policy for other sectors of the economy. The non-farm sector relies on unemployment insurance and various kinds of built-in stabilizers to reduce the effects of industrial unemployment. Likewise, general monetary and fiscal policies are designed and administered to reduce the harmful effects of business cycles.

Main grain producers oppose a publicly held grain stock under present circumstances. They associate government owned stocks with the much lower prices and income of the 1950's and 1960's. They fear government manipulation of stocks to the benefit of consumers at a cost to producers.

The purpose of this bulletin is to present an analysis of stocks policy alternatives. The bulletin includes (1) analysis of the sources of price variability, (2) grain reserves and stabilization objectives, (3) possible alternative stock policies, (4) a discussion of U.S. experience with stocks, (5) a specific proposal for a U.S. held reserve, and (6) a final section on alternatives other than stocks for reducing instability in the system. Proposals are evaluated given the current state of knowledge. Additional research will be required to more fully evaluate consequences. However, embarking on a stocks policy may occur before the research job is completed.

SOURCES OF VARIABILITY

In the past 3 years, the United States has exported about two-thirds of its wheat production, about half of the soybean crop (when oil and meal are included), and about one-fourth of its corn crop. In 1975, agricultural exports exceeded agricultural imports by about $12 billion, thereby contributing significantly to the balance of trade. Even though U.S. grain production is subject to year-to-year variation, exports of this magnitude permit the U.S. a policy alternative few other countries have. The U.S. could stabilize domestic supplies and prices by controlling exports.

Stabilization of U.S. prices through export control has costs and benefits which are difficult to measure. Preliminary work by Shei indicates short-run effects can be measured.[1] But, long-run effects are less certain. Given the productive capacity and efficiency of U.S. grain production, it is important to have access to growing foreign markets. Export earnings are required to pay for imports of oil, minerals, and many other products. Experience indicates that resort to export controls stimulates self-sufficiency programs in other countries. They also encourage importers to diversify their sources of supply. Consequences of these kinds of actions are difficult to precisely ascertain because of their long-run nature. Although a large foreign market is desirable, it is the principal source of price variability in U.S. grain markets.

In the short run, demand for U.S. exports of grain is determined by crop production in other countries, cost of imported grain relative to home produced grain (production costs and exchange rates), and internal price and trade policies followed by the importing countries. Over the long run, population and income growth rates are important. Of all these factors, changes in world grain production and trade policies of other countries account for most of the variation in demand for U.S. grain. In addition to being the major sources of variation, these two are also more difficult to predict than other sources of variation.

Any stocks policy designed to lessen the effects of these variations would need to take into account the year-to-year change in world grain production. One guide to future variation is to consider historical changes in grain production. These changes can be measured in terms of deviations from trend in yields, acreages and/or total production. For purposes of calculating reserve stock alternatives, change in total production is selected as the indicator.

Use of deviations from production trend, however, is subject to several limitations which should be recognized. Acreage variation may be a result of government policy to restrict production. The amount of deviation is a function of the particular trend line which depends upon the years included. As a consequence, alternative periods which might be selected would show smaller or larger deviations from trend production. In this paper, the period selected for calculating the trend was 1960-73, a recent period which includes enough years to provide some indication.

In order to determine the amount of reserves needed to meet various conditions and objectives, a rather detailed discussion of shortfalls in production is presented. Deviations from production trend are presented for world wheat, rice, and coarse grain production (Table 3). World rice production is included because of its significance in Asian diets. When rice crops are short, wheat may be imported as a substitute in the diet, thereby affecting the price of wheat in the U.S.

TABLE 3.—TOTAL WORLD WHEAT, RICE AND COARSE GRAIN PRODUCTION: DEVIATIONS FROM TREND, 1960-73

[In million metric tons]

	Wheat	Rice	Total wheat, rice	Coarse grains [1]	Total all grains
1960	11.6	1.4	13.0	31.9	44.9
1961	−12.2	2.4	−9.8	−1.7	−11.5
1962	8.3	−3.8	4.5	0	4.5
1963	−20.4	2.1	−18.3	−5.2	−23.5
1964	6.6	7.6	14.2	−20.7	−6.5
1965	−13.5	−7.4	20.9	−18.0	2.9
1966	18.0	−15.3	2.7	−3.7	−1.0
1967	−2.1	6.4	4.3	5.2	9.5
1968	20.9	6.6	27.5	−5.1	22.4
1969	−7.2	−1.4	−8.6	3.0	−5.6
1970	−13.6	3.8	9.8	−15.4	−5.6
1971	8.9	3.8	12.7	25.9	38.6
1972	−9.9	−13.0	−22.9	−7.4	−30.3
1973	4.5	6.9	11.4	11.4	22.8
Maximum (−)	−20.4	−15.3	−22.9	−20.7	−30.3
Maximum cumulative (−) [2]	−20.8	−22.7	−22.9	−47.6	−30.3

[1] Coarse grains include rye, barley, oats, corn, and sorghum.
[2] This is the maximum cumulative amount by which production dropped below trend. For example, wheat production in 1969 and 1970 was below trend cumulating a negative deviation of 20,800,000 tons. In some cases for other grains, the shortfall in 1 year may be the maximum cumulative amount.

Source: Steele, W. Scott, "The Grain Reserve Issue," FDCD Working Paper, ERS, USDA, July 1974.

A similar table including wheat and coarse grains is presented for U.S. production (Table 4).

World production

The largest shortfall in world wheat production of 20.4 million metric tons occurred in 1963.[1] Two or more consecutive years of below trend production might require larger stocks than a large shortfall in one year. Therefore, cumulative shortfalls or deviations are also presented. The largest cumulative shortfall for wheat was 20.8 million tons.

The largest shortfall in world rice production was 15.3 million tons. The reduction was concentrated in India. The largest cumulative shortfall was 22.7 million tons.

Coarse grain production, of which corn is the major part, had a maximum shortfall of 20.7 million tons in 1964. Most of this occurred in the U.S. and was a result of U.S. policy to reduce grain production.

For wheat and rice combined, the largest shortfall was 22.9 million metric tons. The largest cumulative shortfall was the same amount. It is interesting to note that the largest shortfall for wheat and rice combined was less than the maximum for wheat plus the maximum for rice. This occurred because shortfalls for each crop are not necessarily associated. A large world wheat crop may occur in the same year as a small rice crop or *vice versa*. This possibility has implications for the size of stock necessary to even out total world deviations from trend.

U.S. production

The largest shortfall in U.S. wheat production was 4.5 million metric tons. This oc-

[1] Shei, Shun-Yi, "The International Trade and Domestic Welfare Impacts of U.S. Wheat Export Controls", Unpub. M.S. Thesis, Purdue University, 1976.

[1] For purposes of this paper, trend production is considered to be the norm. Any drop below this level of production is considered to be a shortfall. A cumulative shortfall may involve one or more years in which production continues below trend.

curred in 1970 (Table 4). The largest cumulative shortfall was 10.1 million tons. A part of this reduction was a result of U.S. policy to restrict domestic wheat production because of large stocks on hand at the beginning of the period.

The largest shortfall for U.S. coarse grain production was 22.3 million tons occurring in 1970. Southern corn leaf blight was a major cause. The largest cumulative shortfall was 28.7 million tons.

When wheat and coarse grains are combined, the maximum shortfall was 26.8 million tons. The largest cumulative shortfall was 31.1 million tons.

World grain imports

Positive deviations from the trend in world grain imports are an indicator of the extent to which importing countries increase their imports in response to production shortfalls. World grain imports increased above trend less than production declined for several reasons. A production shortfall in a major grain exporting country would not increase grain imports rather it would reduce export supply and possibly result in decreased grain imports in total. Importing countries can and do cut back on consumption when crops are short or prices are high due to short crops in exporting countries. Of course, this alternative is less feasible in countries where per capita consumption levels may be near minimum acceptable levels.

TABLE 4.—TOTAL U.S. WHEAT AND COARSE GRAIN PRODUCTION: DEVIATIONS FROM TREND, 1960–73

[In millions of metric tons]

	Wheat	Coarse grains	Total grains
1960	5.3	18.4	23.7
1961	1.0	−.5	.5
1962	−3.8	−2.9	−6.7
1963	−3.3	3.3	0
1964	−.5	−18.9	−19.4
1965	−.6	−1.8	−2.4
1966	−1.9	−5.5	−7.4
1967	2.7	8.0	10.7
1968	3.1	−4.2	−1.1
1969	−1.0	−2.2	−3.2
1970	−4.5	−22.3	−26.8
1971	1.8	16.8	18.6
1972	−1.1	4.6	3.5
1973	2.8	7.2	10.0
Maximum (minus)	−4.5	−22.3	−26.8
Maximum cumulative (minus)	−10.1	−28.7	−31.1

Source: Steele, W. Scott, The Grain Reserve Issue, FDCD Working Paper, ERS, USDA, July 1974.

The largest deviation above trend in world imports of wheat from 1960 through 1973 was 10.0 million metric tons (Table 5). This occurred in 1972. The largest cumulative deviation was 19.0 million tons which occurred from 1963 through 1966.

The largest deviation above trend in world imports of coarse grains was 5.1 million metric tons which occurred in 1973. The maximum cumulative deviation in imports for the period was 9.5 million tons and occurred in 1972 and 1973.

This discussion on shortfalls from trend production permits a preliminary conclusion on the amount of reserve stocks needed on a world-wide basis. If all grains are grouped together—wheat, rice, and coarse grains—and the objective is to provide enough grain to fully make up for the shortfalls in total grain production, a stock of about 30 million metric tons of grain would have been needed over the 1960–73 period. This quantity would have covered the largest cumulative shortfall during the period. An inventory of this size is equal to about 21 percent of the amount of wheat, coarse grains and rice that entered world trade channels in 1974–75.

On the other hand, if the objective were only to smooth out the increases in world grain imports, i.e., have enough grain in stock to provide for import increases which are above trend, the required stock would be smaller. A stock of about 24 million metric tons would be required assuming wheat, coarse grains, and rice as an aggregate.[1] A stock of this size is equal to about 16 percent of total grains which entered world trade channels in 1974–75.

The amount of grain stocks which would be required to offset the annual shortfalls in production and/or deviations in imports under alternative assumptions is presented in the section on "A U.S. Held Reserve".

GRAIN RESERVES AND STABILIZATION OBJECTIVES

The principal rationale underlying the current interest in publicly held grain reserves rests on the goal of greater economic stability. Supporters of reserves are usually explicitly or implicitly willing to endure greater government involvement in agricultural markets in return for enhanced stability.

Precipitious changes in grain prices lead to large shifts in relative welfare between domestic producers and consumers. These lead to great dissatisfaction which could be avoided if prices shifted more gradually in response to underlying economic trends. Changes in grain prices of the magnitude experienced over the past three years contributed to large changes in the production of livestock products with subsequent large changes in their prices. This has been of concern to consumers as well as some producers. There is also concern for the impact of large price variation on foreign consumers, especially those in low income countries.

TABLE 5.—WORLD WHEAT AND COARSE GRAIN IMPORTS: DEVIATIONS FROM TREND, 1960–73

[In million metric tons]

	Wheat	Coarse grains	Total grains
1960	−2.5	−1.4	−3.9
1961	−.9	3.1	2.2
1962	−3.5	1.4	−2.1
1963	7.8	1.3	9.1
1964	.6	0	.6
1965	8.0	2.4	10.4
1966	2.6	0	2.6
1967	−2.8	−2.1	−4.9
1968	−7.5	−5.5	−13.0
1969	−3.3	−4.9	−8.2
1970	−4.7	−3.5	−8.2
1971	−6.0	−.3	−6.3
1972	10.0	4.4	14.4
1973	2.2	5.1	7.3
Maximum (plus)	10.0	5.1	14.4
Maximum cumulative (plus)	19.0	9.5	22.7

Source: Steele, W. Scott, "The Grain Reserve Issue," FDCD Working Paper, ERS, USDA, July 1974.

A related, but different concern is the stabilization of U.S. supplies for both commercial and relief export markets. There is a widespread belief that the commercial export market for U.S. grains would be enhanced by assuring dependable supplies for foreign buyers. This would obviously require some means of shifting supplies in years of above average production to years of below average production. Similarly, the historical pattern of foreign food relief has been too subject to the vagaries of supply—relief has been large when U.S. supplies were large, but small when our supplies were tight. In essence, our relief program has been largely a surplus disposal program. A system of reducing variations in supplies is looked to for partial solution of the relief problem.

Finally, there is a desire to stabilize producers' income. This can be a difficult problem to solve, however, through use of a reserves policy alone because incomes are the product of price times volume. Since the two tend to move in opposite directions, the stabilization of one component while the other is free to vary may not enhance income stability. It may even accentuate instability.

These objectives of a stocks policy are stated in a recent report by the Committee for Economic Development, a national committee composed of some 200 leading business executives and educators. The report states:

"We recommend that the federal government assume the principal responsibility for establishing stockpiles of key foodstuff in the United States large enough to ensure an appropriate degree of stability of food prices, to encourage and take advantage of commercial trade opportunities when they arise, and to assume a fair share of the responsibility for meeting the emergency food needs of poor nations." [1]

POSSIBLE STOCKS POLICY ALTERNATIVES

Several different reserve policies have been proposed. They differ as to who would own and control the stocks. Also the various proposals have different sets of objectives. The following have been proposed:

1. U.S. participation in an international reserve to be held for stabilization of world grain prices. This would require participation by all major grain importing and exporting countries. They would agree to participate in building up a grain stock large enough to stabilize world grain prices. Stocks would be held by various countries with control over stocks exercised by an international body in which all participants would be represented. Costs would be shared by those who benefited from the stocks.

2. U.S. participation in international reserves for international relief purposes only. Organization, ownership and control of stocks would be similar to the first proposal. The quantity of stocks would be much smaller than those required for price stabilization. Costs would not be related to benefits but would be based on ability to play.

3. A U.S. reserve for international relief only. Under this approach, the U.S. would acquire and hold stocks of a size sufficient to meet its commitments to world food aid. The U.S. would decide its annual aid requirements and would bear the cost of owning stocks. The policy would be operated to meet U.S. humanitarian and foreign policy objectives.

4. A. U.S. reserve for stabilization of U.S. prices of grain. The U.S. would acquire and hold stocks of a size sufficient to meet domestic and U.S. export needs. The stocks would be managed to further U.S. interests with cost being borne by the U.S.

5. U.S. privately held stocks only. This would be a policy in which farmers, processors, grain handlers, and exporters hold all stocks without any governmental assistance. Or, it could involve assistance to private firms which would encourage them to hold larger stocks.

6. Some combination of the above.

The U.S. is currently engaged in discussion of an international reserve with the apparent objective of providing grain for relief purposes. This discussion is under the auspices of the United Nations Food and Agricultural Organization.

This paper is concerned with a stocks policy for the U.S. which would contribute to stabilization of U.S. prices of grain. (Alternative No. 4) Because of the dominant position of the U.S. in world grain trade, world grain prices would tend to be stabilized. Such a policy would not preclude participation in an international grain reserve. Also, it would contribute to the objective of having grain available for relief purposes.

U.S. EXPERIENCE WITH STOCKS

The U.S. has built up stocks of grains through price support programs six times in the past 45 years. Stock build-up was not a

[1] All but about one million tons of the shortfall in total grain imports is due to changes in imports of wheat and coarse grains. Rice imports fluctuate very little from one year to another even though rice production may fall as much as 15 million tons below trend (1960–73 period).

[1] Committee for Economic Development, *A New U.S. Farm Policy for Changing World Food Needs*, New York, 1974, p. 27.

result of any deliberate policy of acquiring a stock of any particular size. Nor were stocks in themselves acquired to satisfy any particular set of objectives. Instead, stock build-up occurred due to prices being supported above market prices. Once acquired, stocks were used up as market prices rose above support levels. They were also diverted into food aid uses or were shipped to foreign markets under export subsidy.

Stocks turned out to be useful assets 5 of the 6 times although at the time of build-up, costs of carrying them appeared burdensome. In each case, the available stocks kept prices from rising as much as they would have in the absence of stocks as demand increased sharply or short crops were experienced. But, in each case, the amount of grain which had been accumulated was not sufficient to fully satisfy demands and to keep market prices from continuing to rise once stocks were drawn down significantly. One reason for this may have been the narrow range between acquisition and release prices. In most cases, grain was put back into the market after prices had risen only about 15 percent above acquisition price.

Government held stocks were drawn upon during WWII, the Korean War, during 1965–66 when the monsoon failed in Southeast Asia, and when the U.S. corn crop was reduced in 1970 due to widespread corn blight. They were also used up in 1972–73 when world grain production was reduced and several other factors caused demand for U.S. exports to increase sharply. During the late 1950's (the one case when stocks were not an asset) stocks built up as a result of relatively high support prices and continuation of the output increasing technological revolution in U.S. grain production. These accumulated stocks resulted in large storage costs to the government. In this case, stocks were not reduced until commodity programs were changed sufficiently in the early 1960's to decrease the amount of grain going into storage.

The Agricultural and Consumer Protection Act of 1973 is not likely to lead to accumulation of stocks on a scale comparable to the past although authority exists for acquisition of grain by raising loan rates. The average price received by farmers for corn in January 1976 was $2.44 while loan rates were $1.10 per bushel. Acquisition by CCC loan takeover would require either a significant increase in loan rates or a sharp drop in corn prices. A similar situation exists for wheat. The average price received by farmers in January was $3.43 while the loan rate was maintained at $1.37 per bushel.

The relationship between market prices and loan rates has resulted in a shift of stock ownership away from government to farmers, elevators, processors, and exporters. The quantities of grain they will hold in the future will depend on expected returns to storage, the costs of holding grain, the need for cash for operating expenses and other factors. As stock ownership shifted from government to private firms, larger quantities were being carried in private hands than has been the case historically. Grain price variability and speculative activity which have occurred since 1972 have encouraged private firms to hold grain. It is uncertain whether they will continue to carry larger stocks of grain in future years.

A U.S. HELD RESERVE

Three main questions arise in developing a grain stocks policy which would meet the objectives stated above. They include (1) the size of the reserve and its composition, (2) the set of rules to be used in acquiring and releasing stocks and (3) who would own the stocks. Numerous secondary questions also arise.

Size and composition of reserves

In determining the appropriate size of reserves, it would be possible to consider all grain in the aggregate without specifying any particular composition of the reserve. Wheat tends to be substituted for rice when its production is short. In extremely tight supply situations, corn and grain sorghum may be substituted for rice. Large quantities of wheat are fed to livestock in the U.S., Western Europe and in the USSR. So, it would be possible to hold the total reserve in whichever form grains were available. This, however, would require more shifting around of grain than has historically been the case. Because of various problems anticipated, a distinction should probably be made between food and feed grains. There is reluctance to substitute among food grains as contrasted to the wider range of alternatives open to users of food grains. This suggests that a stock should consist of wheat, rice, and coarse grains.

Some reserve stock proposals include soybeans as one of the grains. It is not included here for several reasons. Many substitutes exist for both soybean oil and meal. Variability of production of soybeans and their substitutes tends to be less than exists for food and feed grains. Also, the U.S. has not had a control policy for soybeans largely because of the relatively elastic demand for soybean products. Soybean production competes for corn and cotton land which means farmers tend to adjust soybean production fairly rapidly in response to changing market conditions. Thus, it appears the shortages and high prices observed in 1973 for soybean meal were a very rare phenomenon with little relevance for general policy formulation.

If stocks were to be accumulated with the intention of fully meeting every anticipated shortfall in world grain production, large stocks indeed would need to be accumulated. They would be larger than those presented earlier if only limited substitution among grains is anticipated.

The maximum consecutive negative deviations from production trends can be considered as cumulative deficits which would need to be made up from stocks if the program had this objective. If all shortfalls in each particular grain had been made up with similar grain during the 1960–73 period, a stock of 21 million metric tons of wheat, 41 million tons of coarse grain and 23 million tons of rice would have been required[1] (Table 6). If the U.S. were to hold this stock, rice needs would probably be held in the form of wheat except for perhaps 1 million tons of rice. With this substitution, 42 million tons of wheat would have been required.

Total annual costs for carrying an inventory of this magnitude are estimated to be $1.41 billion per year (Table 7). This would cover annual storage costs and interest on investment in grain. It would not include costs of administering a storage program nor would it include possible losses from grain going out of condition. It is unlikely that the U.S. or any international organization would be willing to bear the cost. More likely, a lesser degree of protection would be preferable. This would be a policy decision.

If the U.S. were to accumulate and hold stocks sufficient to meet anticipated world deviations from trend with a 95 percent probability that stocks would be adequate, a stock would need to consist of about 29 million metric tons of wheat, 34 million tons of coarse grain and 18 million tons of rice.[2] This assumes a period like 1960–73 and that the U.S. would be the only holder of stocks to meet world grain shortfalls. For the one year in 20 when stocks would not be adequate, they would, however, make up the major part of the shortfall. Total annual cost of holding a stock of this size would be $1,510 million (Table 7). If wheat were substituted for rice, the annual cost would be $1,385 million.

TABLE 6.—ALTERNATIVE RESERVE STOCK LEVELS BASED ON ABSOLUTE DEVIATIONS FROM TRENDS IN WORLD PRODUCTION AND IMPORT DEMAND, 1960–73

	Wheat		Coarse grains		Rice production
	Production	Import demand	Production	Import demand	
	In million metric tons				
95-percent level[1]	29.4	12.4	34.2	7.4	18.3
68-percent level	13.5	5.7	15.7	3.4	8.4
Maximum shortfall, 1960–73	20.4	10.0	20.7	5.1	15.3
Maximum consecutive shortfall	20.8	19.0	[2] 41.0	9.5	22.7
	In million bushels[3]				
95-percent level	1,080	455	1,346	291	672
68-percent level	496	209	618	134	309
Maximum shortfall, 1960–73	749	298	815	201	562
Maximum consecutive shortfall	764	698	1,613	374	834

[1] See text for explanation of probability levels.
[2] Actual consecutive deviation from trend is 47,600,000 metric tons. This was adjusted to account for the reduction estimated to be due to Government action to reduce production in 1964.
[3] Coarse grains in terms of corn equivalent; i.e., 56 lb per bushel. Rice, in terms of wheat equivalent; i.e., 60 lb per bushel

Source: Steele, W. Scott, "The Grain Reserve Issue," FDCD Working Paper, ERS, USDA, July 1974.

[1] An inventory of this size would be equal to about 60 percent of the volume of world grain trade in 1974–75.

[2] Larger stocks of wheat and rice would be required under the 95 percent contingency level than under the maximum consecutive shortfall level. Stock requirements at the 95 percent level are based on a probability distribution calculated from the data for 1960–73. The calculations indicate a larger than actual shortfall could have occurred during the period.

TABLE 7.—ESTIMATED STORAGE COSTS FOR ALTERNATIVE LEVELS OF GRAIN RESERVE STOCKS (OVER AND ABOVE WORKING STOCKS)

Alternative stock to cover	Composition of reserve stock (million metric tons)			Average annual investment (millions)	Total annual cost (millions)
	Wheat	Coarse grains	Rice		
A. Maximum consecutive shortfall	21.0	41.0	23.0	$10,540	$1,580
B. Maximum consecutive shortfall with wheat for rice	42.0	41.0	1.0	9,370	1,410
C. 95 percent contingency level	29.0	34.0	18.0	10,040	1,510
D. 95 percent contingency level with wheat for rice	46.0	34.0	1.0	9,235	1,385
E. 68 percent contingency level	13.5	16.0	8.0	4,625	690
F. ½ the 95-percent level	15.0	17.0	9.0	5,085	760
G. ½ the 95-percent level with wheat for rice	23.0	17.0	1.0	4,705	705
H. Maximum import deviation	19.0	9.5	1.0	3,495	525
I. ½ the import deviation	9.5	4.8	.5	1,755	265
J. None of the shortfalls	0	0	0	0	0

Notes: Cost estimates are based on $2.35 per bushel of corn, $3.50 for wheat and $8 per hundredweight for rice. Annual storage and interests cost were assumed to be 15 percent of acquisition cost. Alternatives A, C, E, and F are included for illustrative purposes only. They are not really viable alternatives for the United States because of the large amounts of rice included. Alternative reserve stocks are over and above working levels of stocks of about 23,500,000 tons. The amount which might be held as stocks under alternative J which assumes no publicly held stocks is not k nown.

If stocks were accumulated with a 68% probability of covering world deviations in production, the required stock level would drop to less than half that required at the 95 percent level (Table 6). Stocks required would amount to 13.5 million tons of wheat, 15.7 million tons of coarse grains, and 8.4 million tons of rice. Annual storage cost is estimated to be $690 million.

During the period 1972–73 to 1975–76, the U.S. provided about 45 percent of all wheat entering the export market. It shipped about 49 percent of all feed grains exported during the period. Based on the dominant position of the U.S. in world grain trade and the desire to maintain a share of the market, a reasonable approach might be for the U.S. to hold one-half of stocks required to satisfy any shortfall 95 percent of the time, assuming a period like 1960–73.

Stocks needed to meet one-half the deviation from trend assuming the 95% contingency level would consist of 15 million metric tons of wheat, 17 million tons of coarse grain and 9 million tons of rice. As indicated above, most of the reserves for rice would need to be held as wheat. Under this alternative, the U.S. might hold 23 million tons of wheat, 17 million tons of coarse grain, and 1 million tons of rice. Total grain reserves would amount to 41 million tons. Annual storage cost is estimated to be $705 million. (Although some would consider it a "reasonable" program, it could be considered as a maximum or upper bound.) This would be equivalent to about 845 million bushels of wheat, 670 million bushels of feed grains and 22 million hundredweight of rice. This would amount to 40 percent of the wheat, 9 percent of the feed grains, and 19 percent of the rice from the 1975 U.S. crops. If a working stock of 23.5 million tons were also held by private firms, the total stock of 64.5 million tons would be equivalent to the average level of stocks from 1963 to 1972 in the U.S.

Yet another approach could be based on deviations from import trends. This would take into account the kinds of adjustments which importing countries have made to shortfalls in production. These adjustments would include rationing out short supplies through higher prices or using grain from stocks or some other means.

For the limited numbers of cases during 1960–1973 when world wheat and rice production was below trend and imports increased as a result, about 53 percent of the gap was closed by imports. When wheat production was above trend, the decrease in imports was 63 percent of the increase in production.[1]

This approach would represent a type of lower bound which might be placed on stocks. The cumulative shortfalls or the 95 percent contingency level could represent an upper bound.

Based on import deviations, a 95 percent contingency level and the U.S. holding half the stock, an inventory of about 9.5 million tons of wheat, 4.8 million tons of coarse grains and 0.5 million tons of rice would be required. This would be equivalent to 349 million bushels of wheat, 189 million bushels of corn and 11 million hundred weight of rice. Estimated annual cost for this alternative is $265 million. Alternative levels of stocks could be determined under other assumptions and objectives.

Summary of size and cost comparison for reserve stocks

Historic shortfalls give some idea of the magnitude of stocks needed to even out grain availability. If prices are allowed to fluctuate over a range, the market would allocate some of the deviation from production trend. Larger deviations would be buffered by stocks. With a fairly wide price range between purchase and release price, private stocks would likely increase above minimum levels. This suggests a buffer stock substantially less than the maximum shortfall.

Table 7 lists the alternative stock levels in descending order of cost. Alternative A, C, E, and F are probably not viable alternatives because of the large amounts of rice included. Remaining alternatives can be listed in 3 groups as to high, medium and low cost. Alternatives B and D have high cost and represent large stocks. If we assume additional working stocks of 23.5 million tons, these two alternatives would represent stocks approximately equal to the maximum U.S. grain stock held in any one year during the 1960–73 period. They might be alternatives for the world, but not for the U.S. alone. Alternatives G and H have medium cost. Stocks of this quantity plus working stocks would approximate the average yearly amount of U.S. stocks held over the 1960–73 period, a period of reasonably stable grain prices.

Alternative I represents a low cost alternative. Price variation would be greater under this alternative, how much greater is unknown. However, variation during the 1972–75 period gives some indication of the amount of variation.

The data on costs of holding stocks are estimates of annual average storage costs over time assuming the stock was always at its maximum. They would vary from year to year depending on the size of the stock. Acquisition and disposal of inventory would result in annual net expenditures or receipts. In some years, the Treasury would generate a surplus by selling stocks. In other years when stocks were being accumulated, there would be a net treasury outlay.

Rules for acquiring and releasing stocks

Throughout the 1960's, the Commodity Credit Corporation acquired stocks primarily through loan take-over. Stocks were put back into the market at about 15 percent over acquisition price. Grain was exported with the help of U.S. export subsidies. Grain was released at less than the prescribed price when it appeared to be going out of condition. Prices fluctuated in a very narrow band since stocks were not completely depleted.

Maintaining prices within a very narrow band requires much larger stocks and/or use of additional control mechanisms. Limiting price movements to a narrow band distorts price signals when underlying forces of supply and/or demand are changing. When production is down, higher prices are needed to ration out the smaller supply and to encourage producers to increase production in future periods. Experience suggests a wider band is needed. Any choice is arbitrary but it would appear that a release price 50 percent higher than acquisition price would meet most of the objectives of a stocks policy without at the same time materially distorting market signals.[2] Likewise, the stocks agency would be less involved in the market over time as compared to following a policy of maintaining prices in a narrower band.

A procedure would be needed for adjusting the upper and lower bounds in response to changing economic conditions. If stocks accumulated in excess of the desired quantity, acquisition prices would need to be lowered. Likewise, if stocks were drawn down too rapidly or frequently, the upper bound would need to be increased. Ideally, the bounds would center on the long or intermediate run equilibrium level of prices.

Several proposals have recommended a quantity rule rather than price rules for acquiring and releasing stocks. A quantity rule based on variations in world grain production ignores changes in demand. It more or less assumes no response to price. Operationally, price information is more current and more readily observable than quantity. Quantity tends to be known only after the fact. Furthermore, price changes represent a consensus of many people about current and future supply and demand conditions.

Because of the need for adjusting the upper and lower price bounds, it may be more appropriate to use a combination price-quantity rule.

Rules for acquiring, disposing, and managing stocks would need to be developed and announced to producers and world buyers. Because of the tendency for manipulation of rules to attain short run political objectives probably a minimum of discretion should be left to the administrators of the program.

The main reason for stocks is to reduce uncertainty among the participants in the market under the assumption that this will increase efficiency of production and consumption. Unless adequate rules and safeguards are developed and made known to all participants, the system itself and those who control it become a source of uncertainty. Conceivably, this could become a larger source of uncertainty than the underlying forces which bring a stock policy into being.

There are disadvantages, however, of a publicly stated set of rules. A U.S. owned stock operated with a set of rules known to all would enable other countries to come in under the umbrella and perhaps manipulate the system to their advantage. Other exporters could sell grain in the world market just slightly under U.S. release prices which would tend to make the U.S. a residual supplier. However, this type action would not be counter to the overall price stabilization objective.

Problems of potential manipulation by the rest of the world would probably lead to greater interest on the part of the United States participating in an international grain reserve.

Who would own the stocks?

Stocks could be publicly or privately owned. The principal reason for a publicly owned stock is that if stock ownership is left in private hands, stocks would be too small to meet social objectives. To the extent that private individuals and firms are risk averters and have higher discount rates, this would be true. It has been argued that private firms would hold ample stocks if trade among nations were relatively free and not subject to government restriction and manipulation. In the imperfectly competitive market in which world grain trade takes place, a publicly held grain stock may serve the purpose of reducing more harmful governmental intervention of other types.

Private firms could be persuaded to hold larger stocks through appropriate government incentives. These incentives could be in the form of subsidized interest rates for construction of storage facilities and for covering the cost of carrying grain. Larger stocks held exclusively in private hands, however, would not necessarily reduce uncertainty in the market. If wide price bands are used, the opportunity for more private speculation would be present.

One of the objections to a privately held stock is that the stocks agency would not have sufficient control over stocks and could not call on them in time of need. This could be overcome somewhat by making loans only

[1] These calculations are deviations from production trend of world wheat and rice production combined but exclude wheat production for wheat exporting countries. For imports, deviations are from trend world wheat imports.

[2] The Committee for Economic Development recommended that sales from the stock pile should not usually be made at prices less than twice the price at which stocks were acquired, p. 27.

to those who would agree to deliver grain when it was called. A producer could be obligated to turn grain over to the agency when prices rose to the release price or be required to market the grain. In either case, grain would be moved out of stocks and into marketing channels.

Regardless of whether stocks are publicly owned or privately owned under government administration the question of who controls their acquisition and release is of great importance. One way to guard against manipulation of stocks for short-run political objectives would be for the Congress to establish a set of rules for operating such a program. Perhaps administration of the rules could be assigned to the Federal Reserve Banking system. The Commodity Credit Corporation would be another possible entity. However, if the CCC were to be assigned the responsibility, it would be necessary to restructure the organization so it would be less subject to political manipulation than it has been in the past. Under any system, rules could be changed only by the Congress.

How would initial stocks be accumulated?

With acquistion and release prices set in a wide band around a correctly estimated long run equilibrium price, it might be several years before any stocks were acquired. In this case, if a more rapid build-up were desired, the agency could announce a purchase price above the "normal" acquisition price prior to planting time and then agree to purchase up to a specified amount of grain.

More emphasis may be placed on the food security objective than on the price stabilization objective of a stocks policy. If security is the primary objective, it would be necessary to rebuild stocks before prices dropped to the acquisition price. As soon as grain were released from stocks, the agency could announce it would purchase a specified quantity at a price above the normal acquisition price. This would stimulate production for stock replenishment.

Who would benefit from stocks?

While stocks are being acquired, grain producers would benefit through higher prices. Consumers would pay higher prices as a result of acquisitions. Consumers would gain from the stability provided by stocks but would pay the cost of holding buffer stocks through their tax payments. Foreign buyers would gain from stability provided by the U.S. with the U.S. paying the costs.

It would be possible to get foreign buyers to share in the cost of holding the stocks by applying an export tax to grain released to the world market from the stock.[3] This would not mean that a tax would apply to all grain exported. Rather, it would apply only to sales from the stock or when grain prices were above the stock release price.

Farmers that can survive price fluctuations tend to gain less from stable prices relative to highly variable prices. On the other hand, there are some offsetting gains to farmers provided by expansion in foreign demand. Long run export growth would be enhanced to the extent that U.S. stocks discourage other countries from engaging in subsidized self-sufficiency programs or look to non-U.S. sources of supply.

STOCKS ARE NOT THE ONLY ALTERNATIVE

Greater stability in U.S. grain prices could be attained through freer trade in other countries. Policies followed by other countries include internal control of prices through price support programs coupled with regulation of imports and exports of grain. Policies of this type force a disproportionate adjustment to changing world demand and supply conditions on those countries which attempt to follow a "free" market for grain. "Remedies" to this situation would require vigorous negotiation over trading relationships among nations. Negotiations would need to include some coordination of internal farm policies.

Improved communication about world market conditions enables the market to work more efficiently. The current export monitoring system should prevent future "surprises" in the market. However, even with this information, the producer is left with uncertainty as to what government will do when proposed purchases are larger than automatically approved limits.

Another alternative would be to follow the pattern set by most other countries of the world. That would include use of import restrictions, price supports, export subsidies and use of export controls. This alternative would represent substantial governmental intervention into the market.

A stocks policy is an alternative which will contribute to stabilization, but it has costs which are not borne equally by everyone. Prospects for more liberalized trade in the current political and economic environment appear dim in view of current protectionist tendencies. The public propensity to intervene in the market when swings become too large does not seem to be diminishing. Since U.S. farmers have an important stake in maintaining export markets and forestalling inefficient self-sufficiency programs in other countries, they may come to see a stocks policy in their interests if adequate safeguards can be built into it. If such a stocks policy facilitated development of foreign markets and at the same time stabilized domestic demand for grain for livestock feeding, producers as well as consumers could benefit.

A stocks policy would not be a complete policy for the food and agricultural sector. Consumers would probably still push for some protection against sharply higher prices when grain prices exceeded the upper bound. This would likely be in the form of price controls or export controls. Producers would likely need protection against prices below the lower bound. This could be in the form of direct payments or some form of supply control. An appropriately designed stocks program should result in only infrequent use of these types of emergency programs.

A GRAIN RESERVE PROGRAM—STATION BULLETIN No. 137

(By B. F. Jones)

SUMMARY AND CONCLUSIONS

The primary purpose of this publication is to describe and analyze a specific grain reserve program. If society does desire to publicly hold grain reserves, the program described here provides a workable choice. The publication does not advocate *a* solution to the grain production instability problem but is designed to promote informed debate on program alternatives and trade-offs.

A stock of 30 million metric tons of grain held by the U.S. could be used to stabilize world grain consumption and world trade in grain around the trends which occurred from 1960 to 1973. Grain stocks would be acquired according to a prescribed set of rules and would not be accumulated beyond 30 million tons initially. (A growth factor would need to be built it.) Stocks would be returned to the market when world grain production dropped below trend according to a set of price release rules. The stock would be built back to its maximum size in the following crop year or sooner if market prices dropped below prescribed acquisition prices.

The stock would consist of 700 million bushels of wheat, 375 million bushels of feed grains and 1 million tons of rice.[1] Operation of the program would have an effect on grain prices. Grain prices would tend to be more stable than during the 1972–75 period, but would likely be less stable than during the 1960's. Prices would fluctuate since a relatively wide band is proposed between stock acquisition and release prices. This would permit market prices to continue to perform the functions of rationing grain to its various uses and guiding resource allocation by producers.

A Federal Board is proposed to acquire grain and administer its acquisition and release under a set of rules prescribed by Congress. It is anticipated that these procedures would insulate the stock from possible manipulation for short-term political considerations. Rather than hold the grain itself, the Board could administer a stock which was in the possession of farmers and the grain trade. This could be facilitated through storage payments to those who hold the stocks. Acquisition and release of stocks would need to be under control of the Board.

The stock program has the objective of insuring that grain will be available to even out variations in grain supplies as a result of fluctuations in world grain production. It is not designed to remove all price fluctuations or stabilize U.S. farm income. Price and income support, if considered to be necessary, would be a separate program operated according to its own criteria even though the various programs and objectives may be interrelated.

Any program, if it is to endure, must be logically consistent and economically feasible. It is believed the program presented here meets these criteria. Since the proposal involves trade-offs among various groups in society, it may or may not be politically acceptable; no attempt has been made to evaluate this aspect of the proposal. It is anticipated that the bulletin will be of use to policymakers and persons likely to be affected by the program as they evaluate various proposals and to students of agricultural policy.

OBJECTIVES OF THE RESERVE

The principal objective of the reserve stocks program described here is to use grain storage to compensate for the year-to-year variatons in world grain production. This would require putting grain into storage when production is above trend and releasing it when production is below trend. The program would be designed to operate as a type of insurance program which would assure that grain supplies will be available when crops are reduced below trend because of unfavorable weather or other unpredictable events.

The quest for stability in the food sector can focus on either supply availability or on prices. Prices reflect underlying demand as well as supply conditions. Various means for stabilizing prices would not necessarily make grain available to compensate for year-to-year variations in production. Price controls set at low levels would stabilize prices at least for a time, but rationing by some other means than price would be necessary. In addition, price ceilings would not make more grain available, in fact, over time they would tend to have the opposite effect. Export controls would keep domestic prices from rising, but would restrict supplies available to foreign buyers at the very time price signals are indicating more, not less grain is needed.

Wide price fluctuations signal to consumers

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[3] Under present rules, such a tax might be unconstitutional.

[1] Feed grains assume corn equivalent.

that underlying demand or supply conditions have changed. Declining stocks create fears of running out of food. No matter how unwarranted such fears may be in the U.S., they indicate a concern over food security. If for no other reason than this concern, the food security and price stabilization objectives of a grain reserve program should be separated for analytical purposes in order to clarify the policy issues involved.

Ideally, all countries of the world which buy or sell in world grain markets would participate or share in the cost of the storage program in proportion to the benefits they would receive. However, if it is not possible to secure participation of other countries on a world-wide basis, it may be in the interest of the U.S. to establish a reserve program because of its dominant position in world wheat and feed grain markets and its interest in retaining those markets.

In 1974–75, the U.S. supplied 44 percent of all wheat and 55 percent of all feed grains which entered foreign markets.[2] Because of large stocks of grain available in 1972 and the capacity to rapidly expand its production in subsequent years, the U.S. has increased its share of the export market from 29 percent of the wheat and 38 percent of the feed grain entering foreign markets in 1971–72.

This program is not designed to function as a food aid program. It is anticipated that the financing of food aid programs to benefit low income countries would be operated outside this program. With outside financing available grain would be released to the food aid agency from the reserve under the same set of rules (presented in a subsequent section) which apply to other potential users.

Furthermore, the reserve program is not designed to stabilize U.S. farm income nor put a floor under farm prices. If the stock is managed to satisfy food security objectives and is not permitted to accumulate beyond a specified size as is being suggested in this publication, market prices could decline below stock price acquisition levels.

A separation of the food security and price-income objectives would permit operating two programs, each according to its own criteria. This approach would avoid excessive accumulation of stocks, an argument frequently made in opposition to a grain reserve program. The stocks program would, however, play a significant role in price stabilization as long as stocks were greater than zero and less than the maximum size.

SIZE AND COMPOSITION OF THE RESERVE

A maximum stock of 30 million metric tons of grain would have been sufficient to compensate for all shortfalls in world grain production which occurred over the 1960–1973 period when all the major grains are considered as an aggregate.[3] This is equivalent to 1.2 billion bushels of wheat and would be equal to about 21 percent of the amount of wheat, coarse grains and rice that entered world trade channels in 1974–1975. When wheat, coarse grains and rice are grouped together, the required stock is smaller than might be expected from analyzing annual production changes for individual commodities. This is because production changes tend to average out on a world-wide basis. A small wheat or coarse grain crop may occur in the same year as a large rice crop or various other combinations may occur which cause the total world shortfall to be less than the shortfall in one particular grain.

Since wheat and rice tend to be substitute food grains, and wheat and feed grains are substitutes to a lesser degree, the stock could consist of 30 million metric tons of whichever grains were most plentiful at the time of acquisiiton. This lack of concern over composition of the stock would be feasible if free trade existed among countries and grain were free to move to where it was needed. Because of the many inflexibilities which exist in world grain production and trade, it would probably be necessary to specify a mix of commodities. The mix might vary within set limits depending upon which grains are most plentiful when stocks are being accumulated.

The mix of grains could be determined from year-to-year changes in world imports. Over the 1960–73 period when world grain production dropped below trend, a part of the shortfall was made up by increased imports. The record of deviations from the trend in grain imports suggests a mix of 700 million bushels of wheat, 375 million bushels of feed grains and 1 million metric tons of rice.

Although a stock of 30 million tons of grain would have been sufficient to compensate for the annual production shortfalls for the 1960–73 period, a larger stock would be required for the future because of the growth trend in production and world trade in grain. It is recommended that the storage stock grow from the initial target level at the same rate as the annual increase in grain production.

The stock level of up to 30 million metric tons under the control of the Board would be in addition to stocks held privately by farmers and the grain trade.

Although the prices of soybeans and their products have been more volatile than the price of grain during the 1972–75 period, it is not anticipated that the stock would include soybeans. A wide range of substitutes exist for both soybean meal and oil. Soybean production competes with both corn and cotton production. This permits farmers to rather quickly adjust soybean production to changing market demands.

In summary, a stock of 30 million tons of grain would be acquired for food security purposes. Additional grain would not be acquired by the Agency beyond the 30 million tons even though market prices might drop below the acquisition price.

WHO WILL CONTROL THE RESERVE?

Different groups in society are likely to have different perceptions of how stocks should be used for attaining food security. Thus conflicts over use of the stock would likely arise. Actions of the stock agency would tend to raise prices when grain was being accumulated but would tend to reduce prices when grain was being released. The need for an even-handed set of administrative rules suggests the stock should be under the control of a Federal Board appointed by the President subject to approval by the Congress. This would be a semiautonomous Board similar to the Federal Reserve Board.

Rules under which the Board would operate for acquiring and releasing grain should be specified by the Congress subject to periodic review. A change in the rules would require an act of Congress.

Although the Commodity Credit Corporation has over 40 years experience in administering commodity programs it is currently organized for other purposes than assuring food security. Questions might be raised as to whether it could be sufficiently insulated from short-run political considerations. Therefore, a new Federal Board would be preferred or a major reorganization of the CCC would be required with a wider range of interests represented on its board of directors than are included at present.

The reserve could be either publicly owned by the Board or it could be left in the hands of producers under the control of the Board. In the latter case, the Board would need to have sufficient control over the grain or have an appropriate set of incentives to fully control its acquisition and release.

OPERATING RULES

Although the objective of the program is to provide food security through acquisition and use of a 30 million ton stock of grain, price rules would be established for acquiring and releasing the grain. Ideally, this price range would be related to the long-run equilibrium price of grains. This would avoid excessive stimulation to production but would encourage production for stock accumulation. The acquisition price would need to be high enough to draw grain into the stock. In view of 1976 prices and production costs, acquisition prices for corn might be set at $2.50 per bushel for corn and $3.75 for wheat.[4] Prices are assumed to be average prices received by farmers for specified grades of grain, e.g., no. 2 yellow corn at local markets. Release prices would be set 50 percent higher than announced acquisition prices. This would be $3.75 for corn and $5.62 for wheat. Acquisition prices would be adjusted each year. One way to keep acquisition prices related to changing market demand and supply conditions would be to tie them to a 3- or 5-year moving average of market prices.

An alternative procedure for adjusting prices would be to tie acquisition prices to the cost of production. Because of many possible problems associated with this approach, including the fact that it does not take into account changes in demand, the approach of relating them to a moving average of market prices might be preferred.

Because the emphasis is on food security, price rules would be modified by a quantity rule. When the stock level was less than one-half the target level of 30 million tons, the acquisition price would be raised by 25 percent over the "basic" acquisition price. When stocks reached the half-way level, or 15 million tons, the acquisition price would be lowered to the "basic" acquisition price. This acquisition pricing procedure would recognize that stocks have a declining marginal value to society as more stocks are accumulated.[5]

Suggested acquisition and release prices are shown in Table 1. It would be up to the Congress to make the final decision on price levels.

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[2] Foreign Agricultural Service, U.S. Dept. of Agriculture, *Grains*, FG 5–76, March 1976 and FG 23–74, November 1974.

[3] An analysis of grain shortfalls during the period 1960–72 is reported in Station Bulletin 124 by Jones, *op. cit.* The bulletin also considers stocks of different sizes to meet alternative objectives, whereas this paper considers only one particular alternative.

Agriculture, *Grains*, FG 5–76, March 1976 and as maximum acquisition prices. The Board would make its purchases at the market or acquisition price, whichever was lower.

[5] Economic theory would suggest that the acquisition price should be a continuously declining function of the size of the stock. Operationally, this appears to be less feasible than a single, two-level acquisition price schedule. Under the continuously declining schedule, producers would be less certain of the price they would receive for grain going into the reserve.

TABLE 1.—SUGGESTED STOCK LEVELS, ACQUISITION AND RELEASE PRICES

[Dollar amounts per bushel or hundredweight]

Grain	Desired stock level	Acquisition prices: Basic level	Acquisition prices: When stocks are less than ½ desired level	Release price
Wheat (million bushel)	700	$3.75	$4.69	$5.62
Corn (million bushel)	375	2.50	3.12	3.75
Rich (million hundredweight)	22	11.50	14.38	17.25

It is unlikely that the Board could correctly estimate the long-run equilibrium price for grains. The stock would tend toward depletion if the release price is set too low; the stock would tend to be always at the maximum if prices are set too high. In order to avoid either extreme, the Board would have responsibility for adjusting the basic acquisition price each year.

The enabling legislation could specify that acquisition prices be related to a 3- or 5-year moving average of prices. In this case the Board would simply do the necessary calculations and adjust the acquisition and release prices each year. Prior to the planting season, the Board would need to announce acquisition prices and indicate expected purchases.

As soon as stocks are released, the Board would announce their release. This would be the signal to producers that the Board would stand ready to acquire grain to replenish stocks from the next crop year or sooner if prices dropped to acquisition prices during the current crop year.

Rules would need to be established for determining what proportion of the stocks are to be ready in any one year. If the size of the stock is currently estimated and a relatively large difference between acquisition and release prices is maintained, the stock agency should stand ready to release the entire stock when market prices are above the indicated price.

As indicated above, management of the stock should not be used to meet farm income or commodity price objectives. Rather, the stock program should be looked upon as a means of assuring food supplies. Other more appropriate means should be used for providing farm income and price stability.

WHO SHALL HAVE ACCESS TO RESERVES?

Grain stocks would be released to the market only when prices were above established release prices. When grain prices are above the release price and grain is being sold from stocks, any domestic buyer would have access to the stock. Since identity of the grain would not be maintained once it is released to the market, foreign buyers would also have access to the released stocks.

The reserve would not be used directly for food aid purposes. Indirectly it could be when market prices were above the release price and grain was moving from storage stocks to the food aid agency or any other participant in the market. When market prices are below the release price, the food aid agency would purchase grain needed for aid purposes in the market.

Management of stocks would likely require selling grain which was in danger of going out of condition, in fact a systematic rotation of stocks would probably be required. In such cases grain could be sold at less than the released price. The released grain would be replaced at the prevailing market price.

HOW SHALL COSTS BE SHARED?

If the stock is publicly owned, all taxpayers would be contributing to the cost of holding the stock. Initial acquisition of the stock would require an investment of about $4.3 billion when grain is valued at prices included in Table 1. An upper limit on overhead costs of the program would be about $700 million (Table 2). Annual overhead costs would include interest on investment in grain valued at acquisition prices and annual charges for grain storage. Experience of the Commodity Credit Corporation suggests an annual administrative cost of $45–50 million.

On the average, the annual budget needs of the Board would be less than $700 million—about $300 to $500 million—because of the profit margin made on each bushel of grain purchased and eventually sold by the Board and because the average size of the stock would be less than the maximum size. But the budget needs of the Board would vary considerably from year to year. Positive cash balances would be generated in years of substantial sales. In other years budget needs could exceed several billion dollars when substantial stock purchases needed to be made. If the entire stock were acquired in one year an investment outlay of about $4.3 billion would be required.

TABLE 2.—*Estimated Annual Overhead Costs When Stock Levels are at the 30 Million Metric Ton Level*

	Million
Interest on investment in grain	$430
Annual storage charge for facilities	222
Administrative expenses of the board	50
Total	700

Users of grain from stocks, including foreign buyers, would be paying a share of storage costs. Taxpayers would incur only the net cost of operations of the Board.

CONSEQUENCES OF THE PROGRAM

Thirty million metric tons of grain held by the U.S. would help stabilize world grain consumption around the trends which occurred from 1960 to 1973. Availability of stocks would permit U.S. trade to expand as world shortfalls occurred.

Consumers of grain, i.e., the domestic and foreign consuming public and livestock producers, would be the principal beneficiaries of the stocks because they would be assured of a supply of grain at all times. Fear of running out of grain due to unpredictable annual variation in supply would be diminished.

A grain reserve held by the U.S. with the objective of food security would facilitate holding and perhaps expanding U.S. export markets. Use of export controls or fear of low inventories encourages foreign buyers to promote self-sufficiency programs and to develop alternative sources of supply. Although it is difficult to precisely determine the long-run effects of such activities on U.S. exports, analysis of current and past agricultural production and trade policies of other countries, particularly Western Europe and Japan, indicate food security is frequently an important factor in policy development.

A U.S. grain reserve held for security purposes would tend to reduce price and quantity uncertainties in grain markets which contribute to increased speculation in grain markets. Price speculation in grain markets does perform a useful function in grain maketing. However, the process of trial-and-error by which markets arrive at the correct price to ration out very small supplies can entail costly errors.

The program would facilitate giving of food aid to meet humanitarian objectives as grain would be available from storage via the market when shortfalls occur. Appropriation of funds to pay for aid would be more likely if grain were available from public stocks.

Foreign buyers would stand to benefit as well as domestic buyers. For this reason, it would be desirable to get international financial support from buying nations to contribute to the net cost of the program. Foreign buyers would be contributing to gross costs of running the program when the Board was making sales. The contribution would be indirect through export purchases which raised prices and triggered grain to be released from the stock.

Although consumers would appear to be the principal beneficiaries of the program, grain producers would benefit when grain was being acquired. On the other hand, producers would forego higher prices when grain was being released. But they would benefit by being able to hold foreign markets. In the long-run, grain producers might find the program useful in forestalling more harmful ad hoc programs hastily adopted, such as recent moratoriums on grain sales, to deal with fluctuating production and prices.

The reserve stock would contribute to more stable grain prices in the U.S. than existed in the 1972–75 period. Because of the U.S. position in world grain markets, a U.S. owned stock would add stability to world grain prices. More stable domestic grain prices would tend to stabilize domestic livestock production.

The costs and benefits of a storage program involve a number of economic relationships and assumptions which include values and beliefs held by society with respect to greater security rather than widely fluctuating prices. These intangible costs and benefits need to be taken into account in further analysis of such a program in the formulation of a public decision on a grain reserve program.

Mr. BAYH. Mr. President, the individuals who have contributed to these publications deserve to be applauded for their efforts; aside from Professor Jones, these people are: J. C. Bottum, P. L. Farris, G. L. Nelson, J. A. Sharples, and R. L. Walker. Three individuals offered review comments: Emerson Babb, Otto C. Doering III, and T. Kelley White, Jr.

Mr. President, I have had occasion in the past to call on Professor Farris, Professor Jones, and other members of the Purdue faculty for their opinions and analyses of agricultural policy. They have responded most generously with their time and expertise. Their assistance has been invaluable to me. The type of indepth, objective, and thorough research and analysis made available in Bulletins 124 and 137 is sorely needed to enable us to address constructively the problems of domestic agriculture and world hunger.

In the past I have advocated establishment of a strategic grain reserve, which I have characterized as a "national food savings account." The main purpose of a strategic reserve is to stabilize prices by protecting farmers from income depressing surpluses and from dumping, and to protect consumers from shortages which push prices out of reach. A vast amount of careful evaluation is needed to determine which type of reserve will best serve the interests of both farmers and consumers. The two publications which I have inserted in the RECORD today are an important contribution to that ongoing evaluation.

VIETNAM U.N. MEMBERSHIP

Mr. STEVENSON. Mr. President, we have learned in the morning papers that the President has instructed our Ambassador to the United Nations to cast a veto in the Security Council against the application by Vietnam for membership in the U.N. I suppose we must accept that the die is cast and that no amount of urging—at least not by individual Members of this body—will bring about a reversal of this short-sighted decision. But I must put myself on record that I do regard a veto as bad policy. It is actions such as these that are depriving us of the position of leadership which we once enjoyed in world councils, the U.N. included.

A veto is wrong because it is inconsistent with our own previously declared policies.

It is wrong because it will set back our objective of obtaining a full accounting from the Vietnamese Government for the missing-in-action.

It is wrong because it will isolate us totally on this issue from the rest of the U.N. membership, including our staunchest allies.

It is wrong because it will be perceived by all nations as an act of an administration imprisoned by domestic politics, more concerned with the ballot box than with its responsibilities as a great power.

Last year we cast a similar veto on the grounds that South Korea had been rejected by the Security Council and that we could not accept the principle of "selective universality." We proclaimed, however, our support for the principle of universality at that time. This year South Korea is not asking to be reconsidered for membership. Stripped of that handy excuse, we are now apparently no longer in favor of universality and are insisting upon criteria which are wholly related to our own personal quarrel with Vietnam. This is the sort of behavior which we would self-righteously denounce if it were exercsed by another permanent member of the Security Council, such as the Soviet Union. In fact we have done so many times.

I deplore the manner in which the Vietnamese have used the MIA issue for their own bargaining purposes. It is an act of cruelty directed at individual American families. The exchange of communications with the Secretary of State, on its face, shows that the Vietnamese hope to trade bodies for economic aid, which shows on their part a deplorable misunderstanding of the American political process. But are we not being equally callous toward the families of the MIA to shut the door so firmly in the face of a clear Vietnamese willingness to discuss the matter? Shutting the door to U.N. membership is hardly a response calculated to produce additional MIA accounting.

Mr. President, our veto of Vietnamese membership last year was followed by a resolution in the General Assembly in which 123 nations voted to have the Security Council reconsider the Vietnamese application favorably. Not one member voted against this resolution. Not one. We ourselves chose to abstain rather than vote against virtually the entire membership of this world body. This political use of the veto sets a serious precedent for blocking membership which one day may be cited in support of actions which we would oppose. This failure to accept the basic principle of universality may make it more difficult for us to defend Israel against continued attacks to banish that brave nation from the General Assembly.

Mr. President, it is time to reassert American leadership, to show ourselves as a great nation capable of rising above the disappointments of past failures such as the tragic and disastrous venture in Southeast Asia, capable of moving, in concert with our friends and allies, toward peaceful solutions of the world's tensions and ills. The veto about to be cast will be seen by those we hope to lead as mean-spirited and petty. I hope we shall soon have seen the last of such narrowminded policies.

Mr. President, I ask unanimous consent that a letter dated September 9 from Senators HATFIELD and MCGOVERN to the Secretary of State be printed in the RECORD at the conclusion of these remarks. While I might hesitate to characterize the Vietnamese release of 12 names as a "good will gesture," I concur in the authors' conclusions.

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

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., September 9, 1976.

Hon. HENRY A. KISSINGER,
Secretary of State,
U.S. Department of State,
Washington, D.C.

DEAR MR. SECRETARY: With the question of Vietnam membership in the U.N. coming up for debate in the United Nations Security Council as early as September tenth, we think it is time now for the United States to demonstrate a sensible commitment to a future of friendly relations with Vietnam. As you stated almost a year ago, the United States should be prepared to respond positively to any sign of good will and understanding by the Vietnamese on pressing issues of humanitarian concern.

The move by Vietnam Monday in confirming that twelve Americans previously listed as missing were killed in action is precisely the kind of gesture on the issue of MIA accounting that the U.S. government has been seeking. It is clearly a response to your own desire, expressed only last week, for concrete progress on an accounting. In that statement, you implied that such a move by Vietnam would prompt the U.S. to refrain from vetoing its membership in the United Nations. Indeed, the New York Times reported on September first that sources close to the Administration were "speculating that the United States attitude may depend on a last-minute signal from Hanoi holding out hope for progress in efforts to settle the problem of Americans missing in action".

We hope that you will recognize that Vietnam has made a good will gesture and has done so in response to a specific U.S. demand for progress on an accounting. If the U.S. does not reciprocate, at least by acquiescing in Vietnam's membership in the U.N., it would represent a rigidity toward Vietnam which could only do harm to U.S.-Vietnamese relations at a time when there is a chance to begin negotiations looking toward resolution of the MIA accounting problem. It might reduce the possibility of any future such gestures of good will by Vietnam.

Membership in the U.N. has traditionally been the right of every sovereign state. The vote of one hundred twenty-three to zero in the General Assembly last September rejecting, in effect, the U.S. veto of Vietnam's membership indicates how completely isolated the United States has been in connecting the questions of MIA accounting and United Nations membership. But regardless of the wisdom of that linkage, the Vietnamese gesture makes it even more incumbent on the U.S. side to show its good will by refraining from exercising the veto once more.

Sincerely,

GEORGE MCGOVERN.
MARK O. HATFIELD.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976

The PRESIDING OFFICER. At this time, in accordance with the previous order, the Chair lays before the Senate the unfinished business, which the clerk will state.

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.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HATHAWAY. Mr. President, I ask unanimous consent that John Craford be granted the privileges of the floor during the consideration of the pending bill.

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

Mr. HATHAWAY. Mr. President, I believe the Senator from Iowa is about to propose an amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE UNITED STATES AND VIETNAM

Mr. MCGOVERN. Mr. President, I regret very much the decision announced

in the press today that our Government has decided to deny Vietnam admission to the United Nations. This decision, it seems to me, is based on a fundamental misunderstanding of the function of the United Nations organization. That body was never intended to be a union of nations that agree with each other. It is an international forum composed of nations of widely varying views and conflicting philosophies, but a forum which can serve as a structure for the discussion, the debate, and the possible settlement of disputes such as the Vietnam issue.

If we are seriously interested in pursuing more information about Americans missing in action in Vietnam, and I think we are serious about that, the best way to proceed is by restoring normal diplomatic relations with Vietnam. That is the way countries do business with each other. The United Nations is one forum through which nations can pursue matters at issue.

The Vietnamese have repeatedly indicated their willingness to pursue the MIA issue and other obligations of the 1973 Paris accords. They have not proceeded, obviously, as rapidly as we hoped they would. It seems to me we are not going to expedite the process but would do just the opposite by attempting to isolate them diplomatically from the world community.

We should cease our contention that the Paris accords of 1973 are no longer operative and begin the process of regular diplomatic and economic relations with Vietnam.

Mr. President, it strikes me as something of a paradox that we are pressing our claim for more information about the Americans missing in action under the agreement that was signed in Paris in 1973 and at the same time the Secretary of State and others are announcing that that agreement is no longer binding and no longer operative. I think we are arguing against our own case when we take the position that the Paris accords, signed in 1973, no longer have any validity because it is under those accords that the Vietnamese agree to provide a full accounting of Americans missing in action.

We have an opportunity, by opening up diplomatic relations with Vietnam and approving their admission to the United Nations, to encourage greater political independence on the part of this new country which has been unified, North and South, within the last year. We have an opportunity to pursue profitable trade, which is in the interest of ourselves and of the people of Vietnam, and we have the opportunity to secure a greater exchange of information on all matters by normalizing our relations with this country with which we were once at war. It is not in our interest, no matter how narrowly defined the matter of self-interest, to abandon Southeast Asia to the commercial and political interests of China, Russia, and other foreign powers.

On what basis do we assume that it is in the American national interest to leave the people of Southeast Asia with no place to turn for trade, for commerce, or for political support other than to the countries in that area?

When my wife and I visited Vietnam early this year, as a part of a trip authorized by the Committee on Foreign Relations of the Senate, we were told by Premier Pham Van Dong, Madam Binh, and other Vietnamese leaders that they would open the way for those American citizens who had been left behind in Vietnam to leave. They assured us that they would pursue the MIA question, and when I suggested that at the very least they could verify the names of those young men that they knew to be dead, they indicated they would follow that course. They pledged that they would immediately return the bodies of two Marines who had been killed in the final evacuation of Saigon. They indicated that they still regarded the Paris Accords as a valid and binding agreement, and that they were eager for economic and diplomatic relations with all nations.

Mr. President, you do not have to be an apologist or a defender of Vietnam to recognize that they have acted, at least in part, on all of those assurances that they gave us earlier this year. Surely the United States is a strong enough and great enough Nation to do no less. Let us not forget that no matter how much we suffered in Vietnam—and God knows we suffered enormously—we inflicted infinitely more suffering and destruction on the people of Vietnam, Laos, and Cambodia. No one can visit those little countries without becoming painfully aware of the enormous toll that was taken from the bombardment we delivered there. So we have some unfinished diplomatic and moral obligations in Southeast Asia.

I realize that this is an election year, but I would hope that common sense and decency do not have to disappear entirely every time we have a Presidential election.

Secretary Kissinger and President Ford deserve credit, and I think great credit, for their efforts, however belated, to resolve the explosive situation in South Africa. They deserve credit for the strenuous efforts to encourage an amicable settlement in the Middle East. They can demonstrate equal wisdom by keeping open the path to normal relations with such other trouble spots in the world as Vietnam, Cuba, and Korea.

Let me conclude, Mr. President, by saying that I am grateful that President Ford has named me as one of the American delegates to the United Nations. I realize that what I say here today puts me at odds with the official American position, and that I cannot utter sentiments of this kind in the United Nations itself as a delegate from the United States; but speaking as a Senator, as a Member of this body and a member of the Committee on Foreign Relations, I wanted to enter my strong dissent against the announced decision that we use our veto power as a country against the admission of Vietnam to the United Nations. I would like to see the day when every country in the world is a member of that body, not that I think it is always going to be a happy and harmonious situation, but because I think it is far better for diplomats to be losing their tempers on the floor of the United Nations than losing the lives of their young people on the battlefields of the world.

Mr. President, I yield the floor.

STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

AMENDMENT NO. 2285

Mr. HATHAWAY. Mr. President, I call up my amendment No. 2285, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY), for himself and Mr. MUSKIE, proposes an amendment numbered 2285.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 62, line 21, strike through line 3, page 69, and insert in lieu the following:

SEC. 11. STUDY OF REVENUE SHARING AND FEDERALISM.

Subtitle C (relating to general provisions) is amended by adding at the end thereof the following new section:

"(a) STUDY.—The Advisory Commission on Intergovernmental Relations shall study and evaluate the American Federal fiscal system in terms of the allocation and coordination of public resources among Federal, State, and local governments including, but not limited to, a study and evaluation of—

"(1) the allocation and coordination of taxing and spending authorities between levels of government, including a comparison of other Federal Government systems;

"(2) State and local governmental organization from both legal and operational viewpoints to determine how general local governments do and ought to relate to each other, to special districts, and to State governments in terms of service and financing responsibilities, as well as annexation and incorporation responsibilities;

"(3) the effectiveness of Federal Government stabilization policies on State and local areas and the effects of State and local fiscal decisions on aggregate economic activity;

"(4) the quality of financial control and audit procedures that exists among Federal, State, and local governments;

"(5) the legal and operational aspects of citizen participation in Federal, State, and local governmental fiscal decisions; and

"(6) the specific relationship of Federal general revenue sharing funds to other Federal grant programs to State and local governments, as well as the role of such revenue sharing funds in Federal, State, and local government fiscal interrelationships.

"(b) COOPERATION OF OTHER FEDERAL AGENCIES.—

"(1) Each department, agency, and instrumentality of the Federal Government is authorized and directed to furnish to the Commission, upon request made by the

Chairman, and to the extent permitted by law and within the limits of available funds, such data, reports, and other information as the Commission deems necessary to carry out its functions under this section.

"(2) The head of each department or agency of the Federal Government is authorized to provide to the Commission such services as the Commission requests on such basis, reimbursable and otherwise, as may be agreed between the department or agency and the Chairman of the Commission. All such reqeusts shall be made by the Chairman of the Commission.

"(3) The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(c) REPORTS.—The Commission shall submit to the President and the Congress such interim reports as it deems advisable, and not later than three years after the first day on which all members of the Commission have been appointed, a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations for legislation as it deems advisable.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission, effective with the fiscal year beginning October 1, 1977, such sums as may be necessary to carry out the provisions of this section.".

Mr. HATHAWAY. Mr. President, the bill as reported now authorizes a study commission. As a matter of fact, this was my own amendment which was adopted by the Finance Committee. After consultation with my colleague from Maine (Mr. MUSKIE) and others, however, I have decided to modify it by not setting up a new Commission, but simply referring that study to the already established Advisory Commission on Intergovernmental Relations. This would save whatever money was needed to set up the new Commission, and also incorporate the expertise of this already established Commission.

I, being the author of the amendment in the Finance Committee, have no objection to this substitute for my amendment. I understand there is no objection on the other side of the aisle, and I suggest that we vote on it, although I understand that the Senator from Iowa (Mr. CULVER) has an amendment to my amendment which he would like to offer; and I will be glad to yield the floor so that he may do that.

UP AMENDMENT NO. 453

Mr. CULVER. I thank the Senator from Maine very much for yielding at this point, Mr. President. I do have an amendment to the Senator's amendment, which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. CULVER) proposes an unprinted amendment numbered 453 to amendment No. 2285:

On page 2, line 19, strike out "and".

On page 2, line 24, strike out the period and insert in lieu thereof a semicolon.

On page 2, after line 24, insert the following:

"(7) forces likely to affect the nature of the American Federal system in the short-term and long-term future and possible adjustments to such system, if any, which may be desirable, in light of future developments; and

"(8) the legal and operational aspects of the processes by which State and local governmental units allocate Federal general revenue sharing funds among individual projects, especially the role played in such processes by long-term planning.".

Mr. CULVER. Mr. President, the bill before us requires a study on revenue sharing and federalism in order to examine and evaluate the American Federal fiscal system. The study is mandated to inquire into a number of specific areas relating to the nature, purposes, and performance of general revenue sharing and to make recommendations to the Congress for improvement in these areas. The amendment which I have sent to the desk will single out two additional areas of inquiry which I believe are crucial for us to examine if revenue sharing is to continue to play a vital and creative role in the Amercan Federal fiscal system.

One question which the study should address would be short-term and long-term forces affecting the nature of federalism in the United States and how these forces will influence revenue sharing in the future.

Any student of American history knows that the U.S. federal system of government has not remained static over the years but has responded flexibly and adaptively to new conditions and felt necessities. Certainly this has been true in fiscal relations, and phrases with which we have grown familiar in recent years such as "the new federalism" and "creative federalism" have as their primary application the sphere of taxing and spending. I believe that it is essential that in the future, revenue sharing be capable of responding and adapting to new governmental forces as diverse as regional interstate compacts and metropolitan-wide planning councils. A study of the implications of such forces for revenue sharing seems to me to be especially appropriate.

A second question which the study ought to address is the process by which State and local governments make decisions in the allocation of revenue sharing funds. My own experience convinces me that local governments generally expend these funds wisely and prudently. Nonetheless, I believe that it would be of great benefit to examine in detail their decisionmaking steps. In particular, I believe that it would be essential to determine the extent to which prudent foresight and a long-range perspective guide their determinations. In an age in which government at all levels is criticized—and rightly so—for lurching from crisis to crisis rather than thinking ahead and acting before problems grow into emergencies, and improvements which we could encourage in the development of such foresight and careful planning would be useful. And surely, a survey of what actually is being done in this area by local governments is an important first step in the right direction.

Mr. President, I believe that careful consideration of these two areas by the study would contribute to our understanding of revenue sharing in the federal system and to our ability to make revenue sharing work as effectively as possible. I would, therefore, hope that the committee would accept this amendment.

Mr. HATHAWAY. Mr. President, I have had an opportunity to look over the amendment and discuss it with the Senator from Iowa. I think it is a helpful addition to my amendment, and I am happy to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment (No. 2285) of the Senator from Maine (Mr. HATHAWAY), as amended.

The amendment, as amended, was agreed to.

UP AMENDMENT NO. 454

Mr. CULVER. Mr. President, I send to the desk another amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. CULVER) proposes an unprinted amendment numbered 454:

On page 69, after line 15 add the following:

SEC. 13. Economic and Technical Assistance. Section 123 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(d) Economic and technical assistance.—The Secretary, acting through the Director of the Office of Revenue Sharing, shall make available to State and local units of government the economic and technical assistance necessary to encourage, develop, and implement long-range planning capabilities in the allocation and expenditure of Federal revenue sharing funds.".

Mr. CULVER. Mr. President, this amendment would direct the Secretary of the Treasury to provide economic and technical assistance to State and local governmental units in order to help them develop and implement a long-range planning capacity in their expenditure of revenue-sharing funds.

Such a capacity would make a valuable contribution to governments' ability to respond to the needs and desires of their citizens. More than ever before, American society is characterized by rapid change. If public officials are to govern effectively, it is essential that they be capable of responding not only to the immediate pressures of the moment, but also to the likely conditions which we will be facing 5, 10, or even more years ahead.

In order to do this, the development of an institutional capacity to foresee likely changes and to prepare for them is essential.

Obviously, perfect crystal ball-gazing is impossible and that is not what we should aim for. But no decision involving heavy expenditures, for example, for

transportation systems should be made without some forecast or effort at projecting future traffic patterns. Similarly, it would not be wise to invest in community service facilities without attempting to have some knowledge of the demographic characteristics which would distinguish the city in the years ahead. Across the Nation experts are increasingly developing the ability to make such predictions or future scenarios.

However, very few local governments have the reservoir of technical expertise or data base to provide that capacity. And most are too strapped financially to be expected to hire consultants or gain access to data now available in the private sector. This amendment would direct the Secretary of the Treasury to make available financial, informational, and technical resources at the Federal level to local units of Government. Thus local governments could obtain the data base and the advanced methodology and forecasting techniques essential for the best use of their funds.

If adopted, this amendment would contribute greatly to insuring that Federal revenue-sharing funds are spent in the most effective and responsive way possible.

I, therefore, hope that the distinguished managers of the bill will accept this amendment.

Mr. HATHAWAY. Mr. President, will the Senator yield for a question?

Mr. CULVER. I yield.

Mr. HATHAWAY. I assume that the Senator means that this would be accomplished through the existing Office of Revenue Sharing without any additional appropriation being necessary. In view of the fact that this office now has accumulated data on 39,000 governmental units which have been receiving revenue-sharing funds over the past 5 years, there is available right now a lot of information that could be of great benefit to governmental units throughout the country. This amendment would simply require them to package something that could be sent to these units to aid them in making their decisions on spending this money. Does the Senator mean that?

Mr. CULVER. Yes; I do.

I wish to make clear that I do not envision, with the adoption of this amendment, the encouragement of an increase of bureaucratic force or staffing within the existing office. But I do hope that this amendment will do one thing. I hope that it will have the effect of creating an awareness of the need for sensible long-term foresight as to the implications of the expenditures of Federal revenue-sharing funds for certain purposes so that waste can be minimized and the most effective allocation of resources made.

It seems to me that, as difficult as it is to look ahead, we are developing increasingly methodology that permits us to ask some of the right questions in order to get a better grip on alternative probable futures. It seems to me further that if we could equip perhaps by way of technical resource packaging upon request of local governments, at least for those who had an inclination to be foresighted they could avail themselves of some of this material. With it, they could fill in the blanks, in effect, as to the kind of relevant data useful to their particular environment which they should have to make an enlightened and informed decision on how best to allocate their resources.

Mr. PACKWOOD. Mr. President, I have talked with the Senator. He used the words "on request." Does the Senator mind inserting those words on line 7 before "make available"? It is very clear it is to make available on request of State and local governments, so there is no allegation that we are trying to force this down their throat.

Mr. CULVER. I certainly am very willing to accept that. I think that very few things in life are of much value if forced on anyone. I do hope that it would be the kind of practice and concern that would develop a routine, however, and be viewed as an appropriate element in the decisionmaking process for the proper expenditure of Federal revenue-sharing funds.

Mr. PACKWOOD. Mr. President, may I ask the clerk if that may be inserted orally or do we need it in writing? That is to insert the words "on request" on line 7.

The PRESIDING OFFICER. The Senator has the right to modify his language, and it will be helpful if he will send the modification to the desk.

Mr. PACKWOOD. While that modification is being made, let me ask the Senator from Iowa one other question.

He indicated "acting through the Director of the Office of Revenue Sharing." I have no objection to those words. I wonder if the intent of his amendment would not be more readily achieved if that were stricken out so the Secretary of the Treasury was not limited to advice by having to act solely through that agency, where we have already agreed we do not wish to impose a horrendous burden. There might be a range of available talent if those words are not included.

Mr. CULVER. It seems to me that is a very constructive suggestion, and I wish to have it be a workable section in the legislation. If those additional resources could be better marshaled by enlarging the jurisdiction of the administrative authority, in this instance moving from the Office of Federal Revenue Sharing under the larger umbrella of the Secretary of the Treasury's office, generally I think that would be very useful.

Mr. PACKWOOD. In that case, if the Senator has no objection, I will not suggest modifying it now, but if we go to conference that language should be taken out. If the Senator has no objection, I shall accept the amendment on that basis.

Mr. CULVER. I might clarify this and leave it simply the Secretary of Treasury's office will provide these services.

Mr. PACKWOOD. It will read, "The Secretary shall make available, on request, to State and local units of government," the rest of the amendment as it reads.

Mr. CULVER. Should we say "utilizing the Office of Federal Revenue Sharing and any other appropriate resources," of his office?

Mr. PACKWOOD. That is fine.

I will in conference modify the amendment to that extent, and with that I am willing to accept it.

Mr. HATHAWAY. Yes. I think that is a good suggestion to add "other agency"; with those two modifications, Mr. President, I am happy to accept the amendment.

Mr. CULVER. Mr. President, for purposes of clarification, could we have the clerk read back the amendment as modified before we actually vote on it?

The PRESIDING OFFICER. The modified amendment will be stated.

The assistant legislative clerk read as follows:

On page 69, after line 15 add the following:

SEC. 13. Economic and Technical Assistance. Section 123 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(d) ECONOMIC AND TECHNICAL ASSISTANCE.—The Secretary, acting through the Director of the Office of Revenue Sharing, shall, on request, make available to State and local units of government the economic and technical assistance necessary to encourage, develop, and implement long-range planning capabilities in the allocation and expenditure of Federal revenue sharing funds.".

The PRESIDING OFFICER. The amendment is so modified.

The question is on agreeing to the amendment as modified.

Mr. HATHAWAY. Mr. President, let me ask the Senators from Iowa and Oregon. Did we agree we were going to put in another modification, "acting through the Director of Revenue Sharing, and whatever other agency the Secretary desires to act through?

Mr. PACKWOOD. I think we agreed on the language. I did not ask that it be amended here. I thought we could in conference. But if it is the desire of the Senator to amend it now, all right.

Mr. HATHAWAY. We may have a problem in conference explaining it. We will not have a problem knocking out words and phrases. Perhaps we should expand it here, and if we decide in conference to limit it, we will be able to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CULVER. 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. CULVER. Mr. President, I believe that we have the amendment as amended now understood, and I wonder whether the clerk would read it.

The PRESIDING OFFICER. The modified amendment will be read.

The assistant legislative clerk read as follows:

On page 69, after line 15 add the following:

SEC. 13. Economic and Technical Assistance. Section 123 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(d) ECONOMIC AND TECHNICAL ASSISTANCE.—The Secretary, acting through the Director of the Office of Revenue Sharing, and utilizing other appropriate resources, shall, on request, make available to State and local units of government the economic and technical assistance necessary to encourage, develop, and implement long-range planning capabilities in the allocation and expenditure of Federal revenue sharing funds.".

The PRESIDING OFFICER. The amendment is so modified.

The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. CULVER. Mr. President, I express my appreciation to the floor manager of the bill, the Senator from Maine (Mr. HATHAWAY), and to the Senator from Oregon (Mr. PACKWOOD) for their consideration and cooperation on this amendment.

Mr. HATHAWAY. I thank the Senator.

Mr. PACKWOOD. I thank the Senator.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UP AMENDMENT NO. 455

Mr. GLENN. Mr. President, I call up my unprinted amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes unprinted amendment No. 455.

On page 55, after line 8, insert the following: "For purposes of this section, 'compliance' by a government may include the satisfying of a requirement of the payment of restitution to persons injured by the failure of such government to comply with subsection (a)."

Mr. GLENN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

My amendment deals with the civil rights aspects of general revenue sharing. The amendment seeks to strengthen civil rights protections and enforcement by providing a clear administrative deterrent to discriminatory activity. The amendment specifically spells out one of the remedies that may be sought by the Secretary of Treasury in reaching a compliance agreement with recipients who have been engaged in discriminatory activity. It provides that the Secretary may seek to have a party that has discriminated in the past, pay restitution to injured parties.

Mr. President, this is a traditional legal remedy at equity, that the amendment spells out, as available at the administrative level to the Secretary of the Treasury in reaching compliance. It is also an available remedy in title VII enforcement proceedings with respect to employment. Restitution is often expressed in the civil rights area in terms of awards of back pay to victims of job discrimination. My amendment makes it clear that this very same restitution principle applies with respect to revenue sharing not only in instances of employment discrimination but to service activities that could be funded from revenue sharing. Basically, my amendment allows the Secretary to condition the resumption of revenue-sharing funds in a case where discrimination has been found and where funds have been suspended, upon a requirement that the recipient "make whole" those who have been the victims of discrimination.

Specifically, given the unique nature of possibly discriminatory services, this could mean a requirement to pave previously unpaved roads or put in street lights where there were none pursuant to an illegal discriminatory practice. In employment, it might mean a requirement of back pay to aggrieved parties. My point is that with this amendment, the Secretary would have the specific authority to require a recipient that has discriminated to do more than simply stop discriminating from the present moment. That discriminating party may now be required by the Secretary to make past victims of revenue sharing related discrimination whole as part of the agreement to resume revenue sharing payments.

Mr. President, this amendment differs from the one discussed with the managers yesterday that dealt with repayment of funds. I would have been happy with that amendment because the principle that I am driving for is the need to provide a strong administrative deterrent to discrimination. I do not believe that it is enough to say that we will simply stop funding once we find discrimination. We should say that where there has been discrimination that there might be reasonable grounds to require that past victims, be they individuals or neighborhoods, be rectified in some reasonable way.

Mr. President, I have been deeply concerned about civil rights protections in revenue sharing since I entered the Senate.

We have held hearings on this subject in the Intergovernmental Relations Subcommittee of the Government Operations Committee and earlier this year I introduced my own legislation, S. 3173, a bill designed to strengthen the antidiscrimination provisions of the Revenue Sharing Act. This summer, I was successful in adding an amendment to the Treasury Department appropriations bill that would significantly strengthen the civil rights division of the Office of Revenue Sharing's compliance staff.

I cite this history of interest and concern because of my strong feeling that we must make absolutely certain that this massive, 6-year, $42 billion Federal financial commitment to State and local government also be accompanied by a firm and unswerving commitment to full, complete and effective civil rights and antidiscrimination protection and enforcement. I am pleased that significant strengthening efforts have already been made in the Senate and House bills and I have supported those efforts wholeheartedly. Given the unique nature of revenue sharing funds with its "no strings" features and the difficulty in tracing funds once they become comingled into the general budgets of recipients, it seems to me that it is absolutely imperative that we place in the law very strong and clear deterrents to discriminatory activity. I believe that my amendment provides for that type of deterrent at the administrative level.

This has been discussed with the floor managers of the bill on both sides of the aisle. I will not call for a record vote on this unless they feel it is necessary. I will be happy to have any comment the floor managers of the bill might wish to make.

Mr. HATHAWAY. Mr. President, I have had an opportunity to look over the amendment; I think it is a good amendment, and I have no objection to it. It is a modification of what the Senator from Ohio had planned, and I think it is a sensible modification. It fits in with the entire civil rights provision very well.

Mr. PACKWOOD. Mr. President, I am in accord. I thank the Senator from Ohio for modifying his amendment of yesterday, which would have required repayment of a great bulk of revenue sharing funds if one particular person was injured. I think that might have been unfair to a whole variety of people unconnected at all with the spending of the money or the injury. But this particular provision as now worded is a normal provision of damages or restitution and equity, and I think it is a very acceptable provision. We are willing to accept it and we do not require a record vote.

Mr. GLENN. I appreciate the comments of the floor managers of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATHAWAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. 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 (Mr. HELMS). Without objection, it is so ordered.

UP AMENDMENT NO. 456

Mr. JAVITS. Mr. President, I send an amendment to the desk on behalf of myself and Senator MCGOVERN and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and Mr. McGOVERN, proposes an unprinted amendment numbered 456:

At the end of the bill add the following new section:

SEC. —. The second sentence of Section 102 is amended to read as follows:

"In the case of entitlement periods beginning on or after January 1, 1977, such payments shall be made in monthly installments at such times during each month as the Secretary shall determine, except that, where the Secretary determines that the entitlement of a unit of local government to funds under this subtitle will be less than $4,000, the total payment shall be made not later than five days after the close of the first quarter of such entitlement period."

Mr. JAVITS. Mr. President, the amendment would provide a change in the bill to require monthly payment of revenue sharing to the various jurisdictions—about 24,000 would be involved in this amendment—instead of their being paid at the end of each quarter.

For those jurisdictions that receive less than $4,000 per entitlement for the year—that is, 9 months to begin with, but for the year—it be paid in one lump sum at the end of the first quarter.

Mr. President, the reason for this amendment starting first with the lower end of the scale is that it simply is very costly to make these small distributions.

Senator SCOTT had an amendment setting a $2,000 limit yesterday and he withdrew it after making a brief statement about it. But Senator McGOVERN and I believe that is the right course, that it should not have been withdrawn, and that these small jurisdictions getting such a very limited amount of money should be entitled to get their payment in one check.

The whole amount involved in a $35 billion bill is $24,900,000. Therefore, it is simply much more efficient, more intelligent, more considerate of these smaller jurisdictions in terms of recipients, to get their money all at once.

As to the larger jurisdictions—24,000—the interest cost of the Federal Government making these payments monthly instead of quarterly, the extra interest cost is $40 million a year.

Today, Mr. President, what is happening is not that the public is not paying the interest. The public is. It is paying more because these jurisdictions have to borrow against their payments which come at the end of the quarter.

I have specifically ascertained the amount for New York City because this is where, naturally, we are very sensitive to any expense at all. It comes to $2.5 million a year.

The Federal Government borrows, when it does, taxable money as compared with the local jurisdictions where it is tax free.

Second, they can borrow on much less advantageous terms, paying very much higher interest rates, which costs the Treasury money because it is tax-exempt, and have much more difficulty. Some of them cannot raise any money at all on any interest basis.

It seems that if the Federal Government does wish the States and the localities to participate—and that is the whole matter of revenue sharing—then we ought to be openhanded with what we are doing. They ought to participate in the best practicable way for their purposes. That is what revenue sharing is all about.

Therefore, this amendment is entirely capable of being paid monthly except that the Treasury simply says, "Well, we will pay at the end of every quarter. That saves the United States interest."

But it does not save the people of the United States interest. They pay it. Indeed, they pay more, and in those jurisdictions which can deal with it a lot less creditably and effectively than can the United States.

Because it is, in the final analysis, de minimus in the size of this bill—which is $5, $6, $7 billion a year—$40 million—even if it is incurred, and I do not necessarily think it will be.

But this is the Treasury estimate. Even if extra interest is incurred, it will not exceed $40 to $45 million.

Mr. President, I yield to my cosponsor.

Mr. McGOVERN. Mr. President, first of all I want to say that I thank the Senator from New York for giving a very cogent explanation of this amendment. I will not take the time of the Senate to belabor the point.

This amendment really should be called the common sense amendment because it does, obviously, improve the administration of this program. It does not change the thrust or purpose of the revenue-sharing program, but it meets two categories of communities and cities at a level that is more in line with their needs.

I am especially concerned about the smaller communities. As the Senator from New York has said, we have a number of communities that are receiving less than $4,000 a year in revenue sharing. It makes no sense at all, with payments of that size, to dribble them out over a year's period of time in payments of several million dollars. It makes it difficult to do anything with the money in a practical way.

What we are talking about here with the second half of this amendment is some 15,000 small communities—15,314 to be exact. They are now receiving less than $4,000 a year. Instead of getting those payments in little dribbles over a 12-month period, they would be paid in one lump sum early in the year.

I am pleased to join with the Senator from New York in both aspects of this amendment. I hope it will be adopted.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATHAWAY. Mr. President, the committee is opposed to the amendment.

One of the grounds on which we base our opposition is that there are very few other Federal grant-in-aid programs that are not paid on a quarterly basis. Computers are already set up to pay the revenue-sharing sums on this basis.

Another objection is that the interest costs are somewhat higher than those stated by the Senator from New York. We estimate they would run about $65 to $70 million.

The argument that the Senator from New York makes is that the public is going to have to pay the costs anyway. That may apply to certain jurisdictions, maybe New York City and others, but most of the recipients for funds are financing their operations out of current revenues from taxes and do not have to go into the money market and borrow this money. Therefore, they are not imposing an interest charge upon their constituents.

Of course, the final argument is that with respect to the budget cost for fiscal 1977 it would be an increase in excess of $1 billion.

I would be happy to yield to my colleague from Maine, the chairman of the Budget Committee, to go into that in more detail.

Mr. MUSKIE. Mr. President, I understand the appeal of both facets of this amendment. The upper end of the amendment would not affect my State but the lower end would. It makes a lot of sense.

But, let me point out that the result of this amendment would be to move two-thirds of the fourth quarter payment from the beginning of fiscal year 1978 to the end of fiscal year 1977. The result of that would be to cause a bulge in the budget in 1977 which would bust the ceiling by an estimated $1 billion. These payments are now made within the first 5 days of the quarter succeeding the quarter for which the payments are provided. It is on that basis that, of course, the budget limitations of revenue-sharing were computed in the first concurrent resolution and the second concurrent resolution. To change the payments now means that the outlay effect in fiscal 1977 would be as I said, $1 billion higher than is provided by the second concurrent resolution. On that basis I have no choice but to oppose the amendment.

Mr. JAVITS. Mr. President, in answer to Senator Muskie, I would have no objection, either here or in conference to make the plan effective so that it does not interfere with the budget we have adopted for fiscal 1977. I would gladly do it now or await the conference. In other words, to make this plan effective as of the new fiscal year of 1978.

Mr. MUSKIE. I do not know how we can do that for fiscal 1977. It would have to be done in fiscal 1978. The payments are going to begin, I assume, unless I have read this incorrectly, in fiscal 1977. We would have to extend the last quarter payments until the following year.

Mr. JAVITS. Could we make it effective January 1, 1978? That would be all right then, would it not?

Mr. MUSKIE. That would pass the 1977 budget limitations.

Mr. JAVITS. But that would solve the problem; is that correct?

Mr. MUSKIE. It would.

Mr. JAVITS. I have no desire to interfere with the budget resolution.

Mr. President, I ask unanimous consent that I may modify my amendment in accordance with the modification which I send to the desk, to have the date read "January 1, 1978."

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

Mr. MUSKIE. But your modification would not solve the question of the substantial additional interest costs to the Treasury.

Mr. JAVITS. This does not in any way change anybody's allocations. The allocations remain precisely the same. It is just a question of the time of payment and the convenience and problems which are created for individual jurisdictions.

Senator HATHAWAY and I differ on the amount which is involved. We believe that the amount of $40 to $45 million is correct for this reason: We believe the figures the Senator is giving, which are quite bona fide as far as the Senator is concerned, were given in connection with our original amendment. Our original amendment was not the same as this one. It related to the payment at the beginning of the quarter. This amendment relates to monthly payments. On average, the cost to the Treasury is about half. That is why we gave our estimate of $40 to $45 million.

In orders of magnitude, of course, in a bill of this kind, whether it is $45 million or $65 million, it is not such a big deal. But I did want to make clear that our estimate was valid because we believe the figures which the Senator used were directed to an amendment which I did have and gave notice of but which is not the one that we submitted.

Finally, Mr. President, the aim of revenue sharing is to help the communities. That is the aim of doing it. So why do we play ducks and drakes with them for amounts relative to the whole which are not proportionate to the universe which we are attacking? That is what we are doing. Many of these jurisdictions in my own State, and I think the views of other Senators will bear this out, have to go out and borrow the money. They fully expect to get it but they do have to borrow it. The public is paying anyhow and it is paying more. Hence, the revenue sharing is less effective than it ought to be, and that I feel both Houses intended it should be.

For those reasons, Mr. President, I hope my amendment, as modified, will carry. I am prepared to vote.

Mr. HATHAWAY. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from New York. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senate will be in order. The clerk is having difficulty hearing the responses of Senators. The Chair asks that the well be cleared, and that staff members take their seats.

The clerk may proceed.

The rollcall was resumed and concluded.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Nevada (Mr. CANNON), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PELL), the Senator from California (Mr. TUNNEY), and the Senator from Virginia (Mr. HARRY F. BYRD, JR.) are necessarily absent.

I further anounce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Nevada (Mr. LAXALT), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The result was announced—yeas 28, nays 57, as follows:

[Rollcall Vote No. 589 Leg.]

YEAS—28

Bayh	Griffin	Ribicoff
Biden	Hart, Gary	Roth
Brooke	Hart, Philip A.	Schweiker
Bumpers	Hatfield	Scott, Hugh
Case	Javits	Stevens
Chiles	Mathias	Stone
Cranston	McClure	Weicker
Domenici	McGovern	Williams
Durkin	Pastore	
Garn	Percy	

NAYS—57

Allen	Haskell	Muskie
Baker	Hathaway	Nelson
Bartlett	Helms	Nunn
Bellmon	Hollings	Packwood
Bentsen	Hruska	Pearson
Burdick	Huddleston	Proxmire
Byrd, Robert C.	Humphrey	Randolph
Church	Jackson	Scott, William L.
Clark	Johnston	Sparkman
Culver	Leahy	Stafford
Curtis	Long	Stennis
Eagleton	Magnuson	Stevenson
Eastland	Mansfield	Symington
Fannin	McClellan	Talmadge
Fong	McGee	Thurmond
Ford	McIntyre	Tower
Glenn	Metcalf	Young
Goldwater	Montoya	
Gravel	Morgan	
Hansen	Moss	

NOT VOTING—15

Abourezk	Cannon	Mondale
Beall	Dole	Pell
Brock	Hartke	Taft
Buckley	Inouye	Tunney
Byrd, Harry F., Jr.	Kennedy	
	Laxalt	

So Mr. JAVITS' amendment, as modified, was rejected.

Mr. HATHAWAY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PACKWOOD. I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, if I may have the attention of Senators I will give the Senate some idea as to the schedule.

The PRESIDING OFFICER. Let the Chair have order in the Senate.

The Senator may proceed.

UNANIMOUS-CONSENT REQUEST

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when either Calendar No. 1054, H.R. 8401, or Calendar No. 853, S. 2053, the so-called nuclear assurance bill, is brought before the Senate, debate be limited as follows: 8 hours on the bill, 2 hours on any amendment, 1 hour on any amendment to an amendment or on any debatable motion or appeal, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. CLARK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GLENN. Mr. President, reserving the right to object, this is the whole nuclear fuel package; is that correct?

Mr. MANSFIELD. That is correct.

Mr. GLENN. I object to the time limit on that, Mr. President.

Mr. DURKIN. I object.

The PRESIDING OFFICER. Objection is heard.

STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

Mr. MANSFIELD. Mr. President, I understand we have one amendment by the distinguished senior Senator from South Dakota (Mr. MCGOVERN), and then final passage, if all things work according to Hoyle.

Mr. MCGOVERN. Mine will take 4 or 5 minutes.

TIME LIMITATION AGREEMENT

Mr. MANSFIELD. I ask unanimous consent that debate on the McGovern amendment, which I understand is a variation of the Javits amendment, be limited to 10 minutes, 5 minutes to a side.

Mr. HATHAWAY. That is fine.

The PRESIDING OFFICER. Without objection it is so ordered.

ORDER FOR CONSIDERATION OF S. 3664

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, after the pending business is disposed of, the Senate then turn to the consideration of Calendar No. 973, S. 3664, a bill to amend the Securities and Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes. That is to be laid before the Senate and made the pending business.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, and I shall not object, of course, I wonder if the majority leader expects that we will be in session at least until 5 p.m. today and thereafter, probably after that.

Mr. MANSFIELD. Yes.

Mr. GRIFFIN. The reason I am asking is because there are two of our colleagues who will be back by 5 p.m. and wish to vote on final passage of the Revenue Sharing Act.

Mr. MANSFIELD. We can make arrangements.

Mr. JAVITS. Mr. President, there is one of our colleagues who has to vote in a primary, and he has been waiting for this vote.

Mr. GRIFFIN. That is what I am trying to determine. I am trying to determine whether it is going to inconvenience anyone else.

Mr. MOSS. Yes. It will inconvenience me. I have an airplane to meet.

Mr. GRIFFIN. In that case, I shall have to explain to our two colleagues who will miss the vote.

Mr. MANSFIELD. The Senator cannot win.

Mr. GRIFFIN. That is right.

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

STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

The PRESIDING OFFICER. The bill is open to further amendment.

UP AMENDMENT NO. 457

Mr. McGOVERN. Mr. President, I have an amendment at the desk which I offer on behalf of myself, the Senator from New York (Mr. JAVITS), and the Senator from South Carolina (Mr. THURMOND) and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN), for himself and Mr. JAVITS and Mr. THURMOND proposes an amendment.

At the end of the bill add the following new section:

SEC. —. The second sentence of Section 102 is amended to strike the period at the end and add the following: except that, when the Secretary determines that the entitlement of a unit of local government to funds under this subtitle will be less than $4,000, the total payment shall be made not later than five days after the close of the first quarter of such entitlement period."

Mr. McGOVERN. Mr. President, this amendment has the effect of picking up the second half of the amendment just offered by the Senator from New York and myself which relates to those small communities across the country that receive less than $4,000 in Federal revenue sharing and in some cases there are communities that receive only a few hundred dollars in the course of a year.

What the amendment will do is provide that in those cases involving some 15,000 small communities, those payments running less than $4,000 a year be made in one lump sum in the first quarter of the year. It is clear to me that the amendment that the Senator from New York and I offered a moment ago was rejected because it would have a substantial budget impact. This amendment would not.

I have talked to the Senator from Maine (Mr. MUSKIE) about it. We are only talking about a total payment to all these communities, over a year's time, of some $24.9 million out of a bill of approximately $6 billion. So, while it involves a great many small communities, it involves a very small amount of money.

It does not increase the amount of money those communities receive. It simply acts on the commonsense notion that, instead of dribbling out small payments of a few hundred dollars over a year's time, it would be set up for the Treasury to make those payments in a single lump sum at the beginning of the year.

I cannot anticipate any logical reason against this change in the administration of the law, and I am hopeful, in view of its almost insignificant impact on the budget, that it will be accepted.

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

Mr. McGOVERN. I yield.

Mr. JAVITS. Mr. President, I am grateful to the Senator for two reasons: One, he allows me to qualify as a small town city as well as a big city Senator by joining in this amendment. Not too many people realize how many small towns and individual jurisdictions we have in a big State like mine.

Second, I think this is the very epitome of trying to be efficient and intelligent about how we handle business here. I join the Senator in understanding why some Members may have felt that they could not vote for the other amendment, but there is no such basic reason respecting this amendment, and I hope very much that it will be approved.

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

Mr. McGOVERN. I yield.

Mr. NELSON. Just so I have the statistics correct, it is my understanding that, as of now, there are 39,000 jurisdictions—States and municipalities—receiving revenue sharing. Is my understanding correct that if all municipalities receiving $4,000 or less are separated out, that would be a total of some 15,000 municipalities?

Mr. McGOVERN. Yes, the Senator is correct. The exact figure is 15,314 communities that would be affected. These are the ones that receive $4,000 or less in a year's time.

Mr. NELSON. So that they would receive a check once a year instead of four times a year?

Mr. McGOVERN. That is correct. The saving in postage alone would almost pay for any additional cost.

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

Mr. McGOVERN. I yield.

Mr. THURMOND. Mr. President, I commend the distinguished Senator from South Dakota for offering this amendment. This amendment should save the Government money, and it certainly will help the little towns that receive less than $4,000 a year.

What is the use of dividing that money over four different quarters when they can get $4,000 at one time and go forward with some kind of project in which they are interested?

I hope the amendment is agreed to.

Mr. McGOVERN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

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

Mr. PACKWOOD, Mr. President, will the Senator yield me 2 minutes?

Mr. HATHAWAY. I yield.

Mr. PACKWOOD. Mr. President, I oppose this amendment. It is very similar to the amendment of the distinguished Senator from Pennsylvania (Mr. HUGH SCOTT) which was offered yesterday, except that he had a $2,000 figure.

Two things are wrong with this amendment. One, it is going to cost the Treasury some slight interest because of the advancement of payments, but admittedly not significant as the previous amendment offered. Two, because we are going to have to refigure as we do these $4,000 figures each year, it means we will have to be reorganizing the computers to decide each year which towns are paid at the end of a quarter and which at the end of a year.

I think we are starting a bad precedent. If the Senate had wanted to extend an additional $10 million, $20 million, $30 million, or $40 million in revenue, we would have done so in the bill.

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

Mr. PACKWOOD. I yield.

Mr. LONG. What logical basis can one offer to say that the line will be drawn at $4,000 and not $5,000 or $10,000; and then if it is $10,000, why not $20,000; and if it is $20,000, why not $21,000; and if it is $21,000, why not $25,000? So if you just go ahead and pay it out to all these governments early in the year, you wind up with the Government having a serious cash flow problem.

Mr. PACKWOOD. I think we are starting down the road of expanding it. I thought it was a bad precedent at $2,000 yesterday, and in 1 day we have gone from $2,000 to $4,000. It is a good thing we are not meeting much longer.

Mr. LONG. How can we say at one point that some community should be given one lump sum payment and at some particular point it crosses the line into those less favored, that get paid quarterly?

Mr. PACKWOOD. You have to figure your administrative costs each year, because you have to reprogram it to pay at the end of the quarter or the end of the year.

Mr. LONG. Meanwhile, the next year, the revenue sharing goes up somewhat; so instead of the town getting the lump sum payment, the town gets a check for only one-quarter of that amount, and the people cannot understand what happened.

Mr. PACKWOOD. That is right.

Mr. HATHAWAY. Not only is it true in the revenue-sharing program, but also, it opens the door with reference to the grant-in-aid programs. There is no reason to deny them the same treatment.

Under the present law, the Secretary of the Treasury does have authority, on a quarterly basis, to vary the amounts that he can pay out. So that he can do, in effect, almost what the Senator from South Dakota is trying to achieve by his amendment.

There is no logic whatever to drawing

the line at $4,000. As has been pointed out, it is going to change around the entire computer setup, which is already set up to pay out on a quarterly basis. There does not seem to be any sound, rational basis for giving certain towns one treatment and others another. I think we should stick with the committee bill, which has been the law for the last 5 years, and should continue to pay all jurisdictions on the quarterly basis.

The PRESIDING OFFICER. All time has expired.

Mr. JAVITS. Mr. President, is there a time limit on this amendment?

The PRESIDING OFFICER. There is a time limit, and all time has expired.

Mr. JAVITS. Mr. President, may I have 2 minutes and the other side have 2 minutes? I ask unanimous consent.

Mr. LONG. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to the amendment of the Senator from South Dakota. 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 South Dakota (Mr. ABOUREZK), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Nevada (Mr. CANNON), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PELL), and the Senator from California (Mr. TUNNEY), are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The result was announced—yeas 56, nays 30, as follows:

[Rollcall Vote No. 590 Leg.]

YEAS—56

Baker	Gravel	McIntyre
Bayh	Griffin	Metcalf
Bentsen	Hart, Gary	Montoya
Biden	Hart, Philip A.	Nelson
Brooke	Haskell	Pastore
Bumpers	Hatfield	Pearson
Burdick	Hollings	Percy
Byrd, Robert C.	Hruska	Roth
Case	Huddleston	Schweiker
Chiles	Humphrey	Scott, Hugh
Church	Jackson	Stafford
Clark	Javits	Stevens
Cranston	Leahy	Stone
Culver	Magnuson	Symington
Domenici	Mansfield	Thurmond
Durkin	Mathias	Weicker
Eagleton	McClure	Williams
Ford	McGee	Young
Garn	McGovern	

NAYS—30

Allen	Helms	Randolph
Bartlett	Johnston	Ribicoff
Bellmon	Laxalt	Scott, William L.
Curtis	Long	Sparkman
Eastland	McClellan	Stennis
Fannin	Morgan	Stevenson
Fong	Moss	Talmadge
Glenn	Muskie	Tower
Goldwater	Nunn	
Hansen	Packwood	
Hathaway	Proxmire	

NOT VOTING—14

Abourezk	Cannon	Pell
Beall	Dole	Taft
Brock	Hartke	Tunney
Buckley	Inouye	
Byrd, Harry F., Jr.	Kennedy	
	Mondale	

So Mr. McGOVERN's amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McGOVERN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I wish to express my support for H.R. 13367, the State and Local Fiscal Assistance Act of 1976 which would reauthorize the revenue sharing program. Since its enactment in 1972, revenue sharing has become of crucial importance to our State and local governments, assuring them of a continuous flow of funds for the establishment, maintenance, and improvement of essential public services and programs. The program, which expires on December 31, 1976, has proven to be a central feature of State and local government budgets, and unless we reauthorize it, the fiscal health of these governments may be seriously impaired.

When Congress first approved revenue sharing, it was designed to accomplish several objectives. Its primary purpose was to redirect the flow of power and responsibility from Washington back to the State and local levels of government. Thus, Congress allowed wide latitude in the expenditure of revenue sharing funds so that these units of government would have greater opportunities to determine their own needs and priorities and to decide for themselves the best means of meeting them.

A second goal was to channel badly needed funds to State and local governments. In recent years, many of these governments have found that demands for services have outstripped their ability to raise revenues to support them. For example, State spending in fiscal year 1975 rose by 18.5 percent while revenues increased by only 9.8 percent. Without revenue sharing this gap would widen considerably. By the end of this year, $30.2 billion will have been distributed to about 39,000 units of State and local government.

Third, it was hoped that the program's dependence on Federal income tax revenues would shift the emphasis away from the need to rely on property and sales taxes to finance community services and projects. Many localities now use their revenue sharing funds to support regular services that would have otherwise required heavier local taxes to maintain.

Still another purpose was to insure that even smaller governments which often experience difficulty in obtaining Federal funds, could benefit from the program. This was accomplished through the automatic allocation of revenue sharing funds. Automatic entitlements have also facilitated local and State governments in the development of their budgets and in their long-range planning.

As reported by the Senate Finance Committee, H.R. 13367 would continue these important objectives. The legislation would also make a number of changes in the program that experience has shown us are necessary to improve the program's operation and administration.

The legislation would continue the revenue sharing program for another 5¾ years and would provide an entitlement for fiscal year 1977 of $6.65 billion to be increased each year thereafter by $200 million to account for inflation. For New Jersey this would mean about $1 billion in revenue sharing funds by the end of fiscal year 1982.

Except for a few minor change, H.R. 13367 retains the present method of computing entitlements. States may now choose whichever of two formulas gives them the most money—a three factor formula which combines population, general tax effort, and per capita income, urban population, and State income tax. The State governments keep one-third of the entitlement, with the rest going to the counties and municipalities. The money is apportioned to counties, cities, and towns using a formula based on population, general tax effort, and per capita income. No locality may receive less than 20 percent of a State's average per capita entitlement, nor more than 145 percent of a State's average per capita entitlement. An important provision also retained by H.R. 13367 requires that prevailing wage rates must be paid to all laborers and skilled workers when 25 percent of a construction project's costs—in projects costing $2,000 or more—are paid from revenue sharing funds.

H.R. 13367 would also eliminate two major restrictions on the use of revenue sharing entitlements. Present law prohibits entitlements from going to secure matching Federal grants. Many localities have felt that such a restriction inhibits local decisionmaking. Present law also requires operating and maintenance expenditures to fall within eight priority categories. H.R. 13367 would eliminate these eight categories.

As reported from committee, the legislation also tightens antidiscrimination provisions, encourages greater citizen participation in local decisions on the use of entitlements, and revises the reporting as well as the auditing and accounting procedures.

Through June 30, 1976, the State government of New Jersey together with about 650 units of local government had received more than $839 million in revenue sharing funds since the program was enacted in 1972. This infusion of funds has been of significant benefit to New Jersey, enabling the recipient governments to undertake projects and finance services that once were beyond their capability. New Jersey communities of all sizes have ably demonstrated their ability to use their allocations wisely and intelligently. For example, municipalities in Morris County, N.J., have used their entitlements to make important capital improvements and to defray the costs of providing a broad range of services, particularly public safety, public transportation, environmental protection, and recreation.

The city of Elizabeth has used its allocation to improve local health services,

to pay the operating expenses of its public safety program, and to provide additional recreation facilities. The little borough of Woodstown has supported a child care center with a portion of its revenue sharing entitlement.

The revenue sharing program has been an enormous force for good in New Jersey, and I am confident that the same can be said of its impact on other States. It has improved the quality of local government, and thereby has improved the quality of community life. It has shortened the distance between people and the units of government that answer their needs, and it has allowed citizens to have a greater voice in the government decisions which affect them. It has created new job opportunities and it has broadened the range of public services available to our people. I am hopeful that my colleagues will join with me in supporting the extension of the revenue sharing program so that the benefits it provides may be continued.

Mr. THURMOND. Mr. President, I rise in support of H.R. 13367, the revenue sharing extension bill. Revenue sharing is one of the most responsible and responsive legislative measures adopted in the past decade. It would be futile to attempt to list all the benefits made available to the citizenry through the application of the funds. However, to demonstrate how beneficial and worthwhile I believe this program is, I would like to call to the attention of my colleagues the following facts relative to my home State of South Carolina:

Revenue sharing funds received by South Carolina and her local governments through June 30, 1976

Unit	Number of units	Amount received
The State	1	$124,998,943
Counties	46	129,961,601
Municipalities	236	114,019,761
Totals	310	368,979,305

As of June 30, 1976, the 46 counties and 236 municipalities in South Carolina have received almost $244 million in revenue sharing funds. The State itself has received nearly $125 million.

These funds have made possible great advancements, chiefly in the areas of public safety, environmental protection, and public transportation. Nearly one-half of the funds expended have gone toward capital improvements.

Mr. President, at the request of the chairman of the Subcommittee on Intergovernmental Relations of the Senate Committee on Government Operations, the General Accounting Office conducted case studies on general revenue sharing at 26 selected local governments throughout the country. One of the towns selected was Woodruff, S.C.

The GAO report indicates that approximately one-half of these funds were spent on much-needed capital improvements. Fire department equipment was purchased. A traffic signal system was installed. Additions to the street and sanitation equipment were made possible. Police department cars were bought. Additions were made to recreational facilities, and furnishings for a new public library were purchased. Most, if not all, of these improvements would have been impossible without revenue sharing.

Mr. President, I have always maintained that local governments should play a greater part in the role of Government. Revenue sharing makes it possible for decisions greatly affecting the welfare of the people of this country to be made on the local level. The revenue sharing extension bill would continue this most valuable program—a program which has been called the most successful Federal program of the century. I shall vote for the bill, and urge my colleagues to do likewise.

Mr. MUSKIE. Mr. President, the bill pending before the Senate would extend and amend the State and Local Fiscal Assistance Act of 1972 which established the general revenue sharing program. That program has authorized the return of $30.2 billion in funds to State and local governments, and will expire at the end of this calendar year unless it is extended.

I am and have been a strong supporter of revenue sharing. I consider it the cornerstone in meeting the needs of local governments. I support the extension of the revenue sharing program.

Today, 5 years after its enactment, general revenue sharing has proven to be a shot in the arm for our federal system of government. Throughout the country, revenue sharing funds have provided for useful, needed community projects—chosen by local officials, on the basis of local priorities.

These days, just about everything the Federal Government does is very complicated. Most of Federal programs which provide aid of one sort or another to State and local governments involve lengthy application processes and stringent rules and regulations as to how the money must be spent. Local officials in Maine are forever providing me with examples of how Federal programs are administrative nightmares for them.

In the midst of all this confusion, revenue sharing stands out as the beleaguered State or local official's dream program.

Revenue sharing also has had the healthy side effect of providing balance to a Federal grant-in-aid structure which, over the last decade, has become increasingly oriented toward narrow programatic goals with ever greater control by Washington.

By its very existence, revenue sharing is testimony to our recognition that the integrity of our federal system demands greater State and local control over the determination of local spending priorities.

I know that people in Maine welcome this recognition that we in Washington do not always know what is best for them. And I am sure that communities in every other State feel the same.

As chairman of the Senate Budget Committee I would like to comment on the budget implications of this bill.

The general revenue sharing level for fiscal 1976 was $6,355 million in budget authority. The soon-to-expire program has provided increases in revenue sharing payments of $150 million per year beginning in fiscal 1974. Under existing law, the program level for the transition quarter and the first quarter of fiscal 1977 is about $75 million in budget authority above the fourth quarter level for fiscal 1976.

The President has proposed to extend the general revenue sharing program for 5¾ years. He proposes $6,542 million for fiscal 1977—an increase of $187 million above the fiscal 1976 level. Because of the timing factors involved in extending the program, however, the President's proposal would result in lower payments in the last three quarters of fiscal 1977 than in the first quarter.

The Senate Finance Committee amended version of H.R. 13367 would extend general revenue sharing for 5¾ years and it would provide $6.65 billion in budget authority for fiscal 1977. This amount is about $110 million above the President's request.

How do these amounts relate to the congressional budget?

The Senate Budget Committee in its markup of the second budget resolution assumed in its recommended ceiling $6.65 billion in budget authority, or about $110 million above the first budget resolution assumptions. The Senate Budget Committee increased the ceiling to prevent the reduction that would otherwise occur in the last three quarters of fiscal 1977 under the President's budget request.

So I am pleased that Senator LONG for the Finance Committee proposed and the Senate adopted yesterday an amendment to set the fiscal year 1977 revenue sharing level at $6.65 billion, the level assumed in the second budget resolution and provided in the House-passed bill.

I am also pleased that Senator LONG's amendment, while it provides about $1.2 billion more in budget authority than the House-passed bill for fiscal years 1978, 1979, and 1980, is still about $450 million less in budget authority than the Finance Committee reported bill for those fiscal years. The Long amendment makes a total reduction of about $750 million when compared with the Finance Committee reported bill for all fiscal years.

With three-fourths of Federal spending locked into place before each fiscal year begins, I am always hesitant to increase those uncontrollable commitments, as this amendment still does. However, I feel some increase in later years is needed, and since the House-passed bill provides none, the Senate does need some leverage for negotiation with the House. Given the efforts of the Finance Committee to comply with the spending ceilings in the second budget resolution, and given the likelihood of some reduction in the later year increases, I believe the bill that will emerge from conference will have reasonable revenue sharing budget levels.

What I am saying is that we can pass a general revenue sharing bill with funds at the level proposed in this amendment, stay within the tight ceilings of the second budget resolution, and not exceed the deficit set out in the resolution.

There was another matter in the committee-reported bill which concerned me. As reported, the bill contained an authorization for appropriations for fiscal 1977 for the establishment of a National Commission on Revenue Sharing and Federalism. That authorization was in violation of the May 15 reporting date of section 402 of the Budget Act because it became effective on February 1, 1977. Moreover, the bill established a new commission to do a study which could well be done by the Advisory Commission on Intergovernmental Relations with funds already authorized. That problem has now been corrected by the amendment which Senator HATHAWAY and I offered and which has now been adopted.

Mr. President, this amendment provides some $300 million more for general revenue sharing in fiscal 1977 than State and local governments received in fiscal 1976, and that is all that can be realistically provided under the ceilings of the second budget resolution. As a strong supporter of the general revenue sharing program, I personally would like to see more money provided to State and local governments, but I am unwilling to raise the deficit of the second budget resolution.

Mr. BAYH. Mr. President, the Senate today is considering legislation to grant a 5¾-year extension of revenue sharing. Without passage of this vital measure, the revenue sharing program would end as of December 31, 1976.

Our Federal system suffers from a vertical fiscal imbalance which has been intensified by our recent economic problems. As things presently stand, the Federal Government has a greater ability than local governments to raise revenue progressively through the Federal income tax. State and local governments, on the other hand, are faced with a limited tax base, increased demands for service, and soaring costs. The revenue sharing program was designed to help ease the problem of fiscal imbalance and since its inception in 1972, it has had much success.

The legislation being considered today authorizes nearly $42 billion in entitlements until September 30, 1982. The amount available each year, under the Senate formula, is increased by $150 million to try to meet expected inflation. By knowing the amount of money available for the next 5¾ years, State and local governments can make long-term commitments to make the best possible use of their share of the entitlement.

This is particularly important due to the decrease in funding of Federal categorical grant programs. State and local governments are increasingly using their entitlements from revenue sharing to maintain the level of services in programs which used to be federally funded.

In Indiana, which has received $560,957,468 in revenue sharing moneys since 1972, these funds are used to support such varied programs and services as the purchase of fire and safety equipment, construction of new storm sewers, obtaining new library books, and instituting programs for senior citizens. All of these programs have come to rely on revenue sharing funds to fulfill vital local needs with a minimum of Federal regulation and redtape.

The legislation considered by the Senate takes some important steps to insure increased and more effective citizen participation at the local level in determining what projects will be supported by revenue sharing funds. Under the Senate legislation if a local government does not have its own hearing requirements, they will have to hold at least one hearing on proposed use 7 days prior to adoption of the budget. These hearings must take place at a time and location convenient for public attendance.

In addition, this measure strengthens and emphasizes the nondiscrimination aspects of the original revenue sharing law. While there were nondiscrimination provisions in the law, there has been much evidence that these provisions were unevenly enforced and in many cases there was no effective enforcement.

The Senate bill helps to clarify that not only can there be no discrimination on the basis of race, color, national origin, or sex in programs directly funded by revenue sharing but also there can be no discrimination in programs indirectly benefiting from revenue sharing moneys. For example, a State or local government cannot use revenue sharing funds for programs or services which are nondiscriminatory and then turn around and use its own freed-up funds to support discriminatory programs.

In amendments adopted on the floor, which I supported, the Senate included religion, age, and condition of handicap in the categories covered by the nondiscrimination provisions of the revenue sharing program.

While local and State governments should continue to have broad discretion in the use of their entitlements, the Federal Government cannot allow the use of its funds for programs which, directly or indirectly, continue historic patterns of discrimination.

I strongly support the continuation of the revenue sharing program and hope that final conference action will take place in the near future so that our State and local governments can begin to plan for the effective use of their entitlements for the next 5 years.

Mr. CULVER. Mr. President, I wish to express my support for extension of the general revenue sharing program. During the years that I served as a Member of the House of Representatives, and since the enactment of the State and Local Assistance Act of 1972, I have strongly supported the concept of general revenue sharing. I believe that it has become an invaluable source of supplemental funding for State and local governments.

The program's basic purpose is to provide an opportunity for communities to deal with problems at the local level with a measure of flexibility vital to sound governmental decisionmaking. The plain fact is that not all wisdom resides in Washington. And in particular, we in Iowa know the problems of our communities and how to go about solving them better than do the bureaucrats thousands of miles away. Revenue sharing funds enable State and local governments to better define and meet their own priorities, in combination with their own resources.

General revenue sharing was established under authority of the State and Local Fiscal Assistance Act of 1972. This legislation authorized the distribution of $30.2 billion in Federal revenues derived from individual income tax receipts, among qualifying State and local units of government. The program has been in effect for 3 years; through April 1975, quarterly payments of $18.9 billion have been disbursed by the Treasury Department to over 38,000 State and local units of government in the 50 States and the District of Columbia.

The Fiscal Assistance Amendments Act of 1976, which is due to expire December 31, extends the highly successful State and Local Assistance Act of 1972 for 5¾ additional years. This extension is essential if we are to allow government units to plan their budgets effectively.

Mr. President, general revenue sharing is one of the largest and most extensive of all domestic aid programs. It constitutes 10 percent of all current yearly expenditures for domestic grants-in-aid. Under a complex formula based on the multiplication of population, tax effort, and inverse per capita income, funds are channeled to units of government ranging in size from States and big cities to thousands of townships. Across the Nation, approximately 36 percent of the revenue sharing dollars are being used for capital expenditures. Approximately 24 percent of the funds are used in public safety and 13 percent in public transportation. An additional 22 percent are used in education and 5 percent for other community services.

In my own State of Iowa, for each of the past 2 years, we have received an average of $84 million in general revenue sharing funds to aid 1,043 units of government. For instance, Mr. President, these funds have allowed Sioux Center, Iowa, to maintain and extend paved streets, upgrade and expand airport facilities, and most recently, to purchase the old high school building for use as a community center. Marengo, Iowa, has been able to replace and repair secondary roads, obtain a public health nurse, and provide transportation for the elderly with the help of revenue sharing dollars. In Webster City, Iowa, aided by revenue sharing funds, a Federal bridge inspection was conducted on the county bridges, and a new courthouse was constructed.

I was especially impressed by the testimony given to the House Subcommittee on Government Operations by Ms. Lynn Cutler, the Chairperson of the Blackhawk County Board of Supervisors in Waterloo, Iowa. Ms. Cutler gave examples of how revenue sharing funds were used in her county to fund imaginative programs to meet human needs. These included construction of day care centers, providing portal to portal transportation for the elderly, aid to the Council on Alcoholism, and mental health assistance.

Revenue sharing funds have enabled

Iowans to have a better and more responsive government by absorbing welfare costs from local governments which can ill afford them; by decreasing or even eliminating personal property taxes through the provisions of real property tax credits for the elderly which permit them to retain ownership of their homes; and by removing the regressive sales tax on food and drugs.

Statewide, revenue sharing funds have gone to aid public transportation—22 percent, education—36 percent, public safety—13 percent, environmental protection—4 percent, health—4 percent, and other community development—21 percent.

Mr. President, I have cited only a few examples of how revenue sharing funds have aided the communities of Iowa. But Iowa is not the only State to receive benefits from general revenue sharing funding. According to a 1974 study compiled by the Library of Congress, Governors indicate that because of revenue sharing, 60 percent of the States were able to avoid new taxes. At the local government level, officials report that general revenue sharing receipts had enabled 35 percent of local units to prevent new taxes, while 34 percent reported the local taxes had been kept at prior levels. A significant number, 27 percent, report that general revenue sharing moneys had prevented imposition of new taxes.

General revenue sharing has enabled many State and local governments to avoid further additions to their burden of debt. 84 percent of State and local governments report that funds enabled them to avoid incurring new indebtedness, or reduced the level of new indebtedness.

The country's present economic plight makes continuation of this program imperative. Over the past 2½ years, the Nation has suffered the worst recession since the Great Depression. Not only the private sector has been adversely affected; the public sector has suffered as well. Rapidly rising service costs coupled with sluggish or declining tax bases have forced State and local governments to choose between increased taxes or reduced services. Spending in the States grew in 1975 by 18.2 percent while revenues grew by only 9.8 percent. The revenue sharing funds distributed over the past 3 years have helped States and communities maintain vital public services and restrained the growth of crushing tax burdens such as property and sales taxes which fall particularly hard on low income families and the elderly.

If revenue sharing payments are reduced or terminated, the adverse impacts on State and local governments would be severe, and efforts to stabilize the economy would be dealt a serious blow.

I am especially pleased that the Senate today adopted my two amendments to H.R. 13367 which I feel greatly strengthens the bill.

My first amendment directs the Secretary of the Treasury to provide upon request economic and technical assistance to State and local governments in order to help them develop and implement a long-range planning capacity in their expenditures of revenue sharing funds. Such a capacity would make a valuable contribution to the Government's ability to respond to the needs and desires of its citizens.

My second amendment addresses two questions that are to be examined by a revenue sharing and federalism study provided for in the bill. The first question to be addressed is the short term and long term forces affecting the nature of federalism in the United States and how these forces will influence revenue sharing in the future. The second question which the study should examine is the process by which State and local governments make decisions in the allocation of revenue sharing funds. Careful consideration of these two areas by the study will contribute to our understanding of revenue sharing in the Federal system and to our ability to make revenue sharing work as effectively as possible.

Mr. President, in my judgment, general revenue sharing is one innovation of government that has proven its worth as a constructive and cohesive element in our Federal-State-local system. The bill to extend it is a vital contribution to the strength of our State and local governments and I hope the Senate will act quickly and affirmatively on it.

Mr. LONG. Mr. President, might we just vote on final passage. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER (Mr. HANSEN). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed for a third reading and the bill to be read the third time. The bill was read a third time.

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 legislative clerk called the roll.

Mr. CURTIS (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Ohio (Mr. TAFT). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I, therefore, withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Virginia (Mr. HARRY F. BYRD, JR.) the Senator from Nevada (Mr. CANNON), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PELL), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) and the Senator from California (Mr. TUNNEY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that, if present and voting, the Senator from Maryland (Mr. BEALL) and the Senator from Tennessee (Mr. BROCK) would each vote "yea."

The result was announced—yeas 80, nays 4, as follows:

[Rollcall Vote No. 591 Leg.]

YEAS—80

Allen	Gravel	Moss
Baker	Griffin	Muskie
Bartlett	Hansen	Nelson
Bayh	Hart, Gary	Nunn
Bellmon	Hart, Philip A.	Packwood
Bentsen	Haskell	Pastore
Biden	Hatfield	Pearson
Brooke	Hathaway	Percy
Bumpers	Hollings	Randolph
Burdick	Hruska	Ribicoff
Byrd, Robert C.	Huddleston	Roth
Case	Humphrey	Schweiker
Chiles	Jackson	Scott, Hugh
Church	Javits	Sparkman
Clark	Johnston	Stafford
Cranston	Laxalt	Stennis
Culver	Leahy	Stevens
Domenici	Long	Stevenson
Durkin	Magnuson	Stone
Eagleton	Mathias	Symington
Eastland	McClure	Talmadge
Fannin	McGee	Thurmond
Fong	McGovern	Tower
Ford	McIntyre	Weicker
Garn	Metcalf	Williams
Glenn	Montoya	Young
Goldwater	Morgan	

NAYS—4

Helms	Proxmire	Scott, William L.
Mansfield		

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Curtis, against.

NOT VOTING—15

Abourezk	Cannon	Mondale
Beall	Dole	Pell
Brock	Hartke	Taft
Buckley	Inouye	Tunney
Byrd, Harry F., Jr.	Kennedy	
	McClellan	

So the bill (H.R. 13367), as amended, was passed.

Mr. LONG. Mr. President, I hope the Chair will permit me to make three successive motions.

One, I move to reconsider the vote by which the bill was passed.

Mr. HATHAWAY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. 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 amendment to this bill.

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

Mr. LONG. Mr. President, I move that the Senate insist upon its amendment and request a conference with the House of Representatives, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. HANSEN) appointed Mr. LONG, Mr. TALMADGE, Mr. NELSON, Mr. GRAVEL, Mr. HATHAWAY, Mr. FANNIN, Mr.

HANSEN, and Mr. PACKWOOD conferees on the part of the Senate.

Mr. LONG. Mr. President, I ask unanimous consent that the bill (H.R. 13367) be printed with the amendment of the Senate.

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

VOTES ON TREATIES TOMORROW AT 1:30 P.M.

Mr. ROBERT C. BYRD. As in executive session, Mr. President, I ask unanimous consent that the votes on the treaties which were to begin at 1 p.m. tomorrow begin at 2 p.m. tomorrow instead.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(Later, the following occurred.)

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the votes on the treaties which, under the order previously entered, were to begin at 2 p.m. tomorrow, begin instead at 1:30 p.m., with the first rollcall vote on treaties, which is to count for four votes, to last for not to exceed 30 minutes.

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

BILL HELD AT DESK—H.R. 3605

Mr. HUMPHREY. Mr. President, I simply ask that a bill that came over from the House, H.R. 3605, an act to amend the Internal Revenue Code relating to the Federal excise tax on beer, remain at the desk pending further deliberation and disposal.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

S. 3664

PRIVILEGE OF THE FLOOR

Mr. HELMS. Mr. President, I ask unanimous consent that Mr. Dick Bryan, of my staff, be accorded the privileges of the floor during the consideration of S. 3664 and any votes thereon, and also Mr. Joe Heaton, of the staff of Senator BARTLETT.

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

Mr. HELMS. Mr. President, I ask unanimous consent that Tom Brooks, Tony Cluff, Gil Bray, Lamar Smith and Steve Paradise be granted the privileges of the floor during the consideration of S. 3664 and any votes thereon.

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

GERMANENESS OF AMENDMENTS

Mr. HELMS. Mr. President, I further ask unanimous consent that all amendments in connection with this bill be required to be germane.

The PRESIDING OFFICER. Is there objection?

Mr. PROXMIRE. Mr. President, reserving the right to object, it is my understanding that the Senator from Idaho (Mr. CHURCH) has two amendments which I think are germane but I am not sure. I would appreciate it very much if the Senator would withhold that request until Senator CHURCH can be notified.

Mr. HELMS. Mr. President, I will amend my request to exclude those two amendments.

Mr. PROXMIRE. The two Church amendments?

Mr. HELMS. Yes.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

CORRUPT OVERSEAS PAYMENTS BY U.S. BUSINESS ENTERPRISES

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of Calendar No. 973, S. 3664, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3664) to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing and Urban Affairs.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Ken McLean, Robert Kuttner, and Howard Shuman be granted the privileges of the floor during the debate and vote on the pending bill.

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

Mr. PROXMIRE. Mr. President, the bill before us this afternoon deals with a problem which troubles many Americans, the problem of bribery by multinational corporations abroad.

It is a very significant problem which has been recognized by all those who have responsibility, including the President of the United States, the Secretary of State, the Secretary of the Treasury, the committees of Congress, and many people in the business community. It is something which has been a very serious weakness of our free enterprise system.

It has been disclosed that there have been bribes paid by large American companies that have embarrassed foreign countries, that have resulted in great danger to governments in foreign countries, the danger that they may fall, and it has been a source of embarrassment and humiliation to many Americans who believe so strongly in our free enterprise system.

Mr. President, there is a broad consensus that the payment of bribes to influence business decisions corrodes the free enterprise system. Bribery short circuits the marketplace. Where bribes are paid, business is directed not to the most efficient producer but to the most corrupt. This misallocates resources and reduces economic efficiency. So our objective should be to end those bribes in the most effective way we can.

More importantly, bribery is simply unethical. It is counter to the moral expectations and values of the American public. It erodes public confidence in the integrity of the free market system. Bribery of foreign officials by some U.S. companies casts a shadow on all U.S. companies. It makes it harder for any American company to sell abroad when some of our most prominent and successful companies have engaged in that kind of activity.

It puts pressure on ethical enterprises to lower their standards and match corrupt payments, or risk losing business.

When bribery is exposed, it usually leads to sanctions both by the host government and the marketplace, against the offending company. The results have included cancellation of contracts, expropriations fines, lawsuits, and a loss of confidence in the company by investors.

Bribery of foreign officials by U.S. corporations also creates severe foreign policy problems. The revelations of improper payments invariably tends to embarrass friendly regimes and lowers the esteem for the United States among the foreign public. It lends credence to the worse suspicions sown by extreme nationalists or Marxists that American businesses operating in their country have a corrupting influence on their political systems. It increases the likelihood that when an angry citizenry demands reform, the target will be not only the corrupt local officials, but also the United States and U.S.-owned business.

Bribery by U.S. companies also undermines the foreign policy objective of the United States to promote democratically accountable governments and professionalized civil services in developing countries.

Mr. President, the question is, what is the committee recommending to the Senate of the United States to meet this problem? I might say this is a compromise bill, which was reported unanimously. Section 1 of the bill adopts the recommendations of the Securities and Exchange Commission. It requires reporting companies to create and to maintain accurate books and records.

It is essential that there be such a statute if we are to enforce the laws against bribery, and this is one of the urgent requirements recommended by the Commission.

Second, it requires internal accounting controls sufficient to assure that transactions will be executed in accordance with management's instructions, that transactions will be accurately recorded, that access to corporate assets is carefully controlled, and that the representations on company books will be compared at reasonable intervals with actual assets, and any discrepancies resolved.

The purpose of that provision, of course, is to make sure that the management of a company controls its assets, and that if people representing a company make a bribe payment, it is possible to hold the top officials of the company responsible. It is necessary to have this kind of law on the books to make sure that this responsibility is legally effective.

This section also makes it a crime for a reporting company to falsify books,

records, accounts, or documents, or to deceive an accountant in connection with an examination or audit.

The second section of the bill—and there are only three sections, and I have only a couple more paragraphs—applies to corporations subject to the jurisdiction of the SEC by virtue of the reporting requirements of the Securities Exchange Act of 1934. It applies the existing criminal penalties of the securities laws—up to 2 years imprisonment and a fine of up to $10,000—for payments, promises of payment, or authorization of payment of anything of value to any foreign official, political party, candidate for office, or intermediary, where there is a corrupt purpose. The corrupt purpose must be to induce the recipient to use his influence to direct business to any person, to influence legislation or regulations, or to fail to perform an official function in order to influence business decisions, legislation, or regulations, of a government.

The other section of the bill, section 3, applies the identical prohibitions and penalties provided by section 2 to any domestic business concern other than one subject to the jurisdiction of the SEC pursuant to section 2. Violations of the criminal prohibition under section 3 by persons not subject to SEC jurisdiction would be investigated and prosecuted by the Justice Department. Violations under section 2 would normally be investigated initially by the SEC, but referred for criminal prosecution to the Justice Department.

Mr. President, I have two more arguments I would like to make before I finish.

In the first place, the arguments against the legislation seemed to the committee—certainly they seemed to this Senator—to be unconvincing.

Most witnesses before the committee denounced bribery as an intolerable practice. Yet the argument is sometimes made that U.S. companies must pay bribes in order to compete with less scrupulous foreign competitors.

How about that? Do our firms really have to pay bribes to be effective abroad? As late as 1975, a survey of senior executives of major companies revealed that nearly half condoned bribery as necessary to do business in some parts of the world.

In reality, however, many of America's leading companies have never resorted to bribery. That is, in every industry where bribery has been present, the SEC found that there were American companies that were very successful, that paid no bribes at all. Incidentally, that is a most eloquent answer to the argument that we had better go along, or we will lose trade abroad. It seems to me it shows conclusively that it is not necesary to make these bribe payments. SEC Chairman Hills told the committee in testimony May 18:

> We find in every industry where bribes have been revealed that companies of equal size are proclaiming that they have no need to engage in such policies.

Indeed, there is substantial evidence that a refusal to bribe seldom results in a business advantage for foreign competitors. As Secretary Richardson observed on behalf of the Administration Task Force:

> In a multitude of questionable payments cases—especially those involving sales of military and commercial aircraft—payments have been made not to outcompete foreign competitors, but rather to gain a competitive edge over other U.S. manufacturers.

Mr. President, the most conspicuous example of bribes, or influence by payments, I should say, is by the Lockheed Corp. There were $22 million, or close to that, in payments that were considered questionable, and may have been considered as bribes. But from the testimony, it was obvious that Lockheed was competing, not with foreign competitors, but with other American companies. We produce more than 80 percent of the aircraft similar to those Lockheed produces, and that was their method of competition.

A strong antibribery law would help U.S. multinational companies resist corrupt demands, and would enhance the reputation of U.S. business abroad. The former chairman of Gulf Oil Co., Bob Dorsey, commented in testimony before the Multinationals Subcommittee of the Senate Foreign Relations Committee:

> . . . such a statute on our books would make it easier to resist the very intense pressures which are placed on us from time to time. If we could cite our law which says that we just may not do it, we would be in a better position to resist these pressures and refuse the requests.

That comes from a man who has had the hardest, toughest, and most direct kind of practical experience in this business. His recommendation to Congress is to pass a law outlawing bribery, and he says it will not make it harder for business, but better for business if we do so.

The argument has also been made that some foreign countries might resent American attempts to export our morality and impose American standards on transactions taking place in their countries. The fact is that virtually every country has its own laws against bribery, although some are not vigorously enforced. Given worldwide outcry against the corrupting influence of some U.S.-based multinationals on foreign governments, the committee believes that most countries would welcome a greater effort by the United States to discourage offensive conduct by U.S. companies, wherever their activities may take place.

It is interesting that the attorney general of the African Republic of Botswana, a small developing country in Africa, observed as follows:

> Certainly, no self-respecting African nation would consider U.S. legislation aimed at curbing corrupt practices of American transnational enterprises in their foreign host states to be "presumptous" or in any way "an interference". On the contrary, most Third World nations would appreciate such legislation. You see, developing countries have difficulties in discovering offenses commited by U.S. corporations in so far as their bribing and corrupting of local government officials . . . Why do you think all of these disclosures are coming out of Washington and not out of the host countries? On this particular issue, most Third World countries would want to cooperate to the fullest extent possible, with the U.S. and other home countries to make sure that the offending transactional enterprise is punished. Another result of the U.S. adopting such legislation is that the Third World will acquire a healthier respect for the United States and its transnational enterprises.

Mr. President, we are not doing a disservice. We are doing a great service to other countries by prohibiting bribes by our companies abroad.

There is no way that another country can gain if they acquire products from this country through bribery. What that means, of course, is the airplane or the tank that is bought, or the other product that is purchased is an inferior product; otherwise, the bribe would not be necessary. Either it is inferior or the price is higher. The reason the bribe is necessary is to sell the product.

So it is obviously not only in the interest of this country, not only in the interest, as I pointed out in some detail, of businesses, but it is in the clear interest of the foreign countries involved, and they have told us that.

The concern has also been raised that criminal sanctions against an illegal act which takes place at least in part outside the United States, even if desirable, may be unenforceable or unconstitutional. It is a settled question of international law, of course, that a State may regulate the conduct of its citizens overseas where such conduct has consequences domestically.

There are ample legal precedents for the prosecution of criminal conduct overseas, where the illegal act is committed by a U.S. citizen or national or by a U.S. organized or controlled company, where there is a nexus between that act and acts carried out within the United States, or where the act has consequences in the United States. Examples include securities fraud, violations of the Trading With the Enemy Act, and certain antitrust violations. The report of the committee includes a legal memorandum on that point. Moreover, in the current SEC investigations of violations of the securities laws involving failure to disclose material payments, the SEC has referred cases to the Justice Department for prosecution where the alleged criminal violation involved failure to report an overseas payment.

The committee also notes that in most cases investigated by the SEC to date, investigators were able to uncover adequate evidence of overseas payments by subpenaing records, and/or interviewing witnesses with knowledge of such payments, available in the United States. Furthermore, ethical employees or competitors are often a source of information on bribes paid overseas. All of these sources will continue to be available in the prosecution of bribery cases.

Finally, while the committee recognizes that the Securities and Exchange Commission has diligently sought to enforce the securities laws provisions requiring corporate reports to disclose "material" payments, the concerns raised by the disclosure of corrupt foreign payments require a national policy against corporate bribery that transcends the

narrower objective of adequately disclosing material information to investors.

There is one more argument I wish to make, Mr. President, before I yield the floor.

I fully recognize that the proposed law will not reach all corrupt payments overseas. For example, sections 2 and 3 of the bill that is before the Senate now would not permit prosecution of a foreign national who paid a bribe overseas acting entirely on his own initiative.

The committee notes, however, that in the majority of bribery cases investigated by the SEC, some responsible official or employee of the U.S. parent company had knowledge of the bribery and approved the practice. Under the bill as reported, such employees could be prosecuted. The concepts of aiding and abetting and joint participation in, would apply to a violation under this bill in the same manner in which they have applied in both SEC actions and in private actions brought under the securities laws generally.

Furthermore, any U.S. corporation subject to the accounting requirements of section 1 which made a practice of "looking the other way" in order to be able to raise the defense that they were ignorant of bribes initiated by a foreign subsidiary, could be in violation of new subparagraph (b)(2)(B) requiring issuers to devise and maintain adequate accounting controls. Under section 1, no off-the-books account or fund could lawfully be maintained, either by the U.S. parent or by its foreign subsidiary, and no improper payment could be lawfully disguised.

The committe expects that the prohibitions contained in section 2 of the bill as reported will complement the accounting provisions of section 1, which were recommended by both the SEC and the Richardson task force. The committee took note of the SEC's oft-repeated conclusion that "virtually all questionable payment matters have involved the deliberate falsification of corporate books or records, or the maintenance of inaccurate or inadequate books and records, which among other things, prevent these practices from coming to the attention of the company's auditors, outside directors, and shareholders."

The requirement to maintain accurate books, records, and management controls and the prohibition against falsifying such records or deceiving an auditor will go a long way toward eliminating improper payments, which—almost by definition—require concealment. Taken in combination with the criminal prohibition against bribery, the accounting provisions should be adequate to the task of deterring corrupt payments even where transgressors take steps to evade the intent of the law.

To sum up, Mr. President, this is a compromise bill. The committee narrowed the definition of "bribery." The disclosure provision was dropped. I objected to that, and I hope on the floor we can amend the bill to accept an amendment which I understand Senator CHURCH will offer that will provide disclosure. I think that will be a substantial strengthening and improvement of the bill.

The bill has support in its present form of the SEC. It was a bipartisan compromise reported to the Senate without dissent. Both Democrats and Republicans on the committee support the bill.

The bill simply makes it a crime to bribe a foreign official to obtain business or influence legislation. It must be a corrupt purpose. It makes it a crime to falsify company books.

Other nations need to have confidence that U.S.-based firms are not corrupting foreign governments.

We have the conspicuous and tragic example of the Japanese Lockheed case. Bribery, by a few firms like Lockheed, unfairly tarnishes the honest U.S. companies and puts pressures on the honest companies to bribe.

The Securities and Exchange Commission told us many bribes paid by U.S. companies were paid to get business away from other U.S. companies.

It is enforceable. Most existing SEC cases were brought by using records and witnesses available to the United States.

Mr. President, I yield the floor, and I am hopeful we can finish this bill tonight.

If the Senator from Texas wants to agree to any time limitation after debate has run a while, I will be happy to do that. If not, we will just see what happens.

Mr. TOWER. Mr. President, in response to the Senator from Wisconsin, I would be perfectly willing to agree on controlled time if I could know what amendments we are likely to consider. I have some concerns myself about the Church amendment.

As to the bill in its present form, I am prepared to go ahead and act on it quickly, but it is the uncertainty on amendments that causes me to be reluctant. So I will not agree to a controlled time at this point.

As we have seen this past year, improper payments to foreign government officials or their intermediaries is indeed a serious problem and one which is not taken lightly by responsible governments. It is also a problem more akin to a disease which deeply troubles proponents of our free enterprise system. We have built an economy in the United States based on vigorous, honest competition where price, quality, and service commingle with demand and supply to regulate economic transactions. Bribery poisons this system by destroying the organisms of mutual trust and voluntary cooperation so essential to the free flow of commerce. This ethical decay must be stopped.

Bribes, payoffs, or kickbacks are also unproductive and inefficient; they increase the costs of doing business while providing little or no tangible benefits. There are those that contend that bribery is a necessary part of doing business. To those individuals I defer to Benjamin Franklin who once wryly remarked:

> If the rascals knew the advantage of virtue, they would become honest men out of rascality.

The Banking Committee has approached this issue and has attempted to deal with it through S. 3664. This legislation essentially contains recommendations made by the Securities and Exchange Commission to improve corporate accountability and a narrowly defined prohibition against the payment of overseas bribes by U.S. business concerns.

Though I strongly support the intent of the legislation and believe that the direct-prohibition approach contained in S. 3664 is superior to a disclosure-based approach, I am concerned about the scant attention given to the first section of the proposal.

The first section contains the recommendations of the SEC. During the hearing and subsequently during the markup session we in the committee had the impression that the measures proposed by the Commission would simply make explicit what was implicit in the statutes. I understood that the proposal would not expand the authority of the SEC nor distort the existing system of corporate self-regulation. Since the legislation was favorably reported on June 22, 1976, serious questions have been raised as to the nature of the proposals contained in section 1.

It is unfortunate that the legislation was considered in such haste. The SEC proposal was introduced as a separate bill, S. 3418, on May 12, 1976, and hearings were then held on May 18. At that time only the Chairman and the Commissioners presented testimony; there were no private witnesses.

Mr. President, section 1 of this legislation simply has not been thoughtfully considered. The requirement that corporations devise an adequate system of internal accounting controls though laudatory in concept may prove troublesome in its implementation. It is also questionable as to whether this would significantly contribute to resolving the bribery dilemma.

Questions have also been raised as to the advisability of making it a crime to orally lie to or to mislead an auditor. It is contended that the actual effect may be to reduce the effectiveness of the independent auditing process.

I wish to make it clear that I do not oppose the intent of section 1 and I may not oppose it in its present form. I only wish to state that there are issues which have not been adequately resolved.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Mr. William Weber, of the staff of the Committee on Banking, Housing and Urban Affairs, have the privilege of the floor during the debate and vote on this matter.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2292

Mr. CHURCH. Mr. President, I send to the desk an amendment to the pending bill.

The PRESIDING OFFICER. The amendment will be stated. The legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH) proposes an amendment:

The amendment is as follows:

At the end of the bill add the following:

REPORTING REQUIREMENTS

SEC. 4. Section 13 of the Securities Exchange Act of 1934 is amended by adding at the end thereof the following new subsection:

"(g)(1) Every issuer of a security registered pursuant to section 12 of this title shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the proper protection of investors and to insure fair dealing in the security, periodic disclosure statements containing such information and documents (and such copies thereof), as the Commission shall deem necessary or appropriate to provide a complete accounting of any contribution, payment, gift, commission, or thing of value, as defined by the Commission, not already reported, pursuant to provisions of sections 22 or 38 of the Arms Export Control Act, paid or furnished by the issuer—

"(A) to any agent, consultant or like individual retained by the issuer to perform services outside the United States on behalf of the issuer in promoting, selling, or soliciting or securing indications of interest in any product or service produced, sold, distributed, or performed by the issuer;

"(B) in connection with any direct or indirect political contribution by that issuer to any foreign government; and

"(C) in connection with any direct or indirect payment or gift by the issuer to an official or employee of a foreign government.

"(2) Each statement required to be filed under paragraph (1) shall include—

"(A) the name and address of each person who made any such contribution, payment, gift, or who paid such commission or furnished such thing of value;

"(B) the date and amount of any such contribution, payment, gift, commission, or thing of value;

"(C) the name and address of each recipient or beneficiary, whether direct or indirect, of each such contribution, payment, gift, commission or thing of value;

"(D) a description of the purpose for which each such contribution, payment, gift, commission or thing of value was furnished; and

"(E) such other information as the Commission may require.

"(3) Each such issuer shall maintain adequate books and records relating to contributions, payments, gifts, commissions, or things of value referred to in paragraph (1) as the commission may by regulation require for a period of not less than five years.

"(4) Each such issuer shall require, as a condition of employment or retention, that each person retained by the issuer within the meaning of paragraph (1)(A)—

"(A) maintain, for not less than five years, copies of books and records in the United States; or

"(B) make available upon request by the issuer books and records,

pertaining to such issuer and indicating the ultimate recipient of any contribution, payment, gift, commission, or other thing of value furnished to such person or to or through any other person.

"(5) Each statement filed under this subsection shall be made available for examination and copying by the public, except to the extent the President determines that the disclosure of information contained in a particular statement will severely impair the conduct of the United States foreign policy, and transmits to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report stating that such a determination has been made and summarizing the information which is subject to the determination. If such a determination is made, a notation to that effect shall be entered in that part of the statement which is made available to the public.

"(6) As used in this subsection the term 'foreign government' means government of a country other than the United States or of any political subdivision thereof, any agency or instrumentality of such government or subdivision, and any official of a political party, political party, or political association within a foreign country."

CIVIL LIABILITY

SEC. 5. (a) Except as provided in subsection (b), any person who makes any payment prohibited by section 3 of this Act, section 30A of the Securities Exchange Act of 1934, or section 201 of title 18, United States Code, and thereby causes a competitor to sustain actual damages is liable to such competitor in an amount equal to the sum of not more than three times the actual damages sustained by such competitor, plus the costs of the action and reasonable attorney's fees, as determined by the court.

(b) A person has no liability in an action under this section if he can show by a preponderance of the evidence that the plaintiff in such action also made a payment in violation of any such section.

(c) Any action under this section may be brought in any United States district court or in any court of competent jurisdiction within two years from the date of the occurence of the violation.

FOREIGN POLICY ANALYSIS

SEC. 6. (a) The Secretary of State (hereinafter referred to as the "Secretary") shall provide annually to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report containing a comprehensive review and foreign policy analysis, by country, of contributions, payments, gifts, commissions, or things of value, as defined by the Commission, paid or furnished by domestic concerns (as defined in section 3(c)(1))—

(1) to any agent, consultant or like individual retained by such a concern to perform services outside the United States on behalf of the concern in promoting, selling, or soliciting or securing indications of interest in, any product or service produced, sold, distributed, or performed by the concern;

(2) in connection with any direct or indirect political contribution by that concern to any foreign government; and

(3) in connection with any direct or indirect payment or gift by the concern to an official or employee of a foreign government

(b) The report required by subsection (a) shall include—

(1) the aggregate value of such contributions, payments, gifts, commissions, or things of value, if the total amount equals or exceeds a value determined by the Secretary as having significant foreign policy consequences, an identification of the companies involved, and an analysis of foreign policy implications;

(2) a description and analysis of specific transactions the effects of which are directly or indirectly detrimental to the interests of the United States;

(3) a statement of whether the Department of State was aware of such contributions, payments, gifts, commissions, or things of value prior to their making; and

(4) such other information as the Secretary deems necessary to provide a complete analysis of the foreign policy implications for the United States of the transactions involved.

(c) The Secretary shall have access to such information in the custody of the Securities and Exchange Commission as he determines is relevant to the formulation of this report. Further, the Secretary may consult with the Securities and Exchange Commission in order to formulate additional rules and regulations for promulgation by the Securities and Exchange Commission designed to obtain information for the Secretary's report. The Secretary may also request that the Securities and Exchange Commission seek supplementary information to enable the Secretary to provide as complete a report as possible.

(d) Nothing shall prevent the Secretary from making more frequent reports or briefings, partial or complete, when deemed necessary by either the Secretary or the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House.

INTERNATIONAL EFFORTS

SEC. 7. (a) All efforts should be made by the President to obtain international agreements in as many forums as appropriate concerning the reporting and exchange of this information and the establishment of international standards and codes of conduct for the operations of business concerns.

(b) The President shall make all efforts to obtain international rules and regulations for international government procurement and sales.

(c) Not later than 18 months after the date of the enactment of this Act, the Presidetn shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report on all efforts undertaken pursuant to subsections (a) and (b) of this section.

Mr. CHURCH. Mr. President, first of all, I wish to amend the pending bill, S. 3664, which undertakes to make bribes paid overseas by U.S.-based corporations illegal under U.S. law.

For more than a year and a half, the subcommittee on multinational corporations, which I chair, has held extensive hearings on political contributions paid by U.S.-based corporations to persons in other countries. The record of these investigations is well known. Lockheed, Northrop, Exxon, Gulf, and Mobil are just some of the corporations that have made questionable payments abroad.

The Securities and Exchange Commission has uncovered many more such payments. The payments were virtually never made directly to the ultimate, intended recipient. Double bookkeeping, off-the-books accounts, Swiss bank ac-

counts, dummy or shell corporations set up in Switzerland or Lichtenstein, numerous agents or intermediaries whose existence is often kept secret, code names and code books, all hinder discovery of the direct payoff and obfuscate understanding of what is really at stake.

These practices have extremely serious consequences for both the conduct of U.S. foreign policy and the reception U.S. business receives abroad. Specifically, we found that the Lockheed Corp. had been funding, as its secret agent, Yoshio Kodama, a leader of an ultramilitarist faction in Japan whose politics the U.S. Government has opposed since World War II. In addition, my subcommittee revealed that bribes had been paid by Lockheed to highly placed ministers in the Japanese, Dutch, and Italian Governments; Northrop Corp. had made payments through its agent intended for two Saudi Arabian generals to facilitate the sales of its aircraft; Exxon, Mobil, Gulf, and Socal, among others, had joined to make contributions to Italian political parties in return for economic benefits.

This is not to say that only the corporations are at fault. For every giver there is a taker, and often the initiative comes from the foreign government official. Indeed, in some cases the initiative amounted to extortion. But too often the corporate response has been passive acquiescence, a shrug of the shoulders, and passing the added cost on to the consumer.

Congress has recognized the seriousness of this problem already. Both Houses have passed, and the President has signed into law, an amendment offered by myself and the Senator from Illinois (Mr. PERCY) requiring that corporations selling military equipment overseas report agents' fees and other payments to the U.S. Government. The information that must be reported includes the amounts and kinds of payments, and the names of sales agents and other persons receiving the payments. Recordkeeping is required to ensure proper reporting. The aim is to strip away the layers of agents, dummy corporations, and other smokescreens to determine exactly who is the ultimate recipient.

To address the problem more comprehensively, Senators CLARK, PEARSON, and myself introduced S. 3379, focusing on disclosure of fees and payments to insure that information with respect to questionable payments by all of our corporations was routinely available.

Senator PROXMIRE's bill makes overseas bribes illegal; it is my understanding that he welcomes disclosure and considers it complementary to his approach.

I am, therefore, introducing this amendment to Senator PROXMIRE's bill. The first section insures that the Securities and Exchange Commission will collect payments information parallel to that collected on foreign military sales; the focus again will be on determining the ultimate recipient. The information will be public unless the President finds that its revelation would severely impair the conduct of U.S. foreign policy. The second section creates a private right of action for those corporations who can show that they lost business as a result of a competitor's paying bribes. Our investigations have uncovered instances of competition between U.S.-based firms where payoffs have been used with abandon; the Lockheed sale of the L1011 in Japan against competition by Boeing and McDonnell Douglas is a prime example. This provision would allow the private sector to police itself—an important concept as we face burgeoning government bureaucracies.

The third section requires that the Department of State analyze the foreign policy implications of these payments and report on its findings to Congress. The final paragraphs urge the President to take appropriate international steps to bring bribery under control.

The package complements and strengthens Senator PROXMIRE's antibribery bill. It provides the reporting necessary to identify those payments, many of which may not be necessarily illegal but could have serious consequences for our foreign policy, while establishing mechanisms that allow the private sector to police itself. The combined approaches can provide the most effective remedy to the problem.

Mr. President, I commend Senator PROXMIRE and Senator TOWER and the other members of the committee for the excellent work they have done on the problem of overseas bribery. My purpose in offering this amendment is simply to supplement the bill's provision, which would make bribery illegal overseas, as it is in the United States. It would also require, should the amendment be adopted, the kind of disclosure provisions that we have already written into the military arms sales bill. A wider application of the disclosure provision is, in my judgment, necessary to make this bill do the job that I know Senator PROXMIRE wishes it to do.

Mr. PROXMIRE. Will the Senator from Idaho yield?

Mr. CHURCH. Yes.

Mr. PROXMIRE. As the Senator knows, I strongly support his proposal. I think it is a logical and sensible supplement. We had some of the same kind of measures in the bill as I proposed it in the committee. I want very much to preserve what the Senator from Idaho has developed so very well in the Committee on Foreign Relations. With a great deal of effort and a considerable amount of attention and hearings, he has undoubtedly made the biggest contribution of any Member of the Senate to an understanding of the abuse and the serious consequences of the abuse on American business, American trade, the American image abroad, and the need to act on it.

As I understand it, the Senator has proposed three things: No. 1, disclosure, not simply of bribes, but, in addition, of those payments that are not reached by our bill; that is, not made, perhaps, to an official of the Government, but to a private citizen who, in turn, might spread the money around. This would seem to be a possible loophole in the bill as it is presently presented, which would be plugged by section 1. Is that correct?

Mr. CHURCH. Yes, the Senator is correct. The disclosure provision goes to all commissions and fees paid to agents in connection with American sales abroad. Many of those fees and commissions may be perfectly legitimate. If they are, there will be some reasonable relationship between the amount paid to the agent and the sale that is sought.

On the other hand, since the law will require the disclosure of all such fees and commissions, if a company is, in fact, making large amounts of money available to an agent overseas, the disclosure requirement will alert the Government as to the possibility, the strong possibility, that the money is being improperly used to bribe foreign government agents. So this disclosure supplements the objective of the bill, which is to "illegalize" bribery abroad in the future, just as it has long been a crime when it takes place within the United States.

Mr. PROXMIRE. As I understand it, the second section of the Church amendment provides for private action so that a firm which is injured by the bribe—that is, they lose a sale, they lose the opportunity to make a profitable sale and do business because their competition is engaging in illegal bribery—can take private action which would have the desirable effect, No. 1, of dissuading such bribes; No. 2, of disclosing and enforcing prohibition of bribes in effect; No. 3, providing the kind of effective competition which all of us believe in. Is that correct?

Mr. CHURCH. Yes, the Senator is absolutely correct in his statement. We have found that, in a number of cases, monstrously unfair competition is being practiced by one American company against another. The honest company that tries to avoid under-the-table payments of millions of dollars to foreign officials wonders why it lost the sale, only to discover, months or years later, that it was because its competitor had paid off certain foreign officials to obtain the sale. Therefore, when that discovery is made, as it often is—and that has been the meat of my subcommittee's work for the last few months—the aggrieved company would have a civil cause of action for the damages it could prove resulted from the bribery.

Mr. PROXMIRE. The only other section of the amendment would require annual reports by the Department of State of the problem that these illegal and improper payments represent as far as our foreign policy is concerned?

Mr. CHURCH. The third paragraph imposes an obligation on the Department of State to make reports to Congress in connection with the bribery problem These reports are to be made so that Congress can be kept current on the progress being made in tempering these practices and reducing them.

Mr. PROXMIRE. Is there a reaction from the Department of State to this proposal to make reports?

Mr. CHURCH. The only reaction that I know of from the administration on this issue has taken the form of the administration's own proposal. That is, to the best of my knowledge, the case.

The other provision in the final paragraphs of the amendment would simply urge the President to undertake appro-

priate steps to secure international cooperation. That way we are not taking unilateral action in cleaning up the practices of our own companies while other governments look the other way.

Mr. PROXMIRE. How much of a burden would this represent on the part of the State Department? How difficult would it be for them to enforce this?

Mr. CHURCH. I think there is no particular problem because the requirement is clear. It has already been adopted in the arms sales bill, and I knew of no objection on the part of the Department to the bookkeeping that would be involved in that disclosure requirement. This amendment closely follows the amendment that was already adopted in Congress as part of the arms sales bill.

Mr. PROXMIRE. Mr. President, I thank the Senator. Once again I reiterate my enthusiastic support for his amendment.

Mr. TOWER. Mr. President, I have only seen the amendment a few minutes ago. I have been going through it and trying to analyze it as best I can without benefit of any counsel.

I have some concerns with it, and I think the administration might have some concerns with it.

I note that we have held no hearings on this in the Banking Committee. We have held hearings on a similar bill, S. 3379, and there were just a few people who commented on it or testified on it, really only members of the Commission. There were no representatives from private industry or from the administration who testified on this matter, and I think it could have some far-reaching implications not just for American businesses that are doing business abroad but also it could have some foreign policy implications. It could have some domestic political impact on friendly countries—perhaps even in countries that are not so friendly but, at least, are not hostile.

So I think this would be a matter that we would want to consider very carefully. I hope we can hold hearings on this as a separate measure rather than go into it as an amendment to this bill.

There has been testimony to the effect that outright prohibition by the United States of the practice of bribery, criminal prohibition, is the strongest deterrent we could have, and that is contained in the bill before us. Too, it is the strongest possible indication of U.S. policy. This provision for wide disclosure, with no specific definition of what shall be disclosed, I think, has a potential for great mischief-making.

I note that what is required here is an accounting of any contribution, payment, gift, commission, or thing of value as defined by the Commission. Now, it could be a legitimate and legal contribution or payment. It could be the kind of gift that very often businesses give to their customers at Christmastime, that kind of thing, which is not really considered to be bribery, it is considered to be good public relations. Or things of value—well, things of value could be anything.

I think what this could do is force disclosure of legitimate payments or commissions and, perhaps, cast them in an unfavorable light with a clear suggestion that, perhaps, there is something wrong with them. I think it is an invitation for witchhunting.

I might be convinced otherwise, but, at the moment, I am not convinced and, therefore, I hope that we do not act on this measure right now.

There is another provision that provides:

> Each statement filed under this subsection shall be made available for examination and copying by the public, except to the extent the President determines that the disclosure of information contained in a particular statement will severely impair the conduct of the United States foreign policy, and transmits to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report stating that such a determination has been made and summarizing the information which is subject to the determination.

Here is a further provision that I am somewhat at a loss about, which reads as follows:

> If such a determination is made, a notation to that effect shall be entered in that part of the statement which is made available to the public.

What that sounds like to me is, even if it should impact adversely on the conduct of American foreign policy, the committee could go ahead and release the statement with simply a notation that the administration has noted it is harmful to the conduct of American foreign policy.

It does not seem to me to afford any protection of any kind to the administration in an effort to prevent the disclosure of information that does adversely impact, perhaps, on a delicate international negotiation or a delicate relationship of some kind.

I hope we could hold hearings on this proposal and hear more than the witnesses we have had on a similar proposal, which consisted only of the members of the Securities and Exchange Commission.

So I would plead with my distinguished chairman to use his good offices in seeing if we cannot, perhaps, agree to take this to hearing but not act on it on the floor today. This is too important a matter, and it has too many implications, for us to legislate in a few minutes here on the Senate floor, I think, on this matter.

Certainly I do not disagree with the intent of the Senator from Idaho. I know the Senator from Idaho is well-motivated on this, and I think we would all like to see these practices stopped, the practices that are engaged in not only by American companies, I might add, but by foreign companies as well. I will not name them, but we know who they are. As a matter of fact, there was a writeup in the Washington Post this morning of a French concern that has been engaged in this kind of thing.

I think the best way to stop it will not even be this kind of unilateral legislation that we are probably going to pass here today, S. 3664 which, as the chairman of the committee pointed out, we have all agreed to. The only way to deter it, I think, is going to be through some international convention that all the major industrial nations sign, something that has the force of international law because, unilaterally by ourselves, we are not going to stop it.

MAINTENANCE OF COMMON TRUST FUND BY AFFILIATED BANKS

Mr. LONG. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. TOWER. I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, as of tonight the withholding tax is scheduled to go up because we need a few more days to act on the bill extending the withholding rates. So, to prevent this tax increase, we should pass this matter over to the House now so that the House can get it to the President's desk tonight.

I ask unanimous consent, Mr. President, that the pending matter may be temporarily laid aside long enough to consider Calendar No. 1116 to which I propose an amendment as to the withholding rates.

The PRESIDING OFFICER (Mr. STEVENS). Is there objection? The Chair hears none, and it is so ordered. The clerk will state the bill by title.

The legislative clerk read as follows:

> Calendar No. 1116, H.R. 5071, a bill to amend section 584 of the Internal Revenue Code of 1954 with respect to the treatment of affiliated banks for purposes of the common trust fund provisions of such Code.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 459

Mr. LONG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment No. 459:
>
> At the appropriate place, insert the following new section:
>
> SEC. . WITHHOLDING; ESTIMATED TAX PAYMENTS
>
> (a) WITHHOLDING.—
>
> (1) IN GENERAL.—Section 402(a) of the Internal Revenue Code of 1954 (relating to income tax collected at source) is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".
>
> (2) TECHNICAL AMENDMENT.—Section 209 (c) of the Tax Reduction Act of 1975 is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".
>
> (b) ESTIMATED TAX PAYMENTS BY INDIVIDUAL.—Section 6153(g) of such Code (relating to installment payments of estimated income by individuals) is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".
>
> (c) ESTIMATED TAX PAYMENTS BY CORPORATIONS.—Section 6154(h) of such Code (relating to installment payments of estimated income by corporations) is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".

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

Mr. LONG. In just a second. Mr. President, this bill, regarding the maintenance of a common trust fund by affiliated banks, passed the House by a unanimous

vote, and it was unanimously agreed to in the Senate. I am not aware of any objection to it. The significant thing is the amendment would just continue the withholding tax rates until the end of this month and, of course, by that time we will have had, I hope we would have passed, the big tax bill we have been debating in the Senate.

I yield to the Senator.

Mr. ALLEN. I concur wholeheartedly with what the Senator is doing, and I am certainly not going to object by a prolonged discussion, but I would like to inquire if possibly there are other miscellaneous bills that have been through the Ways and Means Committee and the Finance Committee that may be on the calendar or others that will come to the calendar before adjournment that we might have an opportunity to offer innocuous amendments to of a miscellaneous nature. Would the Senator assure me that is the case?

Mr. LONG. I can assure the Senator there is a hold on every revenue bill that is on the calendar. Senators have that for various reasons. Some want to offer amendments. Some, perhaps, want to inquire in greater detail into the bill. There may be something someone else might want, an amendment they might not want to agree to.

But on my part, I can assure the Senator. I cannot guarantee, as if I had the power to do so. The Senator has the right to offer an amendment.

Mr. ALLEN. Will the Senator try to recall to let the Senator from Alabama know if he is going to bring a bill up so that he might have an opportunity?

Mr. LONG. Yes; I would be happy to inform the Senator.

Mr. ALLEN. I thank the Senator.

The PRESIDING OFFICER (Mr. STEVENS). The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment 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 (H.R. 5071) was read the third time, and passed.

Mr. LONG. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. 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.

CORRUPT OVERSEAS PAYMENTS BY U.S. BUSINESS ENTERPRISES

The Senate continued with the consideration of the bill (S. 3664) to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the Church amendment.

The PRESIDING OFFICER (Mr. CURTIS). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MANSFIELD. I ask unanimous consent that the vote occur at 10 minutes to 5, the time to be equally divided.

Mr. TOWER. I object.

Mr. MANSFIELD. How much time do you want?

Mr. TOWER. I am not prepared to accept a limitation right now.

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 (Mr. FORD). Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask uanimous consent that when the Senate completes its business today it stand in adjournment until 9:30 a.m. tomorrow.

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

SPECIAL ORDERS FOR WEDNESDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the joint leaders have been recognized Senators BIDEN and CRANSTON be recognized for not to exceed 10 minutes each, Senator PROXMIRE for not to exceed 15 minutes, Senator STEVENSON and Senator MORGAN not to exceed 10 minutes, Senator MCGOVERN and Senator BAYH not to exceed 15 minutes; that at the conclusion of special orders, the Church amendment be laid before the Senate; that there be not to exceed 1 hour of debate on the Church amendment, to be equally divided between the Senator from Idaho (Mr. CHURCH) and the Senator from Texas (Mr. TOWER); that at the end of that time there be a vote on the Church amendment.

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

CORRUPT OVERSEAS PAYMENTS BY U.S. BUSINESS ENTERPRISES

The Senate continued with the consideration of the bill (S. 3664) to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes.

Mr. CHURCH. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial which appeared in the Washington Post on August 21, 1976, endorsing my amendment, and an excellent letter written by the chairman of the Committee on Banking, Housing and Urban Affairs, Mr. PROXMIRE, in which he accents in principle the amendment as a welcome addition to the bill.

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

[From the Washington Post, Aug. 21, 1976]

MR. TANAKA AND LOCKHEED

First the Japanese government pitched its former premier, Kakuei Tanaka, into jail for three weeks in its investigation into the Lockheed case. Then it indicted him and released him on bail—the highest bail ever set by a Japanese court on a bribery charge. Japan is hardly unique in the excessive amounts of money drawn into its political life. But it is hard to think of any other modern democracy that has treated a man of equal rank with such dramatic severity. Even Mr. Agnew was never locked up.

As the prosecution of Mr. Tanaka proceeds, it is useful for Americans to remember that it takes two to commit bribery—and the money in the Lockheed case came originally from the United States. Both Japan and the United States will hold elections this fall. In both countries, the question of international bribery is being raised at a time when the politicians are forced to pay attention.

The drastic character of the Tanaka prosecution is related to the intense rivalries among the factions of the Liberal Democratic Party that has governed Japan for almost three decades. When Mr. Tanaka was forced to resign as premier in 1974, as a result of earlier and lesser scandals, he continued in control of one of the party's largest factions. He had always been a spectacularly successful fund-raiser, and the influence that he derived from the flow of contributions continued undiminished. He remained the most powerful man in the party, and he is not the forgiving sort.

His successor as premier, Takeo Miki, discovered last winter that either he would have to prosecute Mr. Tanaka or Mr. Tanaka would devour him. But Mr. Tanaka began to get help from some of the other party leaders—men who had had no part in the Lockheed affair but who apparently feared the effects of a thorough investigation on the party structure. In May, several of the factions joined in an attempt to oust Mr. Miki. Instead of going quietly, he hit back. He declared that he would not leave office until the Lockheed scandal had been resolved. A surge of public support sustained the premier in power and two months later Mr. Tanaka went to jail. This week he was formally charged with taking $1.7 million in bribes to persuade a domestic Japanese airline to buy 21 Lockheed Tristars.

It would have been unfortunate enough to have any American corporation involved in this kind of transaction. But Lockheed is not considered, in other countries, to be just another American company. It is the largest U.S. defense contractor, and it owes its existence to federally guaranteed loans. It is seen abroad as almost an arm of the U.S. government. Its misdeeds, thus, have done proportionately great damage to this country and its reputation.

What does the United States propose to do to prevent a repetition? Last spring Congress added a line to the military aid bill requiring defense contractors to report all foreign fees and commissions to the State Department. That is a beginning, but a very modest one. In the Japanese case, after all, Lockheed was selling civilian aircraft.

Sen. William Proxmire (D-Wis.) has called for criminal penalties for bribing foreign

officials. The Ford administration, instead, has proposed a rule of disclosure of all fees paid by American companies to promote foreign sales. At first glance the disclosure rule might seem weak, but it promises to work more effectively in practice than Sen. Proxmire's criminal sanctions. Jimmy Carter, the Democratic candidate for President, derided the administration's position the other day as "a proposal to allow corporations to engage in bribery so long as they report such illegal transactions to the Department of Commerce." But Mr. Carter hasn't yet got a good grip on the issue. International bribery is typically carried on through layers of subsidiaries and intermediaries; it's very difficult to prove criminal intent at the point at which the money leaves the United States. If a transaction takes place in Japan, it's up to the Japanese courts to decide what's illegal.

But there is one gaping defect in the administration's disclosure plan. Payments would be made public only after a delay of one full year. Why give a year's grace? The best solution comes from Sen. Frank Church, whose Subcommittee on Multinational Corporations was mainly responsible for bringing the Lockheed case to light. Sen. Church recommends full and immediate public disclosure of all fees paid on foreign sales, except for the rare exception that would severely impair national security.

Under the Church requirement, Japanese prosecutors would have been automatically alerted to the inexplicably large fees that were being paid by Lockheed on the Tristar sale. Only the Japanese government could pursue the matter beyond that point. And as Mr. Miki is demonstrating, the Japanese government is quite prepared to follow the chain to its end.

There is one heartening aspect to the squalid affair of the Tristar bribes. In both Japan and the United States, voters have been outraged and the search for effective sanctions has become a campaign issue. An accusation of bribery has suddenly become unprecedentedly dangerous to a politician—as Mr. Tanaka can testify.

[From the Washington Post, Sept. 7, 1976]

DEALING WITH CORPORATE BRIBERY

Your otherwise perceptive August 21 editorial on corporate bribery assumes erroneously that a criminal prohibition of foreign bribes versus a requirement that foreign payments be disclosed are mutually exclusive approaches to the overseas bribery problem and that disclosure is the more effective approach. Actually, both approaches are compatible and reinforce one another.

A disclosure approach can be particularly effective in deterring foreign payments of doubtful propriety but which do not meet the necessarily narrow definition of an outright bribe; for example, an abnormally large sales commission payment to the son of a foreign procurement official.

On the other hand, a direct criminal prohibition can be more effective in deterring foreign payments that are clearly bribes in the eyes of the company contemplating the payment. A disclosure approach, by itself, would not necessarily discourage the payment of bribes in those cases where a company thought that it could disguise the true nature of the payment while still satisfying its legal disclosure obligations.

For example, a company might pay a fee to a foreign marketing consultant with an implicit understanding that a portion of the payment will be channelled to a foreign official in order to obtain a contract. The disclosures would appear legitimate while concealing the true purposes of the transaction.

It could be argued that a company that failed to indicate the true purpose of a foreign payment would be in violation of the disclosure statute and thus subject to civil and possibly criminal penalties. However, in order to bring such an action, the appropriate enforcement agency would have to show what the true purpose of the payment actually was. Thus, all of the evidence needed to enforce a direct prohibition of foreign bribes would also be needed for the effective enforcement of a disclosure statute.

After carefully considering the problem, the Senate Banking Committee concluded that a direct criminal prohibition would be no more difficult to enforce than a disclosure statute. A direct prohibition also has the advantage of clearly and unequivocally declaring that foreign bribes are contrary to U.S. policy. Accordingly, an immediate consensus was formed on the committee in favor of a criminal prohibition of foreign bribes.

The committee also considered the need for a complementary disclosure program to discourage payments that are potentially improper but not necessarily illegal. There was not a consensus on the committee that the benefits from a disclosure approach would outweigh the cost of compliance imposed on U.S. companies. The committee therefore decided to defer action on the disclosure approach until better information can be obtained.

In the meantime, there is no reason why the Senate should not proceed to consider the bill prohibiting foreign bribes as reported by the Banking Committee on July 2. A complementary disclosure program can always be considered as a floor amendment or passed in the form of a separate bill at a later date. The important thing is to take some action this year while the foreign payoff issue is still fresh in the public mind.

WILLIAM PROXMIRE,
Chairman, Senate Committee on Banking, Housing and Urban Affairs.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Public Works be authorized to meet on September 15 to consider the Water Resources Development Act of 1976 and that the Subcommittee on Federal Spending Practices of the Committee on Government Operations be authorized to meet on September 29 concerning the Army's main tank program. This has been cleared on both sides.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the the conclusion of the order for recognition of Senators on tomorrow, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

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

ADJOURNMENT UNTIL 9:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9:30 a.m. tomorrow.

The motion was agreed to; and at 5:11 p.m., the Senate adjourned until tomorrow, Wednesday, September 15, 1976, at 9:30 a.m.

CONFIRMATION

Executive nominations confirmed by the Senate September 14, 1976:

DEPARTMENT OF DEFENSE

David Robert Macdonald, of Illinois, to be Under Secretary of the Navy.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

RECENT HAPPENINGS AT U.S. MILITARY ACADEMY

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. RHODES. Mr. Speaker, a constituent in my district has written me a very thoughtful letter, in which he expresses his concern over the recent happenings at the U.S. Military Academy.

His comments on the honor code are trenchant. He points out that this code has given the Academy its distinction as a bastion of integrity, and asks that the high moral standards be continued.

I am hopeful that my colleagues will take the time to read his commentary, a reassertion of the principles that have guided those who have attended the Academy in the past.

Malcolm E. Craig makes a strong point for retention of this historic code of honor. Text of Mr. Craig's letter is as follows:

Congressman JOHN J. RHODES,
Rayburn Office Building,
Washington, D.C.

DEAR CONGRESSMAN RHODES: It is with a

sense of deep regret I must write this letter to seek your support in an issue so important that I believe it is fundamental to the future direction of our country. The issue is the survival of the Honor Code at the United States Military Academy.

In a period of history in which we continually witness the dire consequences of a permissive society and self-serving individuals, West Point has consistently stood its ground in upholding the principles, institutions and traditions which have inspired men to live by the standard of Duty, Honor, Country. This is the reason why West Point has often been looked upon by our citizens as a shining national example of what is right with our country. I can speak only for myself, but if only one issue were to be singled out as being the most fundamental to West Point's ability to accomplish its mission, the Honor Code would certainly be it.

As a graduate of the USMA Class of 1952, it was a rare privilege for me to live for four years with 2400 other men who agreed that the absolute values of the Honor Code transcended the prerogatives of the individual. The few in my class who could not or did not accept this premise left the Academy and in so doing further strengthened the conviction of the many in the value of the honor system. We are all human and are influenced by those around us, thus the Honor Code has been instrumental in establishing an environment where the individual's desire to rise above his baser instincts is nourished by not only the Code itself but by the others who adhere to it. To consider a weakening of the Code is to ultimately destroy it. There are those who, lacking in understanding or being brainwashed that absolute values belong only to the past, are now pressuring senior Army officials and officers to modify the Code to "adapt" to our times. For the sake of our future officer corps and indeed our country, I pray that you will personally take a public stand before the Congress urging the continuation, unchanged, of that thing most precious to over 30,000 graduates of USMA, the Honor Code of the Corps of Cadets.

I am no longer a member of the Armed Forces, but am fortunate to have a son who is a commissioned officer in the Marine Corps and a son who desires to enter the USAF Academy. I am also privileged to be president of the school board of Scottsdale Christian Academy. In these endeavors, as parent and educator, as well as in my professions, both military and civilian, I have found sustenance in the values intrinsic to West Point. General of the Army Douglas MacArthur stated this most clearly when he gave his farewell address to the Corps of Cadets in 1962:

Duty, honor, country. These three hallowed words reverently dictate what you ought to be, what you can be, what you will be. They are your rallying points: to build courage when courage seems to fail; to regain faith when there seems to be little cause for faith; to create hope when hope becomes forlorn . . . The code which those words perpetuate embraces the highest moral laws and will stand the test of any ethics or philosophies ever promulgated for the uplift of mankind. Its requirements are for the things that are right; its restraints are from the things that are wrong.

Please do not allow a few misled people to rob future generations of USMA cadets of the benefits so many of us have received in the past. I urge you with all respect to speak out in support of the principles enunciated by the Superintendent and Commandant of the United States Military Academy.

Very truly yours,

MALCOLM E. CRAIG.

TRIBUTE TO REV. CARL Q. LEE OF ZION, ILL.

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. McCLORY. Mr. Speaker, it is with a great deal of pride that I rise to inform my colleagues in the House of Representatives of the coming retirement of the Rev. Carl Q. Lee, general overseer of the Christian Catholic Church in Zion, Ill.

Seventy-five years ago, Dr. John Alexander Dowie turned a silver spade of earth symbolizing the founding of Zion as a home for the Christian Catholic Church. Reverend Lee is the fourth general overseer in Zion's history.

Mr. Speaker, I am proud to bring Carl Lee's career to the attention of the Members because Reverend Lee is a personal friend. He came to Zion in 1920, in part, he confides, because its location gave a boy from Minnesota a chance to see the Chicago Cubs.

With only one brief intermission, Reverend Lee has been in Zion ever since, but rarely has he had time to go to the ballpark. He has been minister to the Christian Catholic Church for 46 years, and has served as its general overseer for the last 17 years. Under his leadership, this great social and religious institution has prospered, and enriched the lives of those in the Zion community—and many thousands of others throughout the Nation.

Mr. Speaker, I recently had the opportunity to attend the Zion passion play, an annual summer event of great prominence in northern Illinois. After the play, Reverend Lee was kind enough to give me a tour of the new church facilities, a most impressive complex that was developed under his direction, and which will stand for generations as an articulate tribute to his leadership.

Mr. Speaker, the hope of the Founding Fathers for America was that it be a nation of virtuous men and women, dedicated to the common good and unselfish in their contributions toward that goal.

Since Reverend Lee's retirement occurs during the year of our Nation's Bicentenial, it is appropriate to recall that the leadership in God's Way which characterized the actions of those who established our country has been emulated by Reverend Lee during his service in the Christian Catholic Church.

Throughout his experience in Zion, Reverend Lee has had his wife Gertrude at his side, supporting and encouraging him in the good works which, in a larger sense, they have jointly performed.

It is with pleasure that I extend to Reverend Lee my warmest congratulations on his years of service and offer my best wishes to his successor, Rev. Roger W. Ottersen.

CLEAN AIR SCRUBBERS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. COLLINS of Texas. Mr. Speaker, the clean air bill means additional expenses and higher rates for utilities. Down in Dallas we have a most efficient power and light system in our area. They are now contesting the Clean Air Act provisions that relate to scrubbers. I would like to quote a section of a speech by Mr. Louis Austin, who is president of the Texas Power & Light Co. I am proud they are testing present EPA provisions because these regulations mean higher utility rates with no economic beneficial improvements to the community. Here is the section of Louis Austin's speech speaking for Texas Power & Light plus those of us who want to keep lower light bills:

The first is unreasonable and unnecessary regulations that are restricting the use of our domestic energy resources. The government is pushing energy independence with one hand and throwing up roadblocks to the development of our energy resources with the other. I could cite numerous examples—the Alaskan pipeline delay, natural gas regulation, restraints on offshore drilling, regulations that restrict coal mining operations, and the ever-increasing safety regulations and threat of moratoriums affecting nuclear plant construction and operations.

All of these add to energy costs. Many are necessary. Many have been passed that sound great, but cannot be justified in terms of costs and benefits received. We realize we need environmental laws, but we must also look at the cost to society.

Let me cite one specific example—the Clean Air Act which is requiring us to install expensive scrubbers on our new lignite units to remove sulfur dioxide. On just one of these units, the cost is $36 million and the equipment will increase the cost of every kilowatt-hour produced by the unit by 15%–20%. We are being ordered to install this equipment?

In spite of the fact that sulfur dioxide has never been proven harmful in stack emissions;

In spite of the fact that we have monitored the air all around two of our lignite plants for years and have never exceeded EPA ground level requirements for SO_2 from the plant operations;

In spite of the fact that the reliability of the equipment has never been proven; and

In spite of the fact that the waste products from scrubber operations create an environmental problem.

Because this regulation makes no sense to us, we have told the Texas Air control Board that we would not install the scrubber on this particular unit. We believe, in the interest of our customers, we must draw the line somewhere. The matter is now before the courts, and we hope to prove the EPA regulation is invalid.

NEW TENNESSEE ATTORNEY GENERAL

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. JONES of Tennessee. Mr. Speaker, the State of Tennessee has just appointed a new attorney general to replace the present attorney general, Ray Ashley, who has resigned to go back to his private law practice. The new attorney general will be Brooks McLemore, a very capable and able member of the legal profession for many years in my congressional district.

Mr. McLemore has served as a chancellor in Madison County's Chancery Court and as executive secretary of the Tennessee State Supreme Court. I cannot think of anyone in Tennessee whose experience and ability are better suited for the job of attorney general.

I would like to take this opportunity to insert into the RECORD a newspaper article from the Jackson Sun which appeared after Mr. McLemore had received the appointment from the State's supreme court justices:

NEW STATE ATTORNEY GENERAL

(By John Parish)

Brooks McLemore is a busy man. He has three jobs.

The newly appointed state attorney general is still winding up some cases in Chancery Court, is deeply involved in ongoing programs as executive secretary to the Supreme Court and is preparing to take over next month as the state's chief legal officer.

No specific date has been set for the Jackson jurist to take the oath as attorney general, but McLemore said here Saturday that he expects it to be before mid-October. Atty. Gen. Ray Ashley, who has resigned to return to private law practice in Dyersburg, wants to leave office by Sept. 30.

"I would like to have 30 days rather than 20," McLemore said. "I have talked to Gen. Ashley and he has agreed to stay a little longer if necessary."

McLemore already has talked with members of the Supreme Court about naming his successor and he expects that to be done very shortly. He did not reveal any name for the job, but there has been some speculation that Chancellor Paul Summers of Somerville may be in line for the executive secretary post.

McLemore said he will continue his interest and involvement in a study he has initiated to make recommendations to the 1977 Constitutional Convention that will consider rewriting the judicial articles of the 1870 charter. Part of that document deals with the method for choosing the state attorney general.

Although he was widely quoted as defending the present system of having the attorney general appointed by the Supreme Court, he is not opposed to some alternative method. "It wouldn't make sense for me to criticize the system that made me attorney general," he explained.

McLemore, in an interview here Saturday, was careful not to suggest that he was coming to the attorney general's office with a lot of ideas about how it should be changed and improved. He said he has no plans to make any staff changes.

"It would be presumptious for me to start talking about changes in the staff when I don't know what they are doing," he pointed out. "I am going to them with Gen. Ashley to talk about what they are doing and to find out where the problems are."

McLemore also made it clear that he intends to be an active attorney general and promises that there will not be any complaints about the office being hesitant to act where it should be involved.

Noting that there has been a lot of talk in the General Assembly about creating the position of solicitor general and making the attorney general a ceremonial office to meet constitutional requirements, McLemore observed:

"There won't be any solicitor general if I can get by this first General Assembly."

It is unlikely that there will be any pressure to pass a solicitor general bill in 1977 with a new attorney general and a convention coming up later in the year to consider changes to the constitution.

McLemore, who has been active in court modernization and reorganization since 1960, said he intends to continue this interest and will have the attorney general's office involved in making recommendations to the constitutional convention on any changes affecting that office.

He views his primary responsibility as attorney general as the chief counsel for the State of Tennessee, but he recognizes that because of the size of the job it has become more administrative and executive.

"It will be hard for me to stay out of the courtroom," he conceded, "but I may find out that I cannot do as much of that as I would like."

As a former state senator and unofficial lobbyist for the judiciary with a good record for success, McLemore plans to personally take care of the liaison with the legislature on the budget of his new office and other matters involving the work of the attorney general.

He voiced some concern about the abuse by some legislators in requesting legal opinions from the attorney general's office for political purposes, but McLemore said he cannot visualize any conflict between the lawmakers and himself.

Although the duties of the office will keep him in Nashville five days a week, McLemore plans to retain his official residence in Jackson and will have an apartment in the capital city. He had a similar arrangement while he was acting executive secretary and more recently when he took the job on a full-time basis.

He has come to regret one decision he made as executive secretary for the Supreme Court. Ashley had asked for six parking places for his staff at the Supreme Court Building in Nashville, which is several blocks away from the attorney general's office.

"I wouldn't give him but three," he laments." Now I am stuck with that decision.

Technically, McLemore is a retired chancellor with his retirement benefits suspended while serving as executive secretary to the Supreme Court and receiving the salary of an associate justice.

His new job will pay $46,000 a year for a term expiring in 1982.

McLemore served three terms in the State Senate and was nominated for a fourth term before he was appointed Madison County chancellor in 1960 by the late Gov. Buford Ellington. He resigned that office in July to take the job with the Supreme Court after serving as acting executive secretary from September 1975 to May of this year.

He is a native of Medina, was educated in the public schools here and attended West Tennessee Business College and Union University. He received his law degree from Vanderbilt University.

"I am real happy and very humble," McLemore summed up his reaction Saturday. And very busy, we would add.

UNIVERSITY OF TEXAS SCIENTISTS TO BUILD LASER DEVICE WITH NASA GRANT

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. PICKLE. Mr. Speaker, the University of Texas Astronomy Department has proved itself over the years one of the preeminent schools in the country in its particular field of inquiry. No doubt the McDonald Laboratory in far west Texas has been a valuable asset to the department and to the Nation.

In recognition of its achievement and potential for further groundbreaking research, the University of Texas was recently awarded a $1.3 million contract from the National Aeronautics and Space Administration to construct a 3-ton mobile telescope. This is a noteworthy award and deserves our attention and recognition.

I am enclosing an article from the University of Texas News Service about this grant:

UT NEWS

AUSTIN, TEX.—The University of Texas has received a $1.3 million National Aeronautics and Space Administration contract to construct a mobile lunar laser ranging station, which could help determine the exact rates of movement between continents and help geophysicists understand earthquakes.

Dr. Harlan Smith, chairman of the UT Astronomy Department, says that scientists at the University's McDonald Observatory in West Texas are obtaining data at this time which tells them the distance of the moon from the earth.

Dr. Smith, also director of McDonald Observatory, says that the measurements made at the observatory are already being applied in a number of fields, and will make possible the study of continental drift.

Most geophysicists now believe that the land masses of earth were once part of one super-continent which broke up and began drifting apart several hundred million years ago.

Though the historical trends of continental drift are generally known, geophysicists are concerned with modern rates of drift, the understanding of which could lead to such valuable developments as the prediction of earthquakes.

Since 1969, when Apollo 11 astronauts left the first of several reflectors on the moon, scientists at McDonald have been bouncing laser beams off the reflectors regularly, and by measuring the round-trip travel time of the light have been able to measure the exact distance to within a few inches at each time of firing.

Scientists use the 107-inch McDonald telescope to transmit and receive the reflected beams of laser light and have collected essentially all of the world's scientifically useful lunar distance measurements.

For exact measurements of continental drift, scientists need a mobile station which can make measurements from selected points on earth and return several months later to determine how far the point has moved in relation to the fixed stations.

"Dr. Eric Silverberg has been in charge of

the lunar laser ranging project since it began seven years ago," Dr. Smith says, "and he has designed and will be in charge of construction for the mobile station which we hope will be operating in 1978."

Though continental drift is currently of interest to science and is the main purpose of the mobile ranging station, the ability to measure variations in distance from a source to a reflector with such a degree of accuracy has a number of applications.

"Lunar ranging data that has been gathered so far reveals the rate at which the earth and moon are wobbling on their axes," Dr. Smith says. "Figure skaters vary their rates of rotation by varying the extension of their arms, or in effect redistributing their mass. Changes in rotation of any body indicate changes in the distribution of mass and allow us to 'look' into the interior of an object."

He explains that lunar ranging will indicate changes in the earth's inner core, and knowledge of the moon's core will help scientists understand the origin, which in turn will lead to a better understanding of the history of the solar system.

"What is probably the most profound application of lunar range data is to test fundamental concepts of cosmology and physics," Dr. Smith says.

"If Einstein's Theory of Relativity is indeed correct then it should precisely predict the orbit of the moon, and already lunar laser data has shown that Einstein was correct within a few inches in the case of the moon's orbit."

According to the astronomer, the result has deep implications for scientists attempting to understand other phenomena which can not be observed, such as the beginning of the universe or the regions of space known as "black holes" in which time, space and matter behave in ways not explainable by traditional physics.

Another cosmological problem, Dr. Smith says, which possibly could be solved by lunar ranging is whether or not, as some theories suggest, the force of gravity between two masses becomes weaker as the universe expands.

"If the theory is correct, the decrease in gravity would cause the moon to recede from the earth about one-half inch per year," Dr. Smith says, "and within a few years the lunar laser ranging experiment will measure this change if it is occurring."

Three times daily, for 45 minutes, three weeks each month, the laser ranging crew uses the giant McDonald telescope which also is used for a number of other projects.

Hitting the reflectors is not a simple matter of dialing their location into a computer and hitting a button. Success depends to a great extent on the skill of the operator, and one successful shot in 10 is considered excellent.

The telescope concentrates the laser beam to a pencil-thin beam as it leaves, but by the time it reaches the moon a quarter-million miles away it has spread out to cover about four square miles and on its return it spreads out again, so that only one photon, or light particle, of every ten thousand million billion sent to the moon is detected by the telescope on its return.

But that is enough. Sophisticated electronic detectors and analyzers perform the calculations which allow the exact lunar distance to be determined. The data is made available to the international scientific community through the National Space Science Data Center at NASA's Goddard Space Flight Center.

Dr. Smith describes the use of the telescope to send light to the moon rather than receive it as a "man-bites-dog inversion of ordinary astronomy."

He adds: "It is remarkable that by sending light to the moon that scientists can study basic properties of space-time and gravity, and at the same time understand better the motions of the planet beneath our feet."

THE FIRST ANNIVERSARY OF THE CANONIZATION OF SAINT ELIZABETH SETON

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. MURPHY of New York. Mr. Speaker, 1 year ago today, September 14, an event took place in St. Peter's Basilica, Rome, in which every American took pride. On this day, 1 year ago, Pope Paul VI canonized Elizabeth Ann Seton—the first native born American to receive such recognition.

This was a great religious and historic occasion. In honor of the canonization, the Congress overwhelmingly passed a joint resolution declaring September 14, 1975, as "National Saint Elizabeth Seton Day."

Elizabeth Seton was born on Staten Island, N.Y., in 1774, married and widowed at a young age and by 1803 settled with her five young children in Emmitsburg, Md., where she founded the Sisters of Charity in St. Joseph. Elizabeth Seton accomplished much in both religion and education. Her name will be remembered as the founder of over 20 community-based Sisters of Charity orders in America. Today, her 7,500 spiritual daughters, the American Sisters of Charity, are found throughout the Western Hemisphere and in many distant nations. The Sisters of Charity, since their inception, have been active in both charitable and educational work and under the leadership of Elizabeth Seton founded the first parochial school in the United States, many of our first orphanages as well as establishing vitally needed hospital facilities. During her lifetime she was deeply involved in the problems of the poor and disadvantaged of all faiths. Her schools, hospitals, and welfare institutions were open to everyone in need, regardless of race, nationality, or creed.

Through her work, and the work of her followers, Elizabeth Seton has done much to strengthen the religious and moral fiber of this country. Her contributions place her among the most outstanding women in American history.

The adoption of our resolution last year was an appropriate means by which to recognize the historic event of Mother Seton's canonization. On the first anniversary of this event, it is fitting that we should reflect on the remarkable accomplishments of this woman and know that the charity and hope she symbolized is still reflected in the lives and works of her followers.

THE ATTACK ON GOLD

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. PAUL. Mr. Speaker, on September 15, the International Monetary Fund is scheduled to sell another 780,000 ounces of gold. In the past I have often made the point that such sales are illegal and that they only go to finance a back-door foreign aid scheme. Another aspect of this sale, however, is the continued war against gold being waged primarily by the U.S. Treasury. Secretary Simon, for whatever reason, seems determined to destroy the monetary value of gold. This has had the effect of seriously undermining the efforts of many foreign governments to stem the rising tide of paper money throughout the world by restoring some of the discipline of gold to international monetary affairs.

I believe that this attitude is both false and foolish and I would like to commend to my colleagues an article from the Wall Street Journal which illustrates this:

[From the Wall Street Journal, Sept. 13 1976]

REVIEW OF CURRENT TRENDS IN BUSINESS AND FINANCE

LONDON.—It is historical folklore time at Peoples Interplanetary Academy No. 999EN6J, a satellite of the earth (northern) school district. The precocious youngsters hush as the teacher begins a tale from that strange period of a millenium earlier, the Twentieth Century.

"Once upon a time, there was a magical money. It could charm fair maidens, and embolden men to great adventures. Every child believed it could be found at the end of a rainbow, yet it was usually invisible to grown-up tax collectors. Most wonderfully of all, the more terrible the things which happened on our planet, the more precious it became. They called it gold."

Twittering with excitement, several children ask in unison, "Whatever became of gold?"

"Oh, it must have lost its magic. The ancient rulers used to say it could never go down in value. And there were gnomes then, too, who said it would go up forever. Somehow, it started going up and down."

The class groans. Most lose interest, but one boy asks, "Why?"

"Inflation had a lot to do with it. Back when money was paper, the kindly rulers would print lots of it when they wanted people to be able to buy more things, or when they wanted to buy weapons to kill other rulers' people. But the more money there was, the fewer things each bit of paper money would buy, so more people tried to keep up with inflation by buying gold.

"The worse inflation became, though, the higher interest rates the banks had to pay. Many people decided it was better to collect interest than to pay a bank to keep their gold in a vault, so the price stopped going up so fast. Then the opposite happened. Inflation was so scary that the people stopped buying things, so the rulers decided it was silly to print so much money. Once people knew this, they bought even less gold and its price went down."

"If it was that simple, it's boring," frets a little girl.

"Well, that's all I was programmed to say, but I'm not so sure," confides the teacher; "I've heard some rulers hated gold, and plotted against it." Ears perk up again.

"Even official history shows that the International Monetary Fund, sort of a bank for almost all the governments there used to be, sold a lot of its gold. The idea was to sell it at a high price to rich people so the IMF would have money to give to the poor people, who were very numerous and restless then. It seemed like a nice thing to do.

"But the more gold the IMF sold, the lower the price went, so there wasn't much money for the poor. Some people thought the IMF knew all along that this must happen because of a law they had then, the law of supply and demand. People in a place of small rich countries, called Europe, were suspicious because the IMF lived in the biggest rich country called America. So they thought America told the IMF what to do.

"Now, the American rulers probably weren't bothered, at least, that the poor people were getting less money. They believed the main reason the gold price was going down was less inflation, which meant the poor countries would be able to buy more things with their own money. Anyway, they knew a lot of the poor nations wouldn't love America no matter what the price of gold was.

"And America certainly didn't love gold. For years the American treasury would sell gold to hold down the price, and always promised that it would never let it go up. But finally it did let it go up a teeny bit, so nobody knew what to believe anymore. That's when people bought lots of gold and made it go up and up.

"Then, the Americans could argue that gold was too unsteady to be important in the earth's money system. Enough Europeans agreed, and gold did become less important. When people saw that America had the power to get its wish against gold, many gave up owning it and its price fell down like humpty-dumpty. Yes, I know why you are raising your hands, but to this day no one really knows why America didn't love gold.

"There were rumors, of course. Most people in a European country called France loved gold, and under their rulers loved to tease America. They played a game in which France would cash in chips for American gold, and then tell everybody the score, which America wanted to be secret. So America loved to tease France back by dropping out of the game and by making France's gold less precious. They couldn't do this without making everybody's gold less precious.

"I don't think the American loved the two countries which dug the most gold out of the ground, either; oh, yes, that's where it really came from and some Americans thought it was just silly to dig it all up and then bury it again somewhere else. Americans were often afraid of the big country called Russia, and they didn't like the way the one named South Africa treated its black people. So they might have tried to keep down the gold price to keep those countries from getting richer.

"The American treasury didn't love those gnomes, either, because they hid Americans' gold and even their paper money in mountains where the treasury couldn't find it. But one day the treasury played a very big trick on the gnomes, by saying it would no longer put Americans in jail for owning gold. Human nature being what it was back in those primitive times, that took all the fun out of owning gold, and scarcely any Americans wanted it after that."

"Teacher, is that when everybody stopped playing with gold forever?"

"Frankly, I doubt that it was that early. All we know is that the last records show that there was more gold in the American treasury than anywhere else on the planet, and that the Twentieth Century was a time of much change and upheaval before the . . . sit still now, surely you've seen a rainbow before."—RICHARD F. JANSSEN.

TRIBUTE TO PAUL GASKINS

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. KETCHUM. Mr. Speaker, I consider myself very privileged to represent an individual who has gone out of his way to make an extremely dedicated personal contribution to our Bicentennial commemorative. Mr. Paul Gaskins, of Lancaster, Calif., is the gentleman in question; it is with pleasure that I share his Bicentennial "gift" with my colleagues here today.

Last year, at a dinner commencing the annual Antelope Valley, Calif., Fair, Mr. Gaskins delivered a very moving and patriotic speech utilizing his impressive knowledge of our Nation's history. For emphasis, Mr. Gaskins wore an authentic George Washington costume for the occasion. His presentation was so well received that an idea was born: he would travel beyond Lancaster, sharing his love for and knowledge of his country with others. By now, Mr. Gaskins has become well-known not only in his own area but throughout four Midwestern States: Indiana, Illinois, Ohio, and Michigan. Maintaining a somewhat grueling schedule, he made many personal appearances, sometimes as many as four per day. Perhaps the most astonishing thing about Paul Gaskins' one-man effort is the fact that he celebrated his 82d birthday while touring the country. An enthusiastic crowd of 7,000—the largest he has addressed—demonstrated its admiration for him by singing "Happy Birthday."

Paul Gaskins is an inspiration to all he meets, and most particularly to our senior citizens. The State of Indiana Commission on Aging and Aged presented Paul with a tribute honoring his colorful portrayal of the Father of our Country. I doubt he has missed a single Bicentennial celebration in his own Antelope Valley, and he has truly stimulated the young minds of students in many schools with his vibrant description and portrayal of our history.

In his 82 years, Paul Gaskins has gained a wealth of knowledge about his beloved country, and the years have not daunted him from assuring that others develop this national pride. Perhaps the most appropriate tribute to Paul Gaskins was that printed in the Antelope Valley Press:

Although he may not truly be the father of his country, Paul Gaskins loves America like a son.

I know that my colleagues will join with me in recognizing the commendable addition to our 200th birthday celebration which Paul Gaskins represents.

SOWETO: PHONY REVOLUTION; BLACK DISASTER

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. McDONALD. Mr. Speaker, it was manifestly apparent to some that the recent disturbances in Soweto in South Africa were not all they appeared to be—particularly, as to their timing. A recent on-the-spot report by Rev. Lester Kinsolving on this score is most illuminating. This below account appeared in the Politics & Religion section of the Fairfax County Globe on September 9, 1976. I commend it to the attention of my colleagues who may be more than a little confused about the matter:

[From the Fairfax (Va.) County Globe, Sept. 9, 1976]

SOWETO: PHONEY REVOLUTION; BLACK DISASTER

When American black militants lit up the skies in the sixties by first looting and then burning the homes of their fellow blacks in places like Watts, Detroit, Newark and Washington, few Americans in general took seriously the demand that whites be evacuated from four southern states which were designated as the "Republic of New Africa."

In South Africa, however, any urban unrest is heralded by most of the world's press as evidence that the revolution—of the 75% of the black population who are black—has surely arrived.

This assumption is absurd on a number of counts. First, no black revolution against whites is successful when it results in nearly 300 black deaths as compared to the death of two whites.

Then the vast majority of these dead in Soweto are quite conclusively due not to police bullets but to black storekeepers defending their property against the horde of husky juvenile delinquents engineered by the far left wing to create mau mau sound effects for the first Kissinger-Vorster meeting.

These are young thugs of the type which can be found in droves in any city in the United States, and in any color. But they made the terrible mistake of attacking Zulu adult men on their way to work—as well as setting fire to a Zulu hostel.

The Zulu comprise 20% of the South African population. During the 19th century the Zulu recurrently terrorized all other black tribes under such genocidal chiefs as Chaka and Dingane—until they clashed with the Boers and the British.

But the same Zulu Impi (warrier) battle cries reverberated throughout the million-member black township of Soweto, as the Zulus began a wild retaliation, not only beating or killing every teenager in sight but tearing up homes as well. (By striking contrast we were able to visit a Zulu township near Durban called Umlazi, where everyone was most congenial.)

The Anti-South African Government English language press reported accusations that the police, both black and white, encouraged the Zulus to teach these "tsotsis" (juvenile delinquents) a lesson.

But we have interviewed numerous blacks from Soweto, including the tragic figures of those who slept on the streets of downtown Johannesburg, because they were afraid to go home. I interviewed one of South Africa's leading black clergy, the equivalent of a bishop, who saw two of his parishioners kneel weeping at the body of their teenage son—

while the police held off, by shooting bird shot, a mob of Zulus who would have torn them to pieces.

This, ladies and gentlemen, is the horrifying side of the arrival of the black power movement in South Africa—a phoney revolution that accomplished nothing except hundreds of black corpses, ruined homes and burned out schools—along with a renewed determination of South Africans in general that their land will never become an Angola or a Congo.

NONDECLINING YIELD ISSUE IN FOREST MANAGEMENT LEGISLATION

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. SYMMS. Mr. Speaker, there is no question that this country is in need of forest management legislation. The forest industry people are urging prompt action. So is the Forest Service and numerous environmental and conservation groups throughout the Nation. At the same time, we must bear in mind that we are dealing with a complex subject that could have an adverse and irreversible impact on the environment of our national forests and our national economy. Section 11 of S. 3091, as passed by the Senate, is one major area that could have a most harmful and detrimental affect on national forest management.

Section 11 of S. 3091 was considered by the Committee on Agriculture during its lengthy consideration of the forest management legislation (H.R. 15069) which will be before the House this week. It was rejected by a 26–9 vote in committee. However, a floor amendment may be offered to H.R. 15069 to restore this provision to the bill. I believe inclusion of this language in H.R. 15069 would be unwise. However, I understand the intense interest in this provision and felt my colleagues should have a better understanding of exactly what is involved in this complicated subject before voting.

Section 11 of S. 3091 deals with determining annual timber harvest rates from the national forests. It would require that sale of timber for each national forest be limited to "quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis." In other words, it would prohibit the sale now of more timber than ultimately will be grown yearly once the national forests are put into a fully managed condition.

I would like to place in the RECORD a paper prepared by the National Forest Products Association on this issue, which is known as nondeclining yield. The paper was researched and written by professional foresters and avoids emotionalism and jargon. The statement focuses attention on what section 11 means and the implications it has on land resource development and management. The two main areas the paper centers on are: First, how enactment of S. 3091 as amended would prevent effective utilization of the surplus growing stock present in most national forests of the West; and, second, how this section would extend appreciably the amount of time needed to bring these forest areas into a managed condition for sustained yield and would foreclose consideration of alternative management systems by locking nondeclining yield into law and, thus, forcing the needless waste of billions of board feet of timber.

The paper follows:

THE NONDECLINING YIELD ISSUE

THE NATIONAL EFFECTS OF SECTION 11

Section 11 of S. 3091 or H.R. 13832 would lock into law a variation of recently adopted Forest Service administrative policy known as "non-declining yield." It would require that sale of timber from each National Forest be limited to a "quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis."

Under this policy, allowable harvest today is set no higher than the sustained-yield level based on the projected growth rate of the forest when it is in a fully managed condition. In effect, the ultimate sustained-yield level of the forest is set as a "ceiling" above which harvest levels cannot be permitted to rise.

SETS LIMITS

Although limiting harvest by setting it no greater than the projected future growth rate of the forest seems a logical and reasonable policy on the surface, it is entirely inappropriate when applied to old-growth forests which predominate in most western National Forests. This is because these old-growth forests contain significantly more timber volume than will be present when the forest is under sustained-yield management. The timber volume has accumulated over much longer periods of time than will be planned for in the future. Current rotation ages on the National Forests range from 90 to 120 years.

Using the sustained-yield level as a ceiling, language of Section 11 would result in needless waste of a valuable timber resource. In old-growth forests (due to the surplus timber volume), harvest levels can be permitted to exceed the projected long-term growth rate of the managed forest for a period of time without ever jeopardizing long-term sustained-yield levels or causing overcutting of the National Forests.

INCREDIBLE WASTE

If Section 11 is enacted, much of this overmature, old-growth timber, because it is highly susceptible to decay, insects and disease, will never become available for harvesting. On a national scale, more than 180 billion board feet of old-growth timber could be lost if it is not harvested in an orderly manner over the next fifty to eighty years. Instead of this timber going to build homes and help America meet its need for wood and paper products, this surplus old-growth of timber will be lost to fire, insects, wind and disease.

Furthermore, application of the policy mandated in Section 11 is so inappropriate to old-growth forests in the West and other areas, that in many cases, in order to avoid a possible reduction in harvest in the next century, this policy in some cases will mandate a definite decrease in allowable harvest today.

VALIDITY OF PREVIOUS PRACTICES

This decrease in allowable harvest is in sharp contrast to the previous method of setting harvest levels in forests with surplus timber volumes. In the past, normal practice has been to set harvest levels initially at a rate greater than the rate that forest growth can sustain over the long run. This accelerated harvest rate would continue until the decadent stands—those that were contributing little in terms of net growth—were replaced by new, young trees.

In effect, previous Forest Service policy treated the sustained-yield level of the forest as a "floor" below which planned harvests would not be permitted to drop. Current policy treats the sustained-yield level as a "ceiling" above which harvest levels cannot be permitted to rise, thereby wasting timber volume surplus to sustained-yield needs.

Under the previous policy, once the "surplus" old growth timber has been removed, the harvest level would be lowered to a point that can be sustained by the annual growth of new wood fiber under current or planned forest management practices. This conversion from old to new is in keeping with the principles of sustained-yield management. These higher initial harvest rates do not jeopardize forest productivity. Only the volume which is surplus to sustained-yield requirements is removed. Harvest levels need never drop below the long-term sustained-yield levels which would occur if harvest levels on the forest are constrained by the non-declining yield policy.

RECAP

If Section 11 is enacted it would have the effect of making over 180 billion board feet of timber unavailable to serve the needs of the American people for housing and a myriad of other wood product needs. This huge amount of timber, worth more than $9 billion, could provide enough lumber and plywood materials to build approximately 15 million single-family homes. It approaches the total volume of timber harvested from the National Forests since their establishment.

It must be emphasized that this 180 billion board feet is not timber which will merely be delayed in becoming available for harvest. It is timber which will never become available if Section 11 is enacted. This is because old-growth timber is subject to loss through insects, disease, decay, and other natural factors which make its susceptibility to death and decay much greater than a young forest. The 180 billion board feet represents the volume of timber which will be lost to natural causes due to the extended period that it must be carried before it can be harvested under the constraint imposed by Section 11. Also contributing to the loss are significant foregoing growth opportunities resulting from productive forest areas being occupied by relatively unproductive old-growth timber.

PERSPECTIVE

One billion board feet would provide enough building material to construct over 80,000 single family homes—enough to replace all the residential housing in a city the size of Richmond, Virginia.

RAPID LIQUIDATION OF OLD GROWTH NOT PROPOSED

Proponents of Section 11 contend that it is necessary to prevent pressure from the forest industry to liquidate all old-growth timber within a very short period of time—less than ten years. However, there is no responsible segment of the industry proposing such rapid liquidation. The industry, however, does want the Forest Service to have adequate flexibility to reduce surplus old-growth timber volumes over a reasonable period (fifty to eighty years) as long as it is consistent with reasonable protection of all multiple use values and can be done without jeopardizing future sustained-yield levels.

HARVEST LEVELS SHOULD BE ESTABLISHED THROUGH PLANNING PROCESS

Rather than being the subject of rigid prescriptions mandated by law, National Forest harvest levels are more properly established through the land use planning process which requires full consideration for the protection and enhancement of watershed, wildlife, recreation and other multiple use values. Forest Service timber goal levels, as well as the goals for other National Forest resource outputs and uses, are subject to periodic Congressional review as part of the process established by the Forest and Rangeland Renewavle Resources Planning Act. This law, as well as H.R. 15069 and S. 3091 as passed, mandates extensive public involvement in the National Forest land resource planning process, in addition to that already required by the National Environmental Policy Act (NEPA).

Example

The following example illustrates the problems inherent in the present Forest Service policy (and in Section 11 if enacted). Although these hypothetical examples are admittedly simplistic and generalized, the numbers reflect actual growth rates and volumes under the described assumptions:

WASTED TIME AND TIMBER

A 100-acre Douglas-fir forest west of the Cascades in Washington or Oregon consists of uniform old-growth timber having an average net volume of 50,000 board feet per acre. Assume that this Douglas-fir forest is of average quality for growing timber in this area and has a relatively uniform productivity. Under a given set of planned management activities (assumed management intensities), it is reasonable to expect that in a managed condition this forest would yield an average annual growth of 350 board feet per acre a year at the assumed rotation age of 100 years (the average age at which trees are scheduled for harvest is termed the rotation). This would amount to a yield of 35,000 board feet per year on the 100-acre forest which would correspond to the sustained-yield level identified in Section 11 of the S. 3091—the "quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis."

However, to bring this 100-acre forest into a fully managed condition, a forest manager would like to be able to harvest an average of one acre per year for each year in the 100-year rotation, so that when the last old-growth timber has been harvested, one acre of 100-year old trees will mature for harvest annually. But, under the language of Section 11 he would be prohibited from doing so since that would involve harvesting 50,000 board feet per year (the average per acre volume of the existing old-growth forest). Under the language of Section 11, he would be forced to harvest no more than somewhat greater than one-half acre per year—almost doubling the time required to bring the forest into a managed condition. In addition, significant volumes of old-growth timber would die and become unavailable due to the extended period that these old stands would need to be held while awaiting harvest.

DETRIMENTAL RESULTS OF SECTION 11

The results of Section 11 would be twofold:

1. It would fail to take advantage of significant growth capacity due to the extended period over which slow growing old-growth stands would occupy growing sites which could be more productively utilized.

2. Significant losses would occur in old-growth stands carried for such periods due to mortality, defect, rot, etc.

Although the above example is, indeed, simplistic, the principle holds true for all National Forests which have any significant component of old-growth timber—virtually all National Forests in the West.

What we stand to lose—the Lassen lesson

The impact of current Forest Service non-declining yield policy was recently shown on the Lassen National Forests in California by the Western Timber Association using Forest Service assumptions on growth, management intensities, and other data and the Forest Service's computer program (Resource Allocation Model). The harvest level planned by the Forest Service is 150 million board feet per year on the Lassen. This represents the sustained-yield or growth that the ultimate managed forest would have (in 360 years).

IMPACT

Under the non-declining yield policy, the Forest Service must use 150 million board feet as a ceiling above which harvest levels cannot go, since to exceed that level would ultimately mean a later decline to the sustained-yield level. Using this 150 million board foot figure as a floor, the Western Timber Association found that the allowable harvest could be increased to 190 million board feet between 1974 and the year 2000, at which time it would drop down to the 150 million board foot level and continue out in an identical manner to that presently planned by the Forest Service. By utilizing the surplus growing stock, over one billion board feet of timber could be harvested and put to use which would otherwise be lost under the present Forest Service policy (which would be set into law by Section 11 of the S. 3091).

It should be noted that at no time did allowable harvest levels, with the non-declining yield constraint removed, ever drop below the harvests presently planned by the Forest Service with that constraint intact. Environmental policies were assumed to be equal for both cases.

CHANGES FORTHCOMING

Pending Forest Service study may indicate alternatives

For the past several years the Forest Service has been intensively studying various harvest scheduling alternatives and their possible implications for the future management of the National Forests. The Service plans to release its study to the public in the very near future. From all indications, the study could very well recommend alternatives to the present policy.

According to the Forest Service it "will use this report after further review by interested members of the profession and interest groups, to reassess these policies and either reaffirm or initiate change, whatever the case may be." (page 309 of "A Recommended Renewable Resource Program—as required by the Forest and Rangeland Renewable Resources Planning Act of 1974.")

With the report due to be released soon, it seems counter-productive to lock the policy mandated by Section 11 into law given the fact that the Forest Service might have changes to initiate over present policy.

The most advisable course of action at this time would be to refrain from legislative prescriptions such as those contained in Section 11 until the full implications of various harvest regulation alternatives can be explored through public participation and review by technical specialists.

ENVIRONMENTAL SAFEGUARDS

Nontimber values need not be jeopardized

Defenders of non-declining yield policies contend that this constraint is necessary to insure protection of non-timber multiple use values such as wildlife, watershed protection, and visual values. There is no question that these values are highly important and need adequate protection. However, setting non-declining yield into law is not the way to insure this protection. The National Forest land use planning process is the proper forum for the identification of multiple use management needs on individual National Forest areas.

Land use planning must be done in accordance with the National Environmental Policy Act which provides for public input, the Multiple Use-Sustained Yield Act, and the principles set forth in the Forest and Rangeland Renewable Resources Planning Act.

It is during this process that cutting methods and rates should be adjusted to insure the protection or enhancement of the various values of the forest. Blanket management prescriptions such as contained in Section 11 are not the way to fulfill this objective.

FALLACIES

Forest Service community stability justifications questionable

One of the arguments the Forest Service uses to justify its present policy is to insure "community stability." This community stability argument becomes less compelling given modern transportation systems. At the present time, it is not uncommon for logs to be hauled over 100 miles from woods to mill—making it very difficult to plan sustained levels which promote the stability of any single community.

An additional fallacy in this argument results from the failure of the agency to consider non-National Forest land in the forest land base used to calculate non-declining yield levels. The Forest Service admittedly cannot control timber harvest on lands it does not administer. However, relatively reliable estimates of removals from these lands can be made based upon forest inventory characteristics, projected market prices, and other criteria. Failure to consider these lands, in many cases, runs counter to the agency's community stability objectives since it ignores the significant contributions these lands will make when combined with National Forest lands.

A recent study by John Beuter of Oregon State University analyzed the timber supply situation in Oregon and discussed the implications of various assumed alternatives to timber supply in that state (OSU Research Bulletin 19, January 1976). All ownerships, including federal, state, forest industry, and small private lands, were analyzed. This study projected that if present land-owner policies continue there will be a 22 percent decline in timber supply in Oregon between 1980 and the year 2000. However, if certain policies are changed (including the present federal non-declining yield policies), there is no reason for any decline in harvest levels at all—either now or as far into the future as can be seen.

Proposed solution

The best course of action would be to defer the legislative prescriptions contained in Section 11 and amend the section to require that allowable harvest levels be set through the interdisciplinary planning process and the establishment of goals approved by Congress as part of the Forest and Rangeland Renewable Resources Planning Act of 1973. This policy should not be fixed in law, especially without the release of the Forest Service study, so that the full implications of various harvest regulation alternatives can be explored through public participation and review by technical specialists.

More specifically, Section 11 should be amended to strike the phrase "a quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis." In its place should be substituted:

"The quantity established by timber man-

agement plans developed pursuant to Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by Section 2 and amended by Sec-5 of this Act."

In addition, a new subsection should be added to Section 11 as follows:

"(c) The Secretary shall study timber inventory management alternatives to determine whether changes from present practices in timber havest scheduling would yield greater net benefits to the Nation and shall report his findings to the Congress prior to 1978."

Under the proposed amendments, timber harvesting schedules would be constrained by the requirements of the Multiple Use-Sustained Yield Act of 1960, the National Environmental Policy Act of 1969, and the amended Forest and Rangeland Renewable Resources Planning Act of 1974 requirements for an interdisciplinary team approach and public participation.

The language would require no change in present Forest Service harvest regulation policies, but would require the Agency to make available the results of its present study on harvest regulation alternatives for the consideration of Congress and the public.

Any management plan is subject to many assumptions. The Program document prepared under the Resource Planning Act is no exception. The present Forest Service nondeclining yield policy was a major assumption of all the alternatives presented in the Program submitted to Congress in March 1976. These assumptions should be subject to periodic Congressional review as provided by the Resources Planning Act and to review by the Forest Service itself every five years when the new Program is due. Everyone will lose if this policy is locked into law now.

THE CHAMBER OF COMMERCE

HON. ALBERT W. JOHNSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I would like to make a few comments today in praise of the chamber of commerce's valuable role in our society. The chamber of commerce is an organization that is supported from the grassroots level; it is supported by business men and women, firms and organizations whose professional leaders speak on behalf of American business. The chamber is truly representative of the business community as a whole because its membership cover the spectrum from the smallest proprietor to the largest corporations, as well as State, local, and regional chambers of commerce, the American Chambers of Commerce Abroad, and trade and professional associations.

The chamber of commerce's stated goal is to foster individual initiative and self-reliance and to improve and protect the competitive market economy, for the long-range good of the country. It seeks to maintain and strengthen freedom of choice, the right to private property, and the private enterprise system, and to preserve, improve, and create a greater understanding of our form of representative self-government.

The chamber of commerce's work began on April 23, 1912, and today it is recognized as a preeminent representative of the private enterprise system. It is constantly acting on problems and issues that are of timely importance and general in application to all business. In consistently trying to establish and carry out policy concerning the most important issues affecting the market system, the chamber truly represents the business community as a whole.

At this time, I would like to express my deep appreciation to the chamber of commerce for its valuable role it has played in the business community, the Congress, and the Nation.

PCB'S AND KEPONE IN MOTHERS' MILK

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. DINGELL. Mr. Speaker, the House recently approved an amendment which Congressman GILBERT GUDE and I offered to H.R. 14032, the Toxic Substances Control Act, to phase out the production and use of polychlorinated biphenyls—PCB's—which are highly toxic chemicals widely distributed throughout the environment. I am placing in the CONGRESSIONAL RECORD an article which appeared in the August 28, 1976, issue of the Washington Post newspaper reporting on a study which found PCB's present in mothers' milk in 10 States. This article points to the urgent need for enactment of legislation to control hazardous industrial chemicals like PCB's.

I am placing, also, in the RECORD a report in the February 27, 1976, issue of the Washington Post on the discovery of traces of the pesticide Kepone in mothers' milk. It is worth noting, further, that other reports have found traces of other pesticides such as DDT, Aldrin and Dieldrin present in samples of mothers' milk. The presence of one of these chemicals—all of which are either proven or suspected to be capable of causing cancer—is disturbing; however, what about the effects of a combination of these chemicals in mothers' milk? Has a study been done to identify the entire range of chemical contaminants in mothers' milk?

Finally, I am inserting a copy of an article which appeared in the September 13, 1976, edition of the Washington Post newspaper which links PCB's to liver cancer.

[From the Washington Post, Aug. 28, 1976]

MOTHERS' MILK IN TEN STATES FOUND TO CONTAIN TOXIC CHEMICAL PCB

(By Victor Cohn)

Polychlorinated biphenyls, poisonous industrial chemicals that have fouled the nation's waterways have been discovered in mothers' milk in 10 states in what a federal official yesterday called "worrisome" amounts.

The description came from Dr. David Rall, director of the National Institute of Environmental Health Sciences, who chaired a special meeting at the Department of Health, Education and Welfare called to discuss what he called "this potentially serious problem."

PCBs form a class of colorless and tasteless compounds with a thousand industrial uses as insulators, sealers, heat transfer fluids and ingredients of inks, paints, lubricants and plastics.

The first findings in a national survey by the Environmental Protection Agency showed measurable amounts of PCBs in 48 of 50 samples of mothers' milk tested in Maryland, Virginia, Michigan, North Carolina, New Jersey, Alabama, Florida, Georgia, Pennsylvania and South Carolina.

The findings were called "preliminary" and "unconfirmed" by George Wirth, chief of the special chemicals branch in EPA's Office of Toxic Substances.

But another official who asked to remain anonymous said "the figures come from a laboratory in which I have a great deal of confidence." He added that "other figures we're getting from the Midwest show the same levels or higher. Before long we should have the picture for the whole country."

Rall, who heads HEW's main environmental laboratories, said after the meeting, "I don't think I'd tell nursing mothers to make any changes in their breast-feeding now. But we're going to have to get more EPA and independent data . . . so we can have a better idea what to advise."

He added, "I don't think pregnant or nursing mothers should eat any fish from the Great Lakes or Hudson River," waters where commercial but not sports fishing has been halted because of PCB contamination.

Dr. Arthur Selikoff, a noted environmental chemist at Mount Sinai Medical Center in New York, said he was "loathe to have any children exposed—this is an unpleasant piece of news we didn't expect."

Selikoff was one of a group of consultants who met with the HEW committee and heard reports of serious disease, brain and nervous disorders, stunted growth and deaths in the nursing infants of rhesus monkeys fed PCBs. Some of the monkey mothers' milk fat contained around 3 parts per million of PCBs.

This is "in the same ballpark" as the measurements in the human mothers' milk, said Dr. J.R. Allen of the University of Wisconsin, who conducted the monkey studies.

The average measurement in the 48 mothers' milk fat was 2.1 ppm. The highest single measurement—officials did not say in what state—was 10 ppm, a figure so high it made some wonder if it would be accurate except in a case of serious industrial poisoning.

The four highest averages were in women from North Carolina, with 2.6 ppm; Maryland, 2.5; New Jersey, 2.3, and Michigan, 2.1.

The Food and Drug Administration has set a "provisional tolerance level" of 2.5 ppm for PCBs in the fatty part of whole milk on grocers' shelves. Anything higher is considered unsafe.

With new knowledge of PCB effects, "we're considering lowering these tolerances," John R. Wessel of the FDA reported.

"Numbers like these may sound very low to the average person," Selikoff said. "But the child is going to store this stuff in its fat tissue, so if it takes it in every day, you have a buildup. And it says in the body for years."

FDA officials said other studies show that recent PCB levels in cows' milk and infant formulas have been showing sharp drops in the past two years, which they said was encouraging in case some breast-feeding should be curtailed.

Still, health officials might have to compare the levels in mothers' milk and cows' milk state by state, because state figures vary, Wessel said.

If the EPA figures are confirmed and found widespread, committee members and consultants said, a simple way might be developed to test a mother's milk for contaminants or

reports might be made to mothers on alternative foods low in risky chemicals.

Since 1966, when PCBs were first found to have crept into the environment, they have been found in drinking water, fish, other foods, wildfowl and other birds, human body fat and breast milk in several other countries—though only in scattered instances in U.S. mothers' milk.

In the early 1970s chickens and eggs contaminated by industrial PCBs were destroyed by the millions. Monsanto Co., this country's only producer of PCBs, halted sales in 1971 except for sealed machinery such as electrical transformers.

However, millions of pounds of imported PCBs have continued to pour into the country, in part because of congressional failure over the past several years to agree on a toxic substances control act. Such a bill, with a clause that could bar such imports, is before a Senate-House conference committee. On Monday night the House passed an amendment to it that would outlaw all PCB manufacture within two years.

Some 750 million pounds in use and 450 million pounds in landfills, water, soil and the air are expected to remain a problem for generations, however.

PCBs are chemically related but are different compounds from a group of fire retardants known as PBBs—polybrominated biphenyls. In the last few years PBBs have contaminated tons of Michigan livestock feed, and last week Michigan health officers reported finding PBBs in amounts as high as .5 ppm in the milk fat of 22 Michigan mothers.

[From the Washington Post, Feb. 27, 1976]

9 MOTHERS HAVE TRACE OF KEPONE

The Environmental Protection Agency said Thursday it has found minute traces of Kepone pesticide in mother's milk from nine women living in seven cities in Alabama and North Carolina.

An EPA spokesman said the nine were among 298 in nine southeastern states whose milk was tested for Kepone, an ant and roach poison, within the past six months. Milk samples from all the other women were free of Kepone, he said.

The amount of the substance found in each woman was minuscule, ranging from less than one to 5.8 parts per billion, the spokesman said. He said Kepone levels recently found to have caused serious illness in Hopewell, Va., where the pesticide formerly was produced, were about 1,000 times higher.

The spokesman said the EPA is unsure where the pesticide found in the milk originated, although it might have been formed by the degradation of another poison called Mirex, or "what hazards, if any" are posed by such small amounts of Kepone.

He said he did not know whether any of the nine women, who all had given birth days before the milk samples were taken, were nursing their babies.

[From the Washington Post, Sept. 13, 1976]

INDUSTRIAL CHEMICAL PCB IS LINKED TO LIVER CANCER

(By Morton Mintz)

COLD SPRING HARBOR, N.Y., Sept. 12.—A toxic industrial chemical that recently was found in the milk of 65 of 67 tested American nursing mothers was linked to liver cancer in humans today by a leading Japanese scientist.

The chemical polychlorinated biphenyls (PCBs), is believed to be present in the fatty tissue of nearly every person in the United States, Japan and possibly other industrialized countries.

The association of PCBs with human liver cancer—which is always fatal generally within a year—developed from an episode in which about 1,000 persons in Yusho, Japan, over a period of a few weeks in 1968, ate rice oil accidentally contaminated with a total of 0.5 to 6.0 grams of PCBs.

Varying but apparently extremely high amounts of PCBs persisted in some of the victims' bodies. Many still report fatigue, headaches, fever, coughs, numbness in the limbs, severe skin eruptions, and digestive and menstrual disorders. Some infants born to victims had PCBs in their tissues at birth, and also had severe skin discolorations.

PCBs, extremely stable chemicals, are used in electrical equipment, paints, printing ink, adhesives and other products. They have been used widely for 45 years but were not regarded as environmental contaminants until 1966.

Dr. Tjkeshi Hirayama, a specialist in tracing the causes of human disease at the National Cancer Center Research Institute in Tokyo, told an international conference on cancer at Cold Spring Harbor Laboratory that five of the Yusho victims died of liver cancer within five years after eating the contaminated cooking oil. This figures out to a rate of 500 per 100,000, compared with the expected rate of 31 per 100,000.

Hirayama, in an interview later, said that the association between PCBs and liver cancer was definite in two cases and possible or probable in the remaining three. The two definite cases alone translate into a rate six times higher than normal, while all five cases translate into a 16-fold higher incidence, he said.

Hirayama's presentation followed a report by pathologist James R. Allen of the University of Wisconsin, who warned that "any level" of human exposure to PCBs "may be injurious to human health."

The Yusho rates—reinforced by data on brain changes in monkeys and other adverse effects in animals cited by Allen—suggest a "high possibility" that PCBs caused the liver cancers, Hirayama said.

As for the hundreds of millions of persons who have ingested much smaller amounts of PCBs, mainly in their food, Hirayama said, "I am concerned about the implications for people everywhere ... There is no question the problem is serious."

Although Hirayama previously had reported the liver cancer risk calculations in Japan, they came as a surprise to several attending scientists who specialize in causes of environmental cancer.

Hirayama's disclosure "is one of the most worrisome sets of data that we have recently seen," said one of those scientists, Dr. Irving J. Selikoff of the Mount Sinai School of Medicine in New York City.

The Environmental Protection Agency recently reported that PCBs had been found in tests of milk of mothers who live in 10 states. EPA and Department of Health, Education and Welfare officials have set Sept. 23 for a meeting with obstetricians and pediatricians about how to advise mothers about breast feeding.

The concentration of PCBs in the mothers' milk fat was highest, 10.6 parts per million, in a Michigan woman, while it averaged 1.4 ppm in 18 Virginia women. Overall, the average was 1.7 ppm.

The temporary maximum allowed by the Food and Drug Administration is 0.2 ppm for infant and junior food, but is 2.5 ppm for cow's milk on grocer's shelves.

In recent studies reported by pathologist Allen, female monkeys that consumed PCBs at a rate of 2.5 ppm had much higher concentrations—up to 16 ppm—in their milk fat. Exposed to this "severe toxicity," Allen said, their breast-fed infants developed skin discoloration, acne, loss of eyelashes, and swelling and congestion of the eyelids.

The infants improved when weaned from milk containing PCBs, but, Allen said, a 1976 study showed that "behavioral and learning deficits" had persisted for at least a year and may still continue.

Allen recalled that the first indication that PCBs may be linked to cancer came from a Japanese study of mice in 1972. In a study of rats reported in 1975, 92 per cent of PCB-fed rats developed apparently malignant liver growths.

Not yet knowing of Hirayama's calculations of the human liver cancer increase at Yusho, Allen based his concern that PCBs may be carcinogens on animal data, saying, "There are only suggestions that a higher incidence of cancer occurs in persons exposed to PCB."

IN SUPPORT OF THE 55-MILE-PER-HOUR SPEED LIMIT

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. HOWARD. Mr. Speaker, since Congress enacted what is now commonly referred to as the 55-mile-per-hour speed limit law, there has been some grumbling and moaning about the wisdom of that law; indeed, every now and then a Member will introduce a bill to repeal the law or to so amend it as to increase the speed limit. As more people become aware of the tremendous gains in the savings of life and in energy conservation effected by that law, the moaning and grumbling has materially decreased. That decrease is due to the increasing recognition that, as Lt. Gen. Benjamin O. Davis stated, the 55-mile-per-hour speed limit is the "single most important safety measure ever enacted or implemented. All the efforts of the National Safety Council for decades never produced the results this one law did."

For the benefit of the few of my colleagues who may not know who General Davis is, may I point out that he was born in Washington, D.C., in 1912. He attended the University of Chicago and graduated from the U.S. Military Academy in 1936. In June 1937, after a year as commander of an infantry company at Fort Benning, Ga., he enrolled as a student at the infantry school there, graduated a year later and assumed duties as professor of military science at Tuskegee Institute, Tuskegee, Ala. In May 1941, he entered advanced flying school at nearby Tuskegee Army Air Base and received his wings in March 1942. He is rated a command pilot. After transferring to the Army Air Corps in 1942, General Davis served in North Africa, Sicily, and Italy. After attending the Air War College in 1949–50, he was assigned to the Deputy Chief of Staff for Operations, Headquarters, USAF, Washington, D.C., and served in various capacities. In 1965, General Davis assumed command of the United Nations Command and U.S. Forces in Korea. He commanded Clark Air Base. General Davis has received many awards from this and other countries. After a distinguished military career, General Davis became director of public safety in Cleveland in 1970. From 1971 to 1975, General Davis served as Assistant Secretary of Transportation for Environment, Safety, and Consumer Affairs. After his second retire-

ment, he returned to the Department of Transportation to become Special Advisor to the Secretary on the 55-mile-per-hour speed limit in April of 1976. Ben Davis had devoted his life to the security and protection of his country and his fellow man.

On July 14, General Davis, in his capacity as Special Advisor to the Secretary of Transportation on the 55-mile-per-hour speed limit, delivered a speech on the benefits of the speed limit to the National Committee on Uniform Traffic Laws and Ordinances. As the author of the bill which introduced the speed limit concept, I am pleased to be able to bring to your attention General Davis' remarks, and I am sure they will inspire our colleagues to renew their efforts in explaining the advantages of the law and in urging conformance:

BENEFITS OF THE 55-MILE-PER-HOUR SPEED LIMIT

(By Lt. Gen. Benjamin O. Davis)

I bring you greetings from Secretary Coleman who asked me to convey his high regard for the Committee and his appreciation for its dedicated work on behalf of highway safety and better traffic laws.

I am particularly pleased to talk today about the 55 mile per hour speed limit law. The Department of Transportation has been charged with furthering enforcement and compliance with this law.

Before I became a Special Advisor on 55, I did not realize what had been done. Like every one else, I experienced drivers speeding by me on Interstate 95.

I assumed everyone was disobeying the law. There are people flouting the law today; but there are fewer today than there were a couple of years ago when the 55 law was first enacted.

The 55 law and its results are not understood very well. It is probably the most unpopular law since prohibition.

Recently, I spoke at four regional meetings of the International Association of Chiefs of Police and I learned a lot from them. We recently gave awards to Kansas, Massachusetts, Maryland, Arizona, California, Georgia, and Rhode Island for their efforts in enforcing the 55 law.

I strongly believe that the combination of education and enforcement will produce voluntary compliance with the 55 law. There are not enough police to get every person to comply. We must convince people that the 55 law is worthwhile.

There are critics of the law who say it is a gimmick and that reducing speeds to 55 is illogical. Let's look at our experience with the law. We need you to convey this information to your constituencies—this is the difference between continued success of this law or its termination.

We began building interstates to accommodate cars moving at 70 mph. We built great automobiles capable of speeds over 100 mph. We assumed that we could increase speeds without increasing deaths. We were wrong. We lacked proof of just how unsafe a fast driver is. The great bulk of casualties involve young people. They are not as safe as we would like to think the cars and roads make them. With safer cars and roads, we accepted the notion that prevailing speeds of 65 and higher were tolerable.

The 55 law came about to save fuel. Reduced speed did save fuel. Then, as a startling surprise to everyone, there came an extra dividend—saving a large number of lives.

From 1967 through 1973, highway deaths had been rising about one percent or 500 lives a year. In 1973, there were 54,000 deaths. Then, all of a sudden, the fatalities dropped to 45,000 because of the 55 law. Traffic in 1975 rose but fatalities remained at 45,000. It would have been 56,000 or 57,000 without the 55 law. There were 9,000 fewer deaths in 1974 and 1975—a 17% drop in fatalities. The number of deaths also went down on local roads where the limit had never been as high as 55. There also were 190,000 fewer injuries because of the 55 law.

Nine thousand fewer deaths came as a pleasant shock to everyone. Eighty-eight percent of the reduction occurred on rural roads, including the high speed interstate highways, the ones that were thought to be our safest. In 1974, truck fatalities also dropped by 573, or 19%. Truck injuries went down by 23%. The improvement continued in 1975, and so far in 1976 (except for one month), it has continued in 1976.

Why did all this happen? The reductions were largely the result of two factors. In 1973, there were 4,000,000 tickets issued. In 1975, there were over 7,000,000. The average speed on rural interstate and primary highways in 1973 was 60.3 but it dropped to 55.8 mph in 1975. Though it may be difficult to prove that declining deaths result from increased enforcement, deaths went down by 36% in Arizona after tickets went up by 900%. There are a lot of people in this country complying with the 55 law. This may come as a surprise to you as it did to me but it is true.

Our high speed rural roads with 62% of all the traffic account for 88% of the fatality reduction since 1973. These roads are the ones most affected by the reduced speed limit. Average speed declined by almost five miles per hour.

The National Safety Council has found that the death rate was 40% lower on turnpikes. The facts are indisputable: The lower speed limit of 55 has made our highways safer.

Critics of the 55 law contend that safer cars and safer highways have produced the decrease in deaths. These improvements have helped, but it is the 55 law that has served as the catalyst.

There are several components necessary for the 55 law to succeed. It must have the support of state officials, particularly the governor. This support is necessary for enforcement officers. You must also have community support. We must overcome the thinking which elevates the reasons for going 80 mph over saving lives. In states where there has been a better than average reduction, there have been special efforts to enforce the law and sell the 55 limit in terms of its benefits. Maryland used innovative enforcement techniques. Initially, 80% of the mail to officials in Maryland opposed enforcing the 55 law. When the reduction in deaths and injuries became apparent after three months, 80% favored enforcement. People drive more slowly on the Maryland portion of the Beltway than they do on other parts.

A recent study of highway safety in NATO countries has revealed substantial reductions in deaths because of mandatory use of seat belts. However, the 55 law was found to be the single most important safety measure ever enacted or implemented. All the efforts of the National Safety Council for decades never produced the results this one law did.

Another unexpected dividend of the 55 law was a substantial reduction in spinal cord injuries. After the 55 law, the number dropped 70% and no longer is the auto the primary cause of spinal cord injury in one hospital study.

A law which has decreased the average speed from 60.3 to 55.8 is good news. A law which has reduced the difference in speed between cars and trucks from five mph to less than two miles per hour is great news. When most traffic moves between 50 and 60 miles per hour, as opposed to 60 to 90 mph, accidents are less frequent and less severe. The 55 law does work to save lives and reduce crippling injuries. It does make our highways demonstrably safer.

As to the energy conservation objective which prompted our adopting the 55 limit, the world is running out of oil. I personally think we are facing the gravest crisis since World War II as far as fuel availability is concerned. Since transportation uses about half the total oil the U.S. consumes—and motor gasoline is about three-fourths of that total—the individual driver must be shown that his role in energy conservation is important . . . perhaps critical.

We need to understand the facts ourselves and it's difficult to communicate the facts to the people. The present comfortable feeling people have about our potential oil supply from Alaska or the continental shelf should not be euphoric. Crude oil is being discovered at a decreasing rate. If we tried to use all our known domestic reserves, including Alaskan oil, at present rates of consumption, our supply would be exhausted in just six years.

We put great faith in research—in the promise, for instance, of solar energy. Yet there are no guaranteed alternative sources of energy yet developed that we know will be economically or environmentally desirable in the long run. If world oil prices rise substantially, much of our domestic production—including Alaskan—would be less economic. If there is slower growth than anticipated in domestic coal, nuclear, or gas production, we will need additional imported oil. These are all grave problems.

Today we import more than 6 million barrels of petroleum a day—and that will be 10 million a decade from now. About three-quarters of the Free World's oil reserves are in the volatile Middle East. The United States today imports nearly one-half its oil requirements—paying nearly $75 million every day to foreign oil producers. By the end of 1977 we will be paying OPEC Nations some $35 billion annually—equivalent to every U.S. family sending $500 abroad—capital so desperately needed at home to provide jobs or to help our failing cities.

I think we urgently need to overcome the attitude of many people that, because gasoline today is plentiful at the pump, there is no energy crisis. I think government has a problem, too: other things always seem more important than energy considerations that may not be felt for another few years. I remember President Nixon's speech on November 7, 1973, which indicated the need for Project Independence—we need to reread that speech and go to work on it. We probably need to instill in the American people a conservation ethic comparable to that existing in World War II—when Americans saved everything from gasoline to tin cans and bacon fat. Energy conservation must become a personal, individual concern. I wish OPEC, or barrels of oil, or billions sent abroad, were more easily comprehended. We need simpler language to convey hard truths.

Indeed the energy crisis is difficult to explain. But the facts need to be known. Perhaps we can start by pointing out that the 55 mph speed limit is saving fuel, but potentially can save 200,000 barrels—or 8.8 million gallons—of gasoline every single day. That amounts to nearly 3 billion gallons a year saved—enough to keep all the cars in Indiana and Arizona—more than 3½ million cars—running for one year. Or, if simpler language (and an appeal to the taxpayers' interests) is needed to get the message across, we might point out that a million barrels of oil per day conserved is better than the same amount produced or imported—since we don't have to pay for it.

But when it is all said and done, we know that 55—is not just a good idea, it's the law, with tickets and fines and all the rest, like any other law. As a federal requirement imposed on the states, it is resented. We hope

the savings in lives and fuel will cause people to understand that the 55 law is beneficial.

The Department of Transportation, working with the Advertising Council, is conducting a national advertising campaign. We are supplying the states with guidelines for 55 mph campaigns and promotional materials, like posters and bumper stickers, which point up the benefits of 55 mph in saving lives and fuel. We are assisting states with information and education efforts, and the National Highway Traffic Safety Administration has available enforcement and technical people to assist states and communities. But we need the support of private organizations, like yourselves, to spread the message and encourage more widespread adherence to the 55 mph limit.

Three things police officers told me must be mentioned. The judicial system is not prosecuting many drivers who get tickets. Some legislators threaten to reduce the state police budget if the 55 law is enforced. Where the educational effort has been undertaken effectively, such officials change their attitude.

And let's not kid ourselves. It's a tough sell. Behind the wheel—cruising down one of our magnificent superhighways—it's hard for the lone individual to realize that his is the key role in the success of 55. He's got to be sold, sold hard, and sold permanently, to refrain from pushing down on that accelerator—and breaking the law—and, as experience shows us, endangering his own life and the safety of others.

In short, we are battling for people's attention and understanding—for there must be enlightened public understanding of the 55 mph law and the benefits it brings if, in the long run, it is to continue to succeed.

You can help us immensely. I hope you will. You communicate with large and important constituencies and you have the people and resources to reach many Americans. We ask you to join us and give us all the assistance you can in spreading the word.

I hope you will agree that 55 is a good law that can do the country a lot of good. It is a cause worthy of our best efforts.

AMERICA'S BICENTENNIAL

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. RHODES. Mr. Speaker, one of the success stories of this year was America's celebration of its Bicentennial. Some 50,000 projects, programs and special events have been successfully coordinated into a nationwide observance. While preserving their colorful local flavor, these events were a part of a national theme.

Much of the credit for the smooth functioning of our 200th anniversary events belongs to the American Revolution Bicentennial Administration and its Administrator, John W. Warner. He took over the reins in 1974, when the program was experiencing difficulties and challenges. By hard work and extensive travel Mr. Warner put together an effective organization.

Our Bicentennial brought to the American people a reawakening, and awareness of the heritage of freedom and liberty that makes our country unique in the world. Our birthday celebration was a source of pride for all of us, and I join my fellow Americans in expressing gratitude to the ARBA and Mr. Warner for a job well done.

"THE DISARMING OF CITIZENS": A CRITIQUE BY PENNSYLVANIA REPRESENTATIVE ALBERT W. JOHNSON

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. GOODLING. Mr. Speaker, my friend and colleague, Congressman ALBERT JOHNSON, who has been a strong voice in the House of Representatives against Federal gun control legislation, recently critiqued an article I wrote, "The Disarming of Citizens." This critique appeared in a publication of the National Rifle Association.

I highly recommend Mr. JOHNSON's critique to my colleagues with the hope that it will contribute to their understanding of the complex issues of crime, gun control, and the second amendment freedoms of the people.

Mr. Speaker, Congressman JOHNSON's critique follows:

"THE DISARMING OF CITIZENS": A CRITIQUE BY PENN. REP. ALBERT JOHNSON

As Congress once again struggles with the gun control issue, and some Members are perhaps uncertain as to how they will vote, it is important that both legislators and private citizens delve beyond the rhetoric and ask themselves the simple question, "When has a gun law curbed crime?"

My colleague and fellow Pennsylvanian, Hon. William Goodling, deals with this and many other fundamental questions in his article, "The Disarming of Citizens" in *The Case Against the Reckless Congress*, a book recently released by some of my colleagues.

In eight pages of hard-hitting, no-nonsense prose, Goodling counters the most common arguments employed by anti-gun advocates. He dismisses the utility of gun control as a crime control measure by simply citing the case of New York City, which has had the nation's strictest gun control law on its books since 1911. Despite this, New York still has one of the highest gun crime rates, higher than those of most states without restrictive laws. As Goodling states, "If gun control has anything to do with crime control, one would expect the reverse to be true."

Further discussing the possible relationship between firearms and the crime problem, he states that while the FBI does not even list gun ownership among factors causing crime, conversely, the utility of privately owned firearms in preventing crime has often been demonstrated. "It is distinctly possible," Goodling says, "that confiscation of guns may serve only to increase the crime rate. The criminal intending to burglarize a home or store would hesitate, knowing the likelihood of encountering an owner in possession of a firearm. However, given increased assurances by gun control legislation that the owner would be defenseless, it would be possible to find ourselves with an appalling increase in theft, assault, and armed robbery."

While law-abiding citizens would be disarmed by gun confiscation laws, Goodling maintains that criminals would not give up their guns. By citing Haynes v. U.S., a 1969 case in which the Supreme Court declared it a violation of Fifth Amendment rights to compel people illegally possessing firearms to turn them in, Goodling shows that it would indeed be impossible to disarm the criminal element by legislative fiat.

Illustrating the downright folly of such an effort, and the absolute waste of tax dollars that it would entail, Goodling describes Baltimore's ill-fated "Operation Pass," of two years ago in which bounties of $50 were paid to everyone turning in a gun and $100 to everyone giving a tip leading to the confiscation of an illegal firearm. At the end of the program only 13,400 firearms were collected, at a cost to taxpayers of $675,000. Despite the noble and lofty intentions of the city government, even the police commissioner was forced to admit that during the first 39 days of the program, gun related murders rose 50 percent.

Goodling offers the obvious, but frequently ignored thesis that perhaps criminals rather than objects which might be their tools, are the real cause of crime. This philosophy—that individuals are responsible for their own conduct—was fundamental to the establishment of the American republic, and is the basis of our criminal justice system. Consistent with this principle, that individuals by free will determine their own actions, Goodling urges a greater emphasis on punishing criminals for their misdeeds, rather than punishing the majority of law-abiding citizens who, as "society" are held by some to be collectively responsible for social ills. As a means of shifting responsibility back to the wrongdoer, he advocates mandatory penalties for violent crimes committed with firearms. This makes especially good sense at a time when FBI statistics show that 65% of crimes are committed by repeat offenders. Obviously, if criminals could be assured of a stiff sentence, this would serve as some deterrent, and would also detain the potential repeater longer. Unfortunately, modern justice is often a "revolving door."

Correlative to individual responsibility, and equally basic to the American system is the concept of human rights. One of the rights guaranteed by the Constitution is the right to keep and bear arms. As this right suffers repeated attacks from those who insist that it applies only to a collective right, it becomes increasingly important to examine the reasons behind its inclusion in the Bill of Rights, and its applicability not only to the situation 200 years ago, but to modern society.

According to Goodling, the Second Amendment actually precludes the federal government from regulating firearms except in clearcut cases involving interstate commerce. Any regulation must instead come from the states under their traditional police power. Says Goodling, "The Second Amendment never implied federal jurisdiction over firearms. The Bill of Rights emphasized state control of individual freedoms in sensitive areas. The Bill of Rights excludes federal powers in these categories; in does not invite meddling. Why would there be an amendment giving the federal government power to regulate a militia when the same document (Article 1, Section 8) has already given the federal government authority to 'raise and support armies'?"

Quoting Senator Barry Goldwater, he writes, "The Founding Fathers conceived of an armed citizenry as a hedge against tyranny from within as well as from without, that they saw the right to keep and bear arms as basic and perpetual, the one thing that could spell the difference between freedom and servitude." It is especially important in this Bicentennial year that we study the foundations of our democratic system—a system which has guaranteed us freedom for two hundred years. It is then up to the citizens, and to those who make the laws, to determine whether these foundations will be abandoned, or whether Congress will take steps to insure that America can safely embark on its second two hundred years of freedom.

SEPTEMBER 1976 NEWSLETTER

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. PATTEN. Mr. Speaker, periodically I mail legislative newsletters to my constituents, in order to keep them informed of my legislative work.

Although the 94th Congress is not scheduled to adjourn until early October, I believe it has compiled a good legislative record so far—and that more will be achieved before it completes its work. The contents of the newsletter follows:

CONGRESSMAN EDWARD J. PATTEN'S WASHINGTON REPORT

EMPLOYMENT AND "SUNSHINE" BILLS HIGHLIGHT 94TH CONGRESS

Although the present 94th Congress (1975–76) is not scheduled to adjourn until early October, it has already achieved a responsive legislative record—from strengthening the economy to making open government a reality instead of merely a goal.

Because high unemployment is one of the most serious economic problems facing my congressional district, the State, and Nation, I helped sponsor into law the Public Works Employment Act. Under this measure, communities with an unemployment rate of 6.5% or more are eligible to receive 100% Federal construction grants.

JOBLESS AND COMMUNITIES WILL BE HELPED

These U.S. awards will not only help create jobs in Middlesex County, where an estimated 30,000 persons are out of work (350,000 in N.J. and about 7.4 million in the Nation), but will also help communities by financing capital improvement projects—from library additions to municipal buildings. Twenty communities in the county have filed applications with the Economic Development Administration (EDA) and I've expressed support for them—and others—in a letter to the EDA regional director.

President Ford vetoed this bill twice, but Congress finally succeeded in overriding his second veto. I voted to override both times. Unfortunately, many applications filed by communities for the grants may be rejected by the EDA because the funds authorized in the original bill were cut by one-third after the President's first veto. The Public Works Employment Act will not solve the serious unemployment problem, but will provide some help to those who want to work, and cannot find a job due to the recession. Despite our present economic malaise, however, my confidence in the future is deep and strong. Our intrinsic wealth is vast, our standard of living is the wonder of the world, and above all, we are free. Wherever there is freedom, there is always hope. So I'm certain that America's economic future will be bright, prosperous, and secure.

"SUNSHINE" BILL TO PROVIDE OPEN GOVERNMENT

Another bill I co-sponsored would require approximately 50 Federal regulatory agencies to conduct all business meetings in open session, with the public and press allowed to attend. In the past, Federal agencies held most of their important meetings affecting the public behind closed doors. With some exceptions, that was wrong and unfair, for during my entire public life, I have always believed that meetings and conferences involving the public interest should be open to people who want to attend.

The Government in the Sunshine Act, which was headed for signing when this newsletter went to press, would apply to such important U.S. agencies as the Federal Trade Commission, the Interstate Commerce Commission, the Federal Power Commission, and other agencies with regulatory and rule-making powers. The only time agencies would be permitted to close their meetings to the public would be when sensitive subjects are scheduled in areas like defense, foreign policy, criminal investigations, trade secrets, etc.

Years ago, I was one of the sponsors of the Freedom of Information Act, because one of my strongest convictions is that people have the right to know what their government is doing—right or wrong. The proposed "Sunshine" bill is related to the 1965 "Freedom" law. Lord Acton did not exaggerate when he warned that, "Everything secret degenerates, even the administration of justice; nothing is safe that does not show it can bear discussion and publicity." I'm pleased that Congress passed "Sunshine" legislation after years of discussion. It's one of the major achievements of the 94th Congress and as a co-sponsor, I'm especially proud of it.

OTHER ACCOMPLISHMENTS AND BILLS HEADED FOR PASSAGE OR SIGNING . . .

The present Congress, one of the hardest working in history in terms of bills passed, hours in session, and votes taken, passed a wide variety of other measures besides the Public Works Employment and the "Sunshine" legislation. A few of the bills I voted for which were signed into law, include: the biggest tax cut in history, which helped the purchasing power of consumers in the fight against inflation; extension and improvement of the Nurse Training and Health Services Act, the Voting Rights Act, the School Lunch program, and the Older Americans measure which means so much to our senior citizens. Some of the other bills I supported which were signed or destined for signing, are: Increasing the present 12-mile limit to 200 miles to protect our fishing industry from foreign exploitation; medical device amendments to oversee the safety and effectiveness of medical items; revenue sharing, which has aided most communities in Middlesex and Union counties; rail revitalization, improving major rail system; Federal election reforms; energy legislation, encouraging increased supplies and conservation; an additional 13 weeks of unemployment benefits to aid the jobless; and numerous other programs—from helping New York City in its fiscal crisis, to equal credit opportunity for all. Many other bills were being considered when this newsletter was written: comprehensive tax reform; creation of a Consumer Protection Agency; national health insurance; increased funds to states for day care centers: food stamp reform; the goal of full employment; a liberalized student loan program; reform of regulatory agencies to make them more responsive to public needs; amendments to the Law Enforcement Assistance Administration and Clean Air Acts; legislation to control toxic substances; and other measures in various stages of legislative consideration. The 94th Congress compiled a good record. Its work, of course, is never really completed, for the needs of America and its people are extensive. Our problems are varied and complex and there are no easy solutions.

RESULTS OF ANNUAL LEGISLATIVE QUESTIONNAIRE

Thousands of constituents responded to the annual legislative questionnaire I mailed to every postal stop in the 15th district. Three questions were devoted to domestic areas and three to foreign affairs. I'm grateful to those who participated, because I'm always interested in the views of my constituents. The six questions and the results follow:

Which of the following areas do you believe should be given the greatest attention by Congress?

(a) Inflation, 54 percent;
(b) Unemployment, 35 percent;
(c) High interest rates, 11 percent.

Would you prefer to return control of the present U.S. Postal Service to Congress?

	Percent
Yes	66
No	34

Regarding auto emission control standards, should Congress:

(a) Retain present emission control standards schedule? 29 percent;

Support the Administration's request to keep standards as they are for 5 more years? 41 percent;

Keep standards as they are for another 2 or 3 years, and then tighten-up controls? 30 percent.

Do you favor tighter controls on the Central Intelligence Agency (CIA) by Congress;

	Percent
Yes	54
No	46

Should America give up its control over the Panama Canal?

	Percent
Yes	18
No	82

Do you think that the United States should increase its trade with countries like Poland, Rumania, Hungary, and other Communist-influenced nations?

	Percent
Yes	51
No	49

HAPPY BIRTHDAY, AMERICA; MAY YOU LIVE FOREVER!

Like all nations, America has its share of problems. Our economy is not vigorous, crime continues to increase, and divisions exist. Despite our problems, there is great hope—for a Nation to be prosperous and secure, with real brotherhood in our hearts. That brotherhood was so obvious to me when we observed America's 200th birthday on July 4th. Every person I saw was proud and grateful to be an American. I've been in many different countries and believe me, there is no Nation in the world like ours. I love America, I love its people, and I love its flag, for it symbolizes our inevitable goal: "liberty and justice for all." The Declaration of Independence and the Constitution of the United States are living documents.

CONSTITUTIONAL GUARANTEES JEOPARDIZED

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. RANGEL. Mr. Speaker, as we celebrate our Bicentennial it is quite disturbing to me to see that the House is acting in a manner inconsistent with the intentions of our Founding Fathers. One of the most fundamental rights upon which our Republic was founded, the right to a free press, is being given short shrift by the House Ethics Committee, currently conducting an investigation of Daniel Schorr and his release of a committee report.

Currently the Ethics Committee is attempting to persuade Mr. Schorr to release the name or names of those from the Select Committee on Intelligence who gave to him the final report of the committee's investigation. Mr. Schorr has continuously refused to provide his information to the committee and thus he faces possible contempt of Congress

citations which could eventually result in a jail sentence for him.

The significant question here is not whether Mr. Schorr violated the will of the House by releasing this report, as the committee in question voted overwhelmingly to release the report since they did not believe that it raised any national security issues and thus it should be available to the public. The relevant question is what effect this investigation, whatever the results, will have upon other journalists who seek to bring to the public's attention matters of importance.

The case of Daniel Schorr is receiving the most publicity as he is a reporter of national prominence. However there are countless other cases where reporters are in a similar situation because they too refuse to release the identity of their sources. Clearly such action by reporters would most assuredly jeopardize their efforts to bring information to the public's attention, as other informants would be reluctant to talk without the assurance of being able to remain anonymous. A classic example of a lesser known case is taking place in Fresno, Calif., where four reporters are currently in jail as a result of their refusal to give to the court the names of their informants surrounding a bribery case of a local official. In my mind, the Constitution should be read in this case to protect the public's right to know and not to invoke criminal penalties on reporters.

I would hope that my colleagues in the House would carefully review Tom Wicker's remarks which appeared in Tuesday's New York Times. His column on the Daniel Schorr case raises quite succinctly the important questions in this controversy. If we are to remain guided by the principles of our Founding Fathers, that is to provide the American people with open access to information under a theory of the right to know, then we must halt these punitive and suspect actions against the press. The article follows:

A FAR GREATER DANGER

(By Tom Wicker)

For everybody but Daniel Schorr and the so-called House Ethics Committee, the story was a quick trip in and out of the headlines. Last winter, by a bipartisan 9-to-4 majority the Select Committee on Intelligence—which had been investigating the Central Intelligence Agency for almost a year—voted that its final report did not disclose national security secrets, and could therefore be published. But the full House of Representatives, acting under the pressure of C.I.A. and Administration charges that the report did endanger national security, voted 246 to 124 to keep the report secret.

Predictably enough, a text was nevertheless published in The Village Voice of New York, and detailed accounts of the report's contents also appeared in The New York Times and other newspapers, as well as in Mr. Schorr's CBS broadcasts. After first denying it, Mr. Schorr conceded that he had made a text of the report available to The Voice.

The House then authorized its Ethics Committee—which had never investigated anything much before, least of all the conduct of the House members it had been established to monitor—to find out where Mr. Schorr had obtained the text that ultimately appeared in The Voice. Since he considers the identity of his source privileged under the First Amendment to the Constitution, he is ethically and professionally obliged to protect that identity; but if the committee demands that he name his source, it could hold him in contempt of Congress and have him jailed for refusing to answer.

But it is a dubious proposition indeed that the House had the right to vote to keep secret a document compiled by elected officials who had used public funds to conduct an investigation of a Government agency. The House may not have been required to publish the document itself, but under what authority did it have the right to nullify the First Amendment and decree that no one could publish it?

Nevertheless, after a seven-month investigation, or something, during which Mr. Schorr has been suspended from CBS News, the Ethics Committee has subpoenaed the correspondent to testify this week about the release of the report. Since not only his livelihood and freedom but the public's right to know what its Government is doing are at stake in this inquiry, Mr. Schorr's attorney, Joseph A. Califano, has properly raised important questions in response:

Will the committee please, he wrote Chairman John J. Flynt of Georgia, "identify precisely those portions of the final report, if any, that it believes would harm or have harmed the national security?" Will it provide documents from the C.I.A., or any other agency "that identify those portions of the final report, if any, release of which would harm or have harmed the national security?" Will the committee also provide "any concrete evidence . . . which demonstrates harm to our national security as a result of its publication?"

The point is obviously—did publication of the report in fact justify the fears of the House that national security would be endangered? Were those fears realistic or hysterical? And if no damage to national security can be shown, what is the purpose of further Government inquiry into Mr. Schorr's sources and journalistic activities?

These questions are important because the records of the last few years are replete with efforts on the part of the Government to cover mistakes, embarrassments, misdeeds, political actions and self-serving policies with the label of "national security"—just as the Nixon White House tried to stop the F.B.I. inquiry into the Watergate burglary by falsely claiming that C.I.A. operations might be undermined or exposed.

Just this summer, for one shocking example, a Freedom of Information suit exposed the Government's pitifully weak attempt to justify, in 1971, its claim that publication of the Pentagon Papers endangered national security. In a secret hearing before Federal Judge Gerhard Gessell, officials offered the following "evidence":

"One contact that I personally had in Hanoi . . . dried up," said a deputy assistant secretary of defense dealing with American prisoners in North Vietnam; no further details were given.

Canadian officials "expressed concern" about what the Canadian people would think about Canadian efforts to help the United States reach a peace settlement in Vietnam.

The Prime Minister of Australia found publication of the Pentagon Papers "appalling."

Did Daniel Schorr's action in releasing the House Intelligence Committee report cause or risk even such minuscule consequences as those? If so, no one has as yet demonstrated what those consequences were. By comparison, the chances seem overwhelming that the Ethics Committee hearing will damage Mr. Schorr, impair the public's right to know and chill the future activities of inquiring journalists.

AFRICAN ATROCITY: THE TYRANT OF UGANDA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. McDONALD. Mr. Speaker, Idi Amin Dada, the tyrant of Uganda, appears as a nightmare character who wandered out of some think tank's "worst possible case" scenario on possible consequences of hasty African decolonization.

Idi Amin has misruled Uganda since 1971. He has tortured and slaughtered by the most barbaric methods more than 100,000 Ugandans. This has gone almost unreported in the Western press, which is in some measure due to Amin's censorship. Nevertheless Ugandan survivors have reported the horrors and have been ignored. Yet the press is full of the threats and claims of terrorist movements in Rhodesia and South West Africa who denounce "passes"—which are the I.D. cards whites and blacks all carry as adults—and property and educational qualifications for voter enrollment.

Idi Amin's crimes have included mass deportation of 40,000 Indian merchants and their families which wrecked the Ugandan economy; the active participation and support of the Arab and German terrorists who hijacked an Air France jet to Entebbe in July; the strangulation murder at Amin's orders of Mrs. Dora Bloch, the 72-year old Israeli hijack victim; and August attempt by Ugandan air force planes to force down another Air France jet in retribution for the Israeli Entebbe raid: and the August 5 murder of more than 100 students at Makerere University in Kampala who were protesting food shortages brought about as a direct result of Amin's disastrous policies.

Yet Amin has not suffered censure from most of the black dictatorships and one party states in Africa. The totalitarian autocrats who rule countries where basic freedoms are unknown do not find it expedient to criticize Idi Amin. Indeed, these countries supported the selection of Amin to head the Organization of African Unity—OAU—which is arming and funding Marxist terrorist movements based in Angola, a Soviet puppet state; Zambia; and Mozambique.

While the principal support for the terrorists in South West Africa and Rhodesia comes from the Soviet Union and from Communist China, the OAU and its member states are also aiding in plans for a major escalation of terrorist operations in Rhodesia this fall. The OAU's United Nations office in New York is working with U.S. revolutionaries to organize money for the "armed struggle" from U.S. religious institutions.

Mozambique is ruled by the Marxist-Leninist Frelimo party under Samora Machel. Machel, with massive Soviet support, has expelled foreign newsmen, expelled missionaries, abolished most forms of private property including houses and apartments, and set up slave labor camps whose inmates are prin-

cipally members of black ethnic groups other than Machel's.

Agostinho Neto, Lucio Lara and Lopo do Nascimiento in Angola are moving in a similar direction. "News" on Angolan events is currently provided to the United States only by a Castroite correspondent for Liberation News Service and by the well-known KGB agent Wilfred Burchette in the Guardian. Lara, with assistance from half a dozen Cuban instructors, is currently running indoctrination classes for Angolan "journalists."

The liberal press has expressed shock and outrage over the shooting of black rioters rampaging in Soweto or years ago in Sharpesville. At long last a chronicle of Idi Amin's crimes has appeared in the Observer by David Martin which has been reprinted in the New York Review, September 16, 1976:

II: AMIN'S BUTCHERY

(By David Martin)

"I am not a politician but a professional soldier. I am therefore a man of few words and I have been brief throughout my professional career." Those were the first recorded words of *Idi Amin Dada* after he seized power in a military *coup d'état* in Uganda in January 1971. Since then, it seems, he has hardly stopped talking.

From a private in the cookhouse of the colonial King's African Rifles, Amin has become a self-appointed field marshal. His giant frame, six feet four inches and 240 pounds, seems to bend under the weight of a chest full of medals, including the Victoria Cross, Distinguished Service Order, and Military Cross, all self-awarded. He has applauded Hitler's extermination of six million Jews and once declared his intention to build a monument to the Nazi leader. While threatening to attack neighboring Tanzania he has talked of his love of President Julius Nyerere, and said he would marry him if he was not a man. To an ex-finance minister who warned him that Uganda was on the brink of bankruptcy because of excessive military spending, Amin simply barked, "Well, print more money."

Amin, in characteristic manner, has taken African belief in the occult to ridiculous lengths. A Ghanaian mystic, who claimed he could raise people from the dead, was flown to Uganda by Amin, who subsequently claimed he had talked to a man the Ghanaian had resurrected. Amin said that his decision to expel the Asians and launch his so-called "Economic War" had come to him in dreams, and when a journalist sarcastically asked him if he often had such dreams, Amin blandly replied, "Only when necessary."

His unending stream of idiocies has made him a comic figure to much of the white world. A "gentle giant" was one of the earliest descriptions in the Western press of the one-time Ugandan heavyweight boxing champion. "Idi was a splendid chap, though a bit short on the gray matter," observed one of his former British colonial officers.

The truth is that there was never anything splendid or gentle about "Big Daddy." Perhaps it takes an experience like the expulsion of 40,000 Asians or the disappearance and certain death of the Israeli hijack hostage. Mrs. Dora Bloch, to wake up the West to the realities of Amin. In Uganda, where at least 100,000 people have been savagely butchered since he came to power, the reality has long been known.

Amin was born in Koboko County, the smallest in Uganda's West Nile district, which roughly encompasses his 50,000-member Kakwa tribe. His father was a Kakwa who had spent much of his life in the southern Sudan, and his mother was from the neighboring and ethnically related Lugbara tribe. These tribes are often described as Sudanic-Nubian, and the earliest members of them in Uganda came south as mercenaries in the colonial conquests of the region. They brought with them the Islamic faith, and Amin, like his parents, became a Muslim. The Nubians enjoy the unenviable reputation of having one of the world's highest homicide rates; a background which no doubt helped to prepare Amin for the slaughter he has conducted during the past five and a half years.

Amin joined the King's African Rifles in 1946 as an assistant cook. Since coming to power he has said he fought in Burma during the Second World War; and he uses this patently untrue claim to justify the medals that he awards to himself. He served with the KAR in Mauritius, where he was one of the ring-leaders of a mutiny which had to be put down by the police. According to a former British officer, "In 1955 there was only one blot on his copybook. His records showed that he had had venereal disease, which made him ineligible for a good conduct stripe."

But by far the most serious and significant incident in Amin's early military career occurred in Kenya in 1962. By then he was a lieutenant and commanded a platoon of "C" Company of the fourth KAR. The company was assigned to try to stamp out cattle rustling among the semi-nomadic Turkana tribesmen. After his men visited one Turkana village investigations were made as a result of complaints from the tribesmen.

Several bodies were exhumed from shallow graves in the village. Some had been tortured and buried alive. Others had been beaten to death.

By rights Amin should have faced a civilian court or a military court martial, charged with murder or manslaughter. The evidence was clear, witnesses existed, and he would have faced a lengthy prison sentence or possibly death. But history conspired to cover up his mini My Lai, Sir Walter Coutts, then British governor of Uganda, admits he argued that six months before the country's independence it would be politically disastrous for the colonial administration to bring to trial one of Uganda's two black officers. Sir Walter got his way, and consulted the then prime minister, Dr. Milton Obote.

In a letter three years ago from exile in Tanzania, Dr. Obote said, "I advised that Amin be warned—severe reprimand! After I had given my advice Sir Walter told me that an officer like Lieutenant Idi Amin was not fit to remain in the KAR; the case against him should have had a sentence of at least imprisonment, and that I was wrong to advise that Amin should not be dismissed. Then Sir Walter added, 'I warn you, this officer could cause you trouble in the future.' " Four years later, after Uganda's independence, Sir Walter, during a visit to the country, repeated his warning.

What is important about the Turkana massacre is that when the British government so warmly welcomed Amin to power in January 1971, they were in a position to be fully aware of the true nature of the man.

The trigger for the military takeover which brought Amin to power was set on December 19, 1969. Obote was shot, but not seriously, as he walked out of a party conference of the ruling Uganda Peoples Congress (UPC) after introducing his "Move to the Left" policy—Britain's reason for welcoming the *coup d'état* thirteen months later.

In the hospital while awaiting an emergency operation. Obote asked for various people to be called, including Amin. A group of soldiers went to fetch Amin from his house. But, apparently fearing there had been a *coup d'état*, he had fled bare-footed over a barbed-wire fence behind his house. At an officers' meeting attended by Obote on January 17, Brigadier Pierino Okoya, the deputy army commander, publicly accused Amin of being a coward and said his actions had made it appear that the army was involved in the attempted assassination. The heated meeting was finally adjourned until January 26. But at eleven PM on the night before it was to reconvene, Brigadier Okoya and his wife were found shot dead at their home.

Months later detectives investigating an armed holdup arrested a gang of *kondos*—the Ugandan word for armed robbers. During interrogation, one of them admitted taking part in killing the brigadier, on instructions indirectly from Amin.

Whether Amin would have been charged with murder will never be known. All the police officers who investigated the case were killed after he came to power. The *kondo* gang were released from detention but they, too, were subsequently killed.

With the murder inquiry apparently closing in on Amin, President Obote made a last fateful mistake. On the eve of leaving for the Commonwealth Prime Ministers' Conference in Singapore, he ordered Amin and the defense minister, Felix Onama, to explain in writing before his return the disappearance of £2,500,000 in army funds, and the disappearance of guns from armories, which the police had found in the hands of *kondos*. Then Obote flew to Singapore. He had loaded the gun and pointed it at his own head. If Amin were to survive he had no choice but to pull the trigger.

Obote had been warned there might be an attempted *coup d'état* during his absence. But he believed the army would remain loyal. He did not realize that Amin had been systematically recruiting southern Sudanese, former Anyanya guerrillas, and Nubians as well as members of his own Kakwa tribe. Their control over the armories to this day remains the reason why Amin has survived.

What was to become clear afterward was the active involvement of Israel. Obote had been shifting away from his once strong links with Tel Aviv, which included supplying and training sections of the army and air force. Amin had done his parachute training in Israel and was very close to the head of the Israeli military mission in Uganda, Colonel Bolka Bar-Lev, whom he was to telephone continuously in Israel during the recent Palestinian hijacking of an Air France airbus and the subsequent Israeli rescue of the hostages.

Obote tried desperately to get back into Uganda to turn the tide after the January 25 *coup d'état*. But he was balked by Kenya; and although the bulk of the army remained loyal they had the weapons neither to stage successfully a *coup* nor to suppress an attempted one.

The British government was delighted. Edward Heath had clashed angrily with Obote at Singapore just a week before his downfall over Heath's proposal to sell arms to South Africa. One of Amin's first acts was to denationalize the British businesses taken over by Obote. Less than two years later he expropriated them himself, without the compensation Obote had promised.

Israel was equally delighted, because her close ties with Uganda were ensured. Yet little more than a year later, after the Israelis had discovered their mistake and refused to supply him with arms, Amin went to the Arab world, broke relations with Israel and expropriated all Israeli property in Uganda. So misunderstood were the implications of Amin's takeover that the *New Statesman* observed: "So far as Britain is concerned, Amin will undoubtedly be easier to deal with than the abrasive Obote."

The slaughter in Uganda began immediately. One of the first to die was Brigadier Suleiman Hussein, the army chief of staff who had led attempts to prevent the *coup d'état*. He was beaten and hideously mutilated by Nubian soldiers in Upper Luzira maximum security prison. A servant at the

"command post," as Amin's house is known, said later that Hussein's severed head was brought to Amin, who put it on a table and spoke to it, then kept it in his refrigerator overnight. Of the twenty-three officers with the rank of lieutenant-colonel and above at the time, fourteen are known to have been murdered and two escaped into exile. Several were among a group of thirty-two officers who were crammed into a tiny cell at Makindye prison in Kampala and blown up with dynamite on March 5, 1971.

About half of the 9,000-man army came from the northern Acholi and Langi tribes, who had traditionally favored military service. At least two-thirds of those soldiers were killed during Amin's first year in power. Yet in that period few people believed the stories of what was happening in Uganda. The exceptions were the press in Tanzania and Zambia, where both governments had refused to recognize Amin, Tanzania's President Nyerere had gone so far as to describe Amin as a murderer, saying he would never sit with him.

At that time I was working as a journalist in Tanzania and I also doubted the stories, emanating mainly from exile sources. On New Year's Day, 1972, I received a telephone call from a near-hysterical relative of Obote. He said that several hundred Ugandan soldiers had been transferred from a prison in the capital, Kampala, to another on the Tanzanian frontier. There they were all to be killed, and the caller said Amin would claim it had happened in an attack on the prison by Tanzanian artillery and ground troops. I was skeptical about the story. But only a month later I was to interview nineteen of the twenty-one survivors of what became known as the Mutukula prison massacre. In all, 555 people were murdered. Most had their throats cut.

Throughout 1971 and 1972 the killings swept the country. The Acholi and Langi, seen as principal supporters of Obote, suffered worst. Right across the country members of Obote's UPC were also slaughtered.

At the time of the *coup d'état* journalists visiting Kampala had seen the people there vigorously welcoming Obote's downfall. Few of the correspondents realized that Kampala was in the heartland of the Baganda, whose differences with Obote were such that they were willing to welcome anyone. So, from the outset, Amin's popularity was badly misjudged. Elsewhere in the country the mood was very different.

Edward Rugumayo, an able young technocrat who became Amin's minister of education and fled into exile two years later, issued a 5,000-word statement condemning Amin. He described eight methods of killing used at Makindye prison. These involved making prisoners line up and ordering the first to smash the second man's head with a hammer. This process was repeated down the line until the last man was shot. Another method was to cut flesh from a victim and force him to eat it until he died. Rugumayo said it was estimated that 80,000 to 90,000 people died in Amin's first two years in power; but he admitted that this might be a conservative figure.

Amin created three other killer squads in 1971 to assist the military police; they are still directly under his command. They are euphemistically called the Public Safety Unity, the Bureau of State Research, and the Presidential bodyguard. Most of their members are southern Sudanese, Nubians, or Kakwa. All four of these units are still slaughtering Ugandans. The most feared is the Public Safety Unity (PSU) which has its headquarters at Naguru Barracks, a former police training college in Kampala.

A young businessman now in exile recently spent forty-four days in Naguru, and saw twenty-two prisoners killed. To protect his relatives and friends still inside Uganda his name cannot be given; but his account of conditions at Naguru, corroborated by others who have also survived and fled, forms part of the latest evidence that the International Commission of Jurists (ICJ) has submitted to the secretary general of the United Nations, Dr. Kurt Waldheim.

Part of this evidence reads:

"The most revolting form of torture described by the businessman, and every former Naguru detainee, occurred after the guards shot an inmate. One or two prisoners would be called from their cell after the shooting and would be ordered to beat the dead person's head into an unrecognizable pulp with a car axle. Then the prisoner would be ordered to lie down in the blood and gore of the dead person."

This happened to the businessman.

He described how people were murdered for the most trivial of alleged offenses. One man, Mohammed Mukasa, was killed in Naguru after being found in possession of a toy pistol. The principal killer at Naguru, said the businessman, was a corporal named Oola:

"The people doing the killing seem to get enjoyment from them. They were delighted when someone was going to die. First they would drink a lot of *waragi;* a local gin. I recall that Oola, when he knew someone was going to die, would come to the prison and say, *"Leo iko kazi, leo iko kazi"* (which means in Swahili "Today there is work"). Then he would go and get drunk. He would come back at night; that was when they killed people."

On one occasion the businessman's sister, a former nun and a deeply religious woman, tried to take food to him at Naguru. She was blindfolded and raped. Later she found she was pregnant.

Two of the most infamous areas in Uganda are the once-picturesque Mabira and Namanve Forests. Early in 1975 a young Ugandan schoolmaster fled into exile with a seemingly unbelievable story. He told of being kept in a forest concentration camp where the only food for the prisoners was the flesh of other prisoners who were killed. His personal nightmare lasted five days. In a cell before being transferred to the forest, he and other prisoners were forced to kill twenty-seven badly mutilated prisoners in another cell: "For me, the shameful score was three brothers. I killed them with a total of eight blows with the hammer. The soldiers laughed, abused us and locked us up with the corpses," he said in a fourteen-page sworn statement.

He described how one of the prisoners complained to the guards that he was hungry. The prisoner and one other were called forward by the guard and beheaded. Then the blood from the bodies was collected in a bucket and two more prisoners were ordered to butcher the corpses. The meat from the bodies was cooked over a fire.

"We were hungry, angry and ashamed," the teacher said in his statement, "but because of the guns we had to do it. One soldier announced the food was ready and we ate shamefully." Those who vomited were kicked and beaten with rifle butts. The remains of the corpses were thrown into a trench. On the following day eight more prisoners were selected, beheaded, butchered, and eaten. The teacher finally escaped after paying a guard the equivalent of thirteen dollars.

It is impossible to describe the reign of terror which prevails in Uganda. Every village, clan, and family has lost relatives and friends. The faces and names of the killers are known; but no one acts. It is as if Uganda is paralyzed by fear.

The vibrations of Amin have been felt by neighboring countries. Kenya, which virtually welcomed his advent to power, is the latest to suffer.

That Amin has survived is a mystery to most people. There have been several uprisings in the army and several attempted assassinations. This year he was slightly wounded by a bullet; in another attempt three grenades thrown at him killed many bystanders and a bodyguard. Palestinians plan his security, and when he moves he frequently changes cars, a ploy which has paid off on at least two occasions when his official car was riddled with machine-gun fire and all the occupants killed.

In a memorandum to African leaders after fleeing into exile, the former education minister, Edward Rugumayo, said:

"Too many nations regard what is happening in Uganda as an internal matter. Is systematic genocide an internal matter or a matter for all mankind? The Sharpeville massacres were condemned by the entire civilized world, but nobody has yet condemned the wholesale killings and disappearances of innocent people in Uganda. It is high time the OAU, the Commonwealth and the United Nations condemned the murders being perpetrated by Amin in Uganda. It should be the concern of mankind."

The Rugumayo appeal expressed the sentiments of many Ugandans. They wonder why their plight is ignored while those of Mrs. Dora Bloch and the British university lecturer Denis Cecil Hills, who was sentenced to death then reprieved last year, merit appeals from the Queen, Dr. Waldheim, the Archbishop of Canterbury, and other prominent international figures. It is not that the evidence is not known. Could it be, they ask, that one white life is more important than the lives of 100,000 blacks?

A TRIBUTE TO MRS. RHODA M. OWEN

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. STARK. Mr. Speaker, Montaigne said:

> He who does not live some degree for others hardly lives for himself.

That is a statement with which one of my constituents, Mrs. Rhoda M. Owen would certainly agree—for a large part of her life has been devoted to public service.

On August 31, 1976 Mrs. Owen retired from her position of district clerk of the Valley Community Services District. With her retirement Dublin loses its longest term public employee—and one of its most dedicated.

Her presence with the district will be much missed not only because of her personality and expertise but also because she really was with the district from its beginning. She began her work on October 15, 1960 as its second paid employee. And it was Mrs. Owen who processed the first applications for water and sewer services for the new community. Over the years she watched with pride as the staff grew to its present size of 65 full-time employees.

On September 24 her colleagues will be honoring her at a luncheon. I know my colleagues will join me in paying tribute to Mrs. Rhoda Owen at this milestone in her life.

GUN CONTROL

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. JACOBS. Mr. Speaker, this letter from Howard D. Thomas II of Indianapolis, Ind., expresses a point worthy of general attention:

HOWARD D. THOMAS & CO.,
CERTIFIED PUBLIC ACCOUNTANTS,
Indianapolis, Ind., August 27, 1976.

Representative ANDY JACOBS, Jr.,
Longworth Office Building,
Washington, D.C.

DEAR ANDY: Thank you for taking time to answer my letter concerning H.R. 11193 (your letter dated August 17, 1976). . . .

In response to your request for my further comment, please consider the following thoughts:

First, the bill now has the complexion of a consumer protection measure instead of a crime control measure. I am most concerned with gun reliability and safety, and therefore have no ideological objection to the safety criteria portion of the bill. However, merely constructing a gun from steel, or a high tensile strength alloy stops short of a requirement for gauge or thickness of metal or specifications as to how the gun will be held together (rods, pins, etc.). A much simpler and more exacting standard would be to require all domestic and imported handguns to be constructed using the manufacturing standards now used by Colt or Smith & Wesson, which (as you know) are very high quality domestic firearms. Not only would quality and safety features be maintained at the highest levels, but the "cheap" Saturday night special would become obsolete without further legislation. If this part of the bill were to remain, accidental deaths with handguns would, no doubt, decrease. My feeling, however, is that little ground would be gained in fighting violent crimes involving firearms.

Next, I still object to the $50.00 and $125.00 fees for retailers and wholesalers. I feel that many perfectly legitimate small dealers (mainly, small town hardware stores and the like) would be forced to drop handgun sales in areas of few gun crimes. Private sale and trade would go unhindered and still supply a ready market for a quick gun to rob the local fried chicken joint on Saturday night.

No legitimate sportsman or competitor would object to the fourteen day waiting period for records checks and the like, providing, of course, that such checks would actually be made. My feeling is that the current three day period serves as little more than a "cooling off" period. Criminal records checks should be mandatory.

The last point you mention is that the use of a gun in the commission of a crime would become a Federal felony. This paragraph is the only one in the bill which takes a step in the direction of actually stopping gun crimes. It is a very weak paragraph, however, because it does not limit plea bargaining, nor does it include mandatory sentences. My contention has always been that gun control, registration, or confiscation will not effectively stop gun crimes, but only reduce the ability of the victim to resist. Instead, "criminal control" should be the objective of any new legislation, and effective control cannot be obtained as long as accepted avenues are open (such as plea bargaining and suspended sentences) by which the repeating criminal may commit the same gun crimes time and time again with no fear of certain and meaningful punishment. I realize that any current surge of softheartedness on the part of our criminal judges will make this idea difficult to achieve, but unless we are headed in the direction of mandatory sentences, we are spinning our wheels.

As an interesting sidelight, I notice that gun legislation has been pushed back until after the election. Could it be that many pro-control congressmen realize that such a stand is unpopular with the majority of people?

I hope you will consider my views on this legislation and, if possible, provide me with a complete copy of the bill as it emerges from committee.

Sincerely,

HOWARD D. THOMAS II.

FINALLY, THEY ARE A FAMILY ONCE MORE

HON. FRANK THOMPSON, JR.

OF NEW JERSEY,

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. THOMPSON. Mr. Speaker, those of us who are privileged to serve in this body occasionally experience that marvelous sense of satisfaction when through some special effort it is possible to accomplish a good deed. Quite recently, I was in the fortunate position to be of assistance in obtaining exit permits for the children of Miklos and Gizela Mihalik, former Hungarian nationals who now reside in my district. This truly heartwarming story of a family being reunited after a 4-year separation is recounted in the following news stories which appeared in the Evening Times of Trenton and the Trentonian. I could not conclude this account without expressing my personal gratitude to His Excellency Ferenc Esztergalyos, the Hungarian Ambassador and Dr. Karoly Kovacs, Charge d'Affaires of the Embassy. It was through their good offices that exit permits were granted to the Mihalik children.

Mr. Speaker, the following news accounts eloquently speak for themselves:

[From the Trenton (N.J.) Evening Times, Sept. 10, 1976]

FINALLY, THEY'RE A FAMILY ONCE MORE

(By Michael Norman)

The waiting was agony. Miklos Mihalik could barely control himself. His wife, Gizela, was nauseous. There was nothing they could do to stop it.

KLM flight 643 left Amsterdam on schedule yesterday. Its estimtaed time of arrival in New York was 8 p.m. It would take approximately two hours to drive from the Mihalik house on Fifth Street in Hamilton Township to JFK International Airport. Miklos kept checking his watch: 4:05 p.m. . . . 4:10 p.m. . . . 4:15 p.m. . . .

Gizzy, as she is called, fiddled with two passport size photos. They were pictures of two melancholy-faced boys, the sons they had left behind when they fled Hungary in 1972, now two small small passengers on flight 643.

"Wait . . . wait . . . wait," grumbled Miklos to no one in particular. "The last week has been the hardest of the four years." Neither husband nor wife had been able to sleep. She wept at the slightest provocation. He fed milk to his ulcer.

The Hungarians have a word for a homecoming, a special family reunion. They call it "Oromnap" or happy day. Miklos and Gizzy could barely force a smile.

The Hungarian village of Szogliget is nestled in a valley near Lake Balaton. Most of the homes and shops are stone. Just outside the village, there is a 12th Century castle called Saadvar. It is a sort of a landmark to 800 or so people who live in Szogliget.

Miklos and Gizela Mihalik were born in the village. She was quiet, petite. He was the archetypal hot-blooded Hungarian, according to some who knew him; restless, unpredictable.

For as long as he can remember, Miklos was a man possessed by one single idea—get out of Hungary; somehow, some way, get to America. He was neither a revolutionary nor a Freedom Fighter. During the uprising in 1956, he was 13 years old. He simply wanted a more comfortable way of life and the money to pay for it.

When he was a teenager, he tried to convince an old man who was leaving to take him along. "You are too young," Miklos remembers the elder saying. "Leave me alone."

When he was 20, he applied for a visa. The police turned him down. He married Gizela when he was 23. They had two sons, Miklos Jr. and Zoltan. By then, he had a house and a tractor. He worked as a mechanic on a communal farm. He was still restless and unpredictable. He still wanted to leave. This time he had a plan.

In the early fall of 1972, he applied for a vacation visa and passport to Vienna, Austria. He told the authorities that he and his wife wanted a holiday. "Will you take your children?" he remembers them asking. "Oh, no," he assured them, "we will only be gone for four or five days."

Other families had fled Hungary on vacation visas and Miklos knew that if he asked the state to let the entire family leave, they would be denied the papers. So he and his wife would go first, then, once they were safe in America, they would somehow bring their boys over. Meanwhile, the children would live with their grandparents.

"I was determined," he says now. "I didn't have any life. They didn't have any life. I figured to try everything to get them over, and if they couldn't come, I'd go back and take the consequences."

On Wednesday, Oct. 25, 1972, Miklos packed a single suitcase. At 2 a.m., his relatives gathered in his house to say goodbye. The couple crept into their sons' room for a last look. One of the boys woke up, "Where are you going?" he asked. "To bed," his parents answered. "Go back to sleep." Gizela was almost distraught. Miklos was shaken.

They took a train to Budapest and made a connection to Vienna. An official on the train checked their papers. Miklos remembers that he kept coming back to their compartment, maybe five or six times asking questions until they crossed the border.

They spent seven months in Austria in a camp for displaced persons. Finally the American consulate gave them asylum in the United States. A cousin from Robbinsville sponsored their entry so they moved to Trenton.

Three weeks after they arrived, they asked Congressman Frank Thompson to help them get their sons. The Hungarian government denied four official requests for exit visas. Gizela prepared to return to Hungary. Miklos began to question his original resolve to come to the United States. Then, earlier this month, they received word: the boys would be permitted to leave.

The yellow sedan edges along in the post rush hour traffic on the Bay Parkway. 7 p.m.: "How much farther?" Miklos asks a passenger. "About 10 or 15 minutes," comes the answer. The traffic slows almost to a stop. Miklos sighs. Gizela leans back in her seat. She turns pale. Miklos senses trouble. He gives her half a piece of gum. The crisis passes.

They have not eaten all day. Gizzy wonders

if Miklos Jr., now 11 and Zoltan, 10, still like chicken soup. She plans to make it for them. She hopes it is still their favorite.

7:05 p.m.: another snarl of cars. "Oh my god," Gizzy half cries. "Don't worry," Miklos comforts her, "Don't worry honey."

Miklos had only worked half a day at his five-dollar-an-hour job at Dinger Brothers Iron Works. He would work the next day and take Saturday off. He wants to take his sons to see a special place. It will be the first thing he shows them—Bamberger's in the Quaker Bridge Mall. "That's really something," he proclaims.

Gizzy doesn't listen. She keeps looking. 7:10 p.m.: a sign reads "Kennedy Airport." Everyone at last smiles.

The International Arrivals Building is swarming with passengers and people waiting for flights. KLM 643 is due at 7:50 p.m. Miklos gets a glass of milk. Gizzy cries and laughs and cries and laughs. Miklos preens.

The family is paged to the KLM desk. A television camera crew is waiting. A long-legged blond explains she is a TV reporter and wants to record the "happy event" on film. The welder and his wife and their two sons and a gaggle of relatives are about to become instant celebrities—at least for the 11 o'clock news.

The couple moves toward the doors to the customs area. The entourage follows. Suddenly, the doors burst open and there stand two little boys surrounded by a phalanx of police, customs men and airline assistants.

The small crowd waiting to greet their own relatives senses something special is happening. They seem to enjoy the temporary tableau. Miklos Jr. and Zoltan are hugged and kissed and hugged and told to answer the long-legged blond who shoves a microphone at them and says "Welcome to America." They mumble something and she turns bewildered to her camera man and tells him, "I guess that's all. They don't speak much English."

The car seems to glow on the trip back to Hamilton. Miklos is almost serene. Gizzy is radiant. The boys watch the traffic and marvel at super highways and large cars. What are the first English words they want to learn? Miklos asks them. "I'm hungry," one of them answers.

They want chicken soup.

[From the Trentonian, Sept. 10, 1976]

FAMILY ENDS ITS 4-YEAR VIGIL

(By Jack Knarr)

NEW YORK.—Two young Hungarian boys walked through a set of double doors at the U.S. Customs Registration desk here at Kennedy Airport last night right into the arms of their tearful, happy parents and into the hearts of American immigrants everywhere watching on ABC–TV.

The sons of Miklos and Gizela Mihalik of 45 Fifth St. Hamilton Township—Miklos, 11, and Zoltan, 10—were swept away by their parents, relatives and friends in what promises to be a long and gleeful celebration of freedom.

"I feel so much better now," the boys' father, a 33-year-old welder, said as he held tight his oldest under the bright, hot television lights. "They are happy to see me and their mother. He says he likes me very much."

The family had been separated four years ago when the Mihaliks went as "tourists" to Vienna without the Hungarian government's permission to take their children. They went on to America, seeking the good life, and only years of diplomatic pleas and a last-minute push by U.S. Rep. Frank Thompson Jr. (D-Trenton) resulted in exit visas for the boys.

It was a joyous, human reunion as the parents kissed and hugged their children and held them proudly for the world to see. The tears and agony over their decision to escape Hungary were gone now. A beautiful bedroom loaded with toys, bicycles, shopping sprees, a new car, a home of their own, and a pool table in the basement awaited the little guys. Plus four years' worth of stored-up love.

The trip down the hectic N.J. Turnpike was the end of a long trip from halfway around the world, including nine hours in the air over the Atlantic, and the finish of perhaps the deepest kind of sacrificial love story you'll ever hear.

It started in summer of 1972, with the Mihalik family living in a small village of about 800, Szogligat, bound by poverty with little hope of advancement or success.

"I have no life, they have no life," Miklos said earlier last night as he sped toward the airport. "We do this to give them nice life over here. They come over here, they have nice life. Over there, too expensive everything and the people don't make money."

He and Giza applied for a passport and were investigated by police who seemed convinced the Mihaliks were, indeed, only planning a vacation in Vienna in October, 1972. Police were shown blueprints to a home Miklos planned to build.

But visas for the boys were denied.

The thinking was, no doubt, that the Mihaliks would certainly come back.

But they knew they had to go.

"It was 2 a.m. and the kids were in bed on the 25th of October, a Wednesday," Miklos Mihalic remembered. "They got awake and said, 'Where you gonna go?' I said, 'We want to go into bed.' "

"They went back to bed, and everybody (the Mihaliks and all the gathered relatives who knew they were leaving) cried. My brother-in-law, he knew what we were going to do. He said, 'You do this too hard.' "

The escape was a storybook success with one huge snag.

The Mihaliks settled in Trenton and Miklos' cousin, John Mihalik, got Miklos a job. They bought a home, a new car, saw Niagara Falls, and were pleased with American success.

But there were always the tears, the sleepless nights, the $50 phone calls once a year to the boys and Gizi's parents who were raising them in Szogligat, where there was no plumbing, outhouses, and only recently electricity.

And frustration with the diplomats. No one would grant the boys exit visas.

In the car, Miklos vowed, "I don't do anymore like this. If we have piece of bread, give to the whole family, share, and when there is no more we die together.

"Never break up family again."

A telegram last week from the boys' grandparents said the children had been given passports. The Mihaliks cried. Across the ocean in Hungary, an old couple cried as well. . . .

"The plane to Holland will take the boys too far from me. I cried the first day I heard they would get passports. The house, the garden, the property will be empty with the boys gone."

Miklos Mihalik was paraphrasing his father-in-law's words.

"My mother-in-law says she feels sorry. Four years is a long time. 'Everything going to be empty when boys are gone.' " He was now quoting letters from the guardians.

"They gave to them half life (raised the boys for half their lives), and he love them. I'm 33 years old," Miklos said, "but I read the papers (letters) he sent, and I cry."

"This was a long wait," Gizi, his pretty wife, said, sitting nervously in the back seat of the car, awaiting the reunion. "I don't sleep, I just cry, I don't know why."

But it was a night for happiness, for rejoicing, and Miklos wore a light blue suit and black pants and white shirt and black and white shoes and Gizela was beautiful in her grey pantsuit and brilliant red blouse and they stood near the double doors, finally waiting nervously in the hot television lights and soon two little boys in suits walked through and were mobbed.

They kissed and hugged and then stood cheek-to-cheek for the photographer, young Zoli in glasses, smiling, and Miklos clutching his Mickey, and pretty blond Joan London from ABC crouched and shook hands with them.

Her question, "How did you like your flight?" was translated by John Mihalik, and they said in Hungarian that it had been an awful long flight over the ocean. The meals were good, and someone had written a note and put it in a pocket. The note was in Hungarian. It said the boys were good.

Joan London said, "Welcome to America," and John Mihalik whispered to the boys in Hungarian and they smiled and said, together, "Hello, Ah-mary-ca!"

IN PRAISE OF SENATOR MATHIAS' PRIVACY STANCE

HON. CHARLES A. MOSHER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. MOSHER. Mr. Speaker, last month Senator CHARLES McC. MATHIAS delivered a speech to the national convention of the American Bar Association. His topic was, "The Fourth Amendment in the Electronic Age."

Those of us who had the privilege of working with MAC MATHIAS when he was here in the House, and anyone who is familiar with MAC's record—not only as a Member of the House and Senate, but also as attorney general of the State of Maryland—must surely be aware of his commitment to the principles of individual rights and civil liberties.

Senator MATHIAS' remarks to the ABA underscore his lifelong dedication to the principles embodied in our Bill of Rights and, more importantly, help to remind us all that the battle to preserve and protect our rights to privacy is especially important and, particularly difficult, in this electronic age.

Mr. Speaker, I am privileged to be the coauthor, with Senator MATHIAS, of the Bill of Rights Procedures Act, cited in the House as H.R. 214. That bill deals with the very real problems of: protecting bank, credit, and other "third party" records from unwarranted snooping by Federal agents, preventing abuse of the "mail cover" surveillance technique, and guarding against invasions of privacy by those who conduct "service monitoring" of telephone lines.

On April 2, the House Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice approved H.R. 214—in amended form—by a vote of 5 to 0. Unfortunately, the full Judiciary Committee has not yet been able to complete its consideration of the bill.

We especially appreciate the thorough hearings that were held on H.R. 214 by the Kastenmeier subcommittee, and I want to note the great bipartisan support we have had in perfecting the legis-

lation. The subcommittee amendments to our bill have resulted in a successful translation of our statement of principle into a potentially effective piece of legislation.

Senator MATHIAS and I are very encouraged by the strong support that our proposal has attracted from the banking industry, the news media, labor unions, consumer groups, and statements from the Republican Party. We do expect that the Bill of Rights Procedures Act has a good chance of being enacted during the 95th Congress.

Well, what got me started on this was Senator MATHIAS' excellent speech to the American Bar Association. I believe this is a document that all citizens should have an opportunity to read and study. Consequently, I am inserting his speech into the CONGRESSIONAL RECORD at this point:

THE FOURTH AMENDMENT IN THE ELECTRONIC AGE

(By Senator CHARLES McC. MATHIAS, JR.)

In 1817 former President John Adams wrote to a friend who had asked him to recall the genesis of the American Revolution. Age had not dimmed Adams' passion, or his memory of the events that had liberated his country from England. He went straight to the first of the great dramas in our long advance toward libertarianism. Richard Harris, in his New Yorker essay on the fourth amendment, has given us a detailed account of that drama, and those events. Today I'd like to touch the highlights.

"The scene", Adams wrote, "is in the council chamber in the month of February, 1761 . . . in this chamber, round a great fire, were seated five judges, with lieutenant-governor Hutchinson at their head, as chief justice, all arrayed in their new, fresh, rich robes of scarlet English broadcloth; in their large cambric bands, and immense judicial wigs".

John Adams was a young lawyer of 25. He and every other member of the bar of Middlesex County and Boston sat in the chamber that day, also arrayed in the gowns and wigs of English tradition. Adams took notes, and 57 years later resurrected the scene, which echoes today as powerfully as ever, vital in our law and heritage.

At issue were the general warrants called writs of assistance, a legacy of the repressive court of star chamber. The writs authorized officers of the crown to search homes and property for smuggled goods, and to compel any British subject to assist in the search. They did not specify whose property, or what evidence was to be looked for.

The merchants of Boston demanded a hearing. They asked James Otis, Jr. of the Bay Colony to represent them, and offered him a generous fee. Otis accepted the job and declined the fee. "In such a cause", he said, "I despise all fees".

The Revolution had found one of its first heroes, a man usually overlooked in the liturgies of the Bicentennial. Otis resigned as advocate general of the admiralty court, a position with promise of wealth and advancement, and went to work for the Colonists against the writs of assistance.

John Adams never forgot Otis' 5-hour performance that day. According to Adams, Otis wove a spellbinding mix of classical allusion, history, legal precedent, constitutional law, and prophecy. When he was done, opposition to the writs was unalterably set in the minds of the Colonists, and one of the fundamental principles of English common law had been indelibly written in our history.

"I will to my dying day", Otis began, "oppose with all the powers God has given me all such instruments of slavery on the one hand and villainy on the other, as this writ of assistance. It appears to me the worst instrument of arbitrary power, the most destructive of English liberty and the fundamental principles of law that ever was found in an English lawbook. . . ."

A warrant, he said, must designate the place to be searched, the evidence to be looked for, and the person in question. It can be issued only upon a sworn complaint. A general warrant, in Otis' view, was in dead conflict with the British constitution.

"One of the most essential branches of English liberty", he said, "is the freedom of one's house. A man's house is his castle, and whilst he is quiet he is as well guarded as a prince in his castle".

It was America's first defense of the right to privacy; a first glimmer of the notion that a citizen has the right to be let alone.

After Otis' peroration, the colonists followed events in England, where in 1763 a pamphleteer named John Wilkes was arrested and his home ransacked on the authority of a general warrant. Wilkes sued the officer for trespassing, claiming that a general warrant was illegal under the unwritten constitution. The jury found in his favor.

At the same time another incendiary writer, John Entick, was arrested on a warrant that did bear his name but ordered the seizure of all his books and papers, without specifying any particular ones. Entick sued and won. The Government appealed, and the Court of Common Pleas found unanimously in Entwick's favor. "Papers", wrote Lord Camden, "are the owner's goods and chattels: they are his dearest property, and are so far from enduring a seizure that they will hardly bear an inspection". Soon afterwards, the House of Commons declared general warrants illegal.

William Pitt the elder, the Great Prime Minister who was dismissed by George III for his sympathy toward American grievances, put it most eloquently of all: "the poorest man may in his cottage bid defiance to all the force of the crown. It may be frail; its roof may shake; the wind may blow through it; the storms may enter, the rain may enter,—but the King of England cannot enter; all his forces dare not cross the threshold of the ruined tenement!"

In 1791, the Founding Fathers compressed these events and utterances, and the tradition that shaped them, into the succinct injunction of the fourth amendment: "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized".

To procure this right was one of the overriding aims of the American Revolution. It is a right no despotism can accommodate. It is a right no free society can be without.

It is fair, I think, to suppose that Madison and his colleagues were satisfied that they had guaranteed the people from intrusion, search and seizure beyond all doubt. The Bill of Rights was written to clarify. It drew lines around the individual freedoms, intended to be unalterable and plainly visible.

But the Founding Fathers could not foresee the electronic age. They could not foresee telephones, wiretaps, bugging devices, computers and data banks. Technology has cluttered the domain of the constitution. It has confused things. It has made our homes and our private lives accessible, even when our doors are locked and our shades are drawn. It has created a new kind of intrusion: invisible, unanncunced, often untraceable.

Unauthorized intrusions have almost always been a temptation to police in search of evidence, and to governments troubled by national security. With the electronic age, the temptations have proliferated. The meaning of privacy has become blurred in many minds, and in the confusion, electronic prying has outrun the restraints of the fourth amendment.

In 1928, the Supreme Court dealt for the first time with wiretapping in Olmstead versus United States. The plaintiffs were bootleggers who had been convicted on the evidence of recorded telephone conversations. They claimed that the use of such evidence violated the fourth and fifth amendments. The Supreme Court upheld the convictions. Chief Justice William Howard Taft wrote the opinion. Wiretapping, he ruled, was not a search and seizure and not an illegal entry, because the tap had been placed outside. Only the spoken word had been seized, and the spoken word was not protected by the fourth amendment.

In spite of Taft, the Olmstead case produced an historic definition of privacy: the famous dissent by Mr. Justice Brandeis. "The makers of our constitution", he wrote, "sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men. To protect that right, every unjustifiable intrusion by the Government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the fourth amendment".

Nonetheless, Taft's unimaginative pronouncement stood for 39 years, until the court decided in Katz versus New York that warrantless wiretapping had to be construed a violation of the fourth amendment. "The fourth amendment", the court ruled, "protects people, not places". One did not have to be at home to be intruded upon.

The Katz decision vindicated Brandeis' 1928 dissent. And I believe the fourth amendment bears no other interpretation. What did the Founding Fathers intend to confer, if not the right to be let alone—the right to speak in private, the right to think in private?

Jefferson once warned that "the natural process of things is for Liberty to yield and Government to gain ground." In our 200-year history, we have resisted that tendency. Armed with the Constitution, we have fought infringements of our liberties, and on balance have squeezed out enough victories to bring civil liberties alive and well to the present day. The courts have stood by our right to privacy in some areas, such as the right to read as one chooses in the privacy of one's home. But the courts have not guarded us as well against intrusion and surveillance—nor has the Congress or the legal profession. And where we have turned our backs. Government has exceeded its rightful powers, almost without fall. Liberty has yielded, and Government has gained ground.

This past year, when it began to emerge that executive power had been used over nearly four decades in routine, secret disregard of the fourth amendment, the Senate finally interceded with the creation of the Select Committee on Intelligence. I was a member of that committee. The revelations that came in more than a year of testimony astounded even the most seasoned members of the committee.

The FBI, as we learned, made hundreds of warrantless, surreptitious break-ins. Bugging devices were installed in offices and bedrooms. Private papers were photographed.

Phones were tapped.

FBI and CIA computers were fed a prodigious diet of names and organizations. Nearly a quarter of a million first-class letters were photographed to compile a CIA computerized index of one and a half million names. Some 300,000 persons were indexed in

a CIA computer system; files were collected on about 7,200 Americans and more than a hundred domestic groups in the CIA's operation chaos. Army intelligence kept files on an estimated 100,000 persons. The Internal Revenue Service kept files on more than 11,000 persons and started investigations for reasons of politics, not taxes. More than 26,000 persons were catalogued by the FBI. Whose intention was to imprison them all summarily in the event of a national emergency.

The revelations went on and on, with scarcely a dull moment. We learned that quarrels among black groups had been aggavated with forged letters, inciting violence, marriages were disrupted, again with forged letters.

As James Otis put it, "What a scene does this open." But in 1761, the violations were flagrant, and dressed in the formality of the writs of assistance. Today's intrusions on privacy dispense with all formality. They are soundless, and unseen. No doors are broken down, no papers carried away. Instead of seizure, there is photography and a computerized file. Instead of an ear to the door, there is a bugging device inside the room.

These intrusions were seldom detected and so seldom challenged. Unchallenged, they multiplied. The fourth amendment was being flouted by those whom it was meant to bind and by those who were meant to enforce it; the American people stood by, indifferent or unaware.

The blame belongs many places.

For 25 years, Congress has routinely appropriated funds for intelligence, knowing little about how the money would be used and not troubling to find out. From time to time, we attempted to set mild restrictions that were ignored, and then failed to insist on compliance.

The courts have hesitated to meet the intelligence community head-on. The Supreme Court conceded in 1972 that warrantless electronic surveillance had been permitted by Presidents without "guidance by the Congress or a definitive decision of the courts."

And the legal establishment, the American Bar Association and the State and city bar associations, might have guessed how deep the disease ran, and met every lawyer's obligation to protest. The secrecy spun by Presidents and Government agents was thick but not impenetrable. Now and then a voice was raised, in fear or indignation. These complaints might have been looked into. What the press finally did, we might have done ourselves.

The recommendations of the Select Committee were designed to establish supervision, to check and balance the intelligence agencies as required by the Constitution. We advised, simply, that intelligence-gathering be brought within the bounds of law.

We proposed that there be no electronic surveillance without judicial warrant.

We proposed that no homes be entered, no mail be opened, without a warrant.

The Permanent Oversight Committee, which the Select Committee created when it finished its business, will have sentinel duty. It will alert the Congress and the country, let us hope, the moment the law is violated. For the moment, order and the rule of law have been restored.

But something in America has been dimmed in these decades of official lawbreaking. James Otis understood what it was when he spoke of "the liberty of every man."

It is more than an abstraction. It is more than a syllogism stating that if the liberty of one is taken away, then the liberty of any other can be taken just as easily. The fact is, it can be taken from some much more easily than from others. But wherever one man's liberty is violated, the liberty of every man, the transcendent aim of our law, is diminished.

The Socialist Workers Party, an ardent, possibly naive, undoubtedly peaceful group of Americans, as the FBI has admitted, was spied on and its offices broken into for years. Forged letters were sent to spouses and employers in attempts to wreck marriages and ruin jobs. In those abuses, the liberty of every man was diminished.

The late Martin Luther King, Jr., an apostle of non-violence and integration, was hounded by FBI spies and technicians whose instructions were to "destroy" him. In that crude campaign, the liberty of every man was diminished.

When the FBI concocted letters designed to instigate murder between the Black Panthers and a Chicago street gang, the liberty of every man was diminished as surely as if those agents tampered in your lives, or mine.

And as long as the Government intrudes illegally in the private life of so much as a single ragtag student demonstrator, the liberty of every man will be diminished.

No conscientious lawyer can be indifferent to the scars of these past years, or to the neglect that made them possible.

Today, a new test of the fourth amendment appears to be pending, brought along in the stealthy evolution of the computer.

The computer has become indispensable in commerce, industry, and government. Increasingly, information is shared from computer to computer, covering vast distances in seconds. Law enforcement has become automated; the law enforcement assistance administration, created in 1968, recommended the development of computerized information systems, and the FBI, a year earlier, unveiled its national crime information center, a monster computer in Washington, accessible on the instant to law enforcement agencies all over America.

Business and commerce now hum to computer rhythms. The bank, credit, medical, and business records of almost every one of us are stored away in some electronic memory. Computers do not discard information, unless ordered to. They do not forget it. They amass it, they retain it, they produce it indiscriminately at the touch of a button.

The capacity of men in power to wreck civil liberties and subvert laws was amply demonstrated in the Watergate affair, and by the intelligence community in every administration from Roosevelt to Nixon. Computers have only begun to demonstrate their potential. Men and computers, in collaboration, edge closer and closer to the innermost precincts of our private lives.

Two years ago I introduced the Bill of Rights Procedures Act, which was designed to reinforce the fourth amendment. The bill would require court approval, upon a show of probable cause, before the Government could wiretap, bug, open mail, or dig into telephone, credit, medical, or business records. Court approval would have to be put in writing. Any Federal agent who proceeded to these measures without a court order would be subject to criminal prosecution.

Congress was created for the most part to make law, not enforce it. But where the Constitution is made to seem ambiguous by modern technology, or where it is assailed by Federal agents and overreaching presidents or where the courts are dilatory, then Congress does have the power to intercede. The Bill of Rights Procedures Act would reiterate the fourth amendment and insist by statute that it be enforced.

Over the years, the United States Supreme Court has been a primary guardian of our civil liberties. The court has traditionally exercised vigilance in its decisions defining the scope of the privacy protections afforded under the fourth amendment's prohibitions against unreasonable searches and seizures.

In recent months, however, the Supreme Court has signalled a retreat from its position as the protector against governmental intrusion. In a series of recent decisions—ranging from its ruling in United States against Miller that a citizen's banking records are not his private papers so as to come under the protections of the fourth amendment, to its holding in South Dakota against Opperman, approving sweeping inventory searches of automobiles in police custody, the court has taken a much narrower view of the fourth amendment. In dissent, Justices Marshall and Brennan have leveled unusually harsh criticisms of these recent decisions. As Justice Brennan, joined by Justice Marshall, wrote in dissent in United States against Martinez-Fuerte, that case was "the ninth this term marking the continuing evisceration of fourth amendment protections against unreasonable searches and seizures."

I join in the eloquent dissents of Justices Brennan and Marshall and hope that this trend will be reversed in the coming term of the Court.

Against this background, I believe it is essential that the Congress and State legislatures—who apparently have been lulled into passivity by the dominant role played by the Supreme Court—reevaluate their usual practice of stepping aside to allow the courts to determine the breadth of the privacy safeguards in the Constitution. Even when Congress has had the opportunity to delineate the scope of these protections, it has either failed to do so or specifically left such determinations to the courts. Typical of its abdication to the judiciary are the following:

In the 1968 Omnibus Crime Control and Safe Streets Act, Congress expressly disclaimed reaching a decision regarding the constitutional limitations on the President's power to order wiretaps without judicial warrants;

In the Bank Secrecy Act, Congress authorized surveillance into the bank records of millions of Americans without making clear whether these administrative powers were subject to the prohibitions in the fourth amendment;

In the border search statute, Congress permitted searches of individuals within 100 miles of the border without declaring whether the fourth amendment was applicable to governmental actions of this nature.

The time is at hand when the Congress and its State counterparts must enact legislation to protect the privacy which is essential to our democratic society.

In the advance of computer technology, the words of James Otis bristle once more. The writ of assistance, he said, "Is a power that places the liberty of every man in the hands of every petty officer." To prevent this, our fourth amendment was written. It was written to guarantee the privacy of the home and personal papers, and the right to be let alone. It was written to place the liberty of every man out of the reach of every petty officer, every Federal agent, every Attorney General, and every President, and to lock it securely within the rule of law.

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago today, to stem the loss of badly needed arms and supplies, on September 14, 1776, the Continental Congress resolved that upon the completion of their term of service and before they returned to their homes, continental troops and militia were to return all continental arms and supplies. Pay was to be withheld from those who refused to comply with these new instructions, and each

State was urged to take appropriate actions against those who had already been paid but had failed to return the arms and supplies.

THE BALANCE(S) OF POWER: IV (VI) STRATEGIC DEFENSIVE BALANCE

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. BRECKINRIDGE. Mr. Speaker, strategic attack assessment capabilities, always of great importance, become even more crucial as national strategic policy shifts toward a limited counterforce stance. For this and other reasons, the North American Air Defense Command—NORAD—is in the process of upgrading its systems for detecting and tracking enemy ICBM's and sea-launched ballistic missiles. While reducing its air defense forces, NORAD will continue to maintain basic capabilities in this field in order to retain an option for full-scale deployment if that becomes necessary in the future.

To continue my discussion of the strategic defensive balance in my series on the "Balance(s) of Power," I wish to insert an assessment made by Edgar Ulsamer, senior editor of Air Force magazine, that presents the case for strategic attack assessment capabilities in terms of the overall U.S. surveillance posture as expressed in an article, "Strategic Warning, Cornerstone of Deterrence," that appeared in the May 1974, issue of Air Force magazine.

The article follows:

STRATEGIC WARNING, CORNERSTONE OF DETERRENCE

(By Edgar Ulsamer)

The North American Air Defense Command (NORAD) and its Air Force component, the Aerospace Defense Command (ADC), are shifting their primary concerns from air to space, and from defense to surveillance, warning, and attack assessment. While the NORAD continues to guard the North American airspace, its Commander in Chief, USAF Gen. Lucius D. Clay, Jr., emphasizes that changes in the potential Soviet threat and in US defense policy have elevated the Command's other mission—that of providing warning and assessment of aerospace attacks—to a position of "obvious primacy."

Referring to recent cuts in the Command's air defense forces (the phasing out of forty-eight Nike-Hercules batteries and the reduction in the US air defense interceptor strength from 486 to 336 aircraft), General Clay, who also serves as Commander in Chief of the Continental Air Defense Command (CONAD) and as ADC Commander, said "NORAD is in the throes of a major realignment. While we have been instructed to retain basic defense capabilities against manned bomber forces, our primary defense mission is surveillance and warning" regarding ballistic missiles.

This new tilt, he said, "is perhaps less glamorous than manned air combat, but it is expensive, complex, sophisticated, and crucial to our ability to deter nuclear war." The drop in air defense forces is balanced out by boosts ICBM warning and surveillance systems, and thereby NORAD's annual budget has stayed at a "reasonably steady level of about $2.7 billion over the past few years. We are now spending more on warning systems, in terms of R&D and procurement, than on manned systems," General Clay told Air Force magazine.

INSTANT, UNAMBIGUOUS WARNING

In the uncertain world of nuclear strategy, where perception may be more decisive than fact, one requirement is certain and central: The need to know with electronic instancy and mathematical precision what a potential aggressor is doing. The tool is real-time warning and surveillance. This requirement becomes acute when the potential adversaries agree to limit their antimissile defenses (ABM) to token levels, as specified by the treaty portion of the SALT I accord. Knowing that the U.S. would be almost instantly aware that it is being attacked, and by whom and in what manner, and that it is, therefore, capable of launching any part of its own strategic forces before they might be damaged or destroyed, will deter any rational aggressor, at least as much as the actual might of the U.S. strategic forces. NORAD's array of interlinked warning systems has clearly demonstrated that "we can give meaningful warning, under all circumstances, to the National Command Authorities in time to take whatever steps are deemed necessary prior to the arrival of the attacking force," according to General Clay.

NORAD relies on four separate but fully interlinked systems to keep track of Soviet missile launches; one of these systems is optimized for the detection of submarine-launched ballistic missiles. The systems augment each other in terms of speed, range, and the type of information that they produce through "multiphenomenology." The latter term denotes that each system looks for different phenomena associated with a missile launch and operates in different ranges of the frequency spectrum. The result is greater reliability of the warning mechanism. Spurious signals that might deceive one system are likely to be filtered out by the others. Also, the enemy's countermeasures are likely to blind or deceive only one or two but not all the U.S. systems. (Recent MIRV testing of Soviet ICBMs can be expected to enhance their ECM capabilities and provide them with options to deploy decoys in the future.)

SATELLITE-BASED EARLY WARNING SYSTEM

The newest and most rapid means for ballistic missile launch detection and warning is NORAD's satellite surveillance system, including Early Warning Satellites and the Surveillance and Warning System.

At this time, it consists of at least three satellites operating in a synchronous orbit. These provide coverage of much of the earth's surface. Improvements of the system are planned and presumably will involve an increase in the number of satellites fully dedicated to the early warning role.

So far as ICBM launches are concerned, the Early Warning Satellite System "can be expected to provide unambiguous warning in the envelope of weapons that we see in the Soviet inventory at present," according to General Clay. The satellite surveillance and warning system operates in the infrared (IR) range and measures the energy content of the plume of a missile's rocket engine.

The surveillance and warning system is capable of detecting nuclear explosions in "all current areas of potential interest," according to Air Force Systems Command spokesmen. While the system, as presently constituted, provides reliable warning against missiles fired from Soviet territory, it does not furnish precise impact assessment.

"We have been trying to get improved capability for impact assessment into the inventory, but the program was dropped by congressional action. The objective was to develop a capability to correlate surveillance information from diverse systems and improve the quality of assessments on the nature and extent of an attack. This would allow the National Command Authorities to determine in advance whether an impending attack is directed against military targets, population centers, or a combination of both," General Clay told Air Force Magazine.

Funds requested for the Attack Assessment System in the FY '74 budget were reduced, however, and associated industrial contracts terminated, he added. In the interim, the Air Force was directed to conduct in-house studies and research on means for developing attack-assessment capabilities, according to General Clay. The need for such a system would appear to be especially pronounced in light of Soviet MIRVing.

The effectiveness of NORAD's surveillance and warning system could be degraded but not negated by the introduction of mobile ICBM systems into the Soviet inventory, according to General Clay. "Right now we know, of course, where the Soviet missile fields are and, as a result, can tell automatically that we are dealing with an ICBM launch because it involves the right spot. A mobile system, on the other hand, would introduce some ambiguity, especially if it were launched from a point close to an international border," he said. (Development of a mobile Soviet ICBM system appears to be in progress according to Defense Secretary James R. Schlesinger's Annual Report.)

Maj. Gen. Otis C. Moore, Commander of the Fourteenth Aerospace Defense Force, ADC, told AIR FORCE Magazine that while the capacity of the satellite warning and surveillance system is "not infinite, it is not limited in a practical sense." The number of individual launches the system can keep track of before it becomes saturated is sufficiently high to indicate that the United States is under full-scale attack, and anything beyond this point becomes, of course, academic, General Moore said.

The surveillance and warning system is optimized to deal with ICBMs, but "has considerable capability regarding SLBM launches. Its coverage is, however, not complete" for information about sea-launched ballistic missiles, according to General Clay. (Also, because of the limited number of satellites used by the system, predictable blind spots occur when the sun, moon, and earth are aligned in a certain way and affect offshore locations likely to be used by enemy submarines. This condition prevails infrequently, but in a practical sense is sufficiently severe to require supplementary coverage by other means.)

Department of Defense spokesmen have disclosed also that "there are certain geographic gaps, esentially in the northern regions, of potential attack that are not covered by the satellites from their synchronous orbits." Other problems, according to DoD, are caused by the sun's rays hitting the tops of clouds, causing a "signal that will look to the satellite as if it were an IR reading from a missile plume."

In terms of the technological state of the art, the Air Force's surveillance and warning system "represents the best that is available. We know of no emerging technique that could do a better or faster job," General Moore told this magazine.

THE SATELLITE SURVIVABILITY QUESTION

"Technically, it is not too difficult to attack a satellite if a nuclear kill mechanism is available for the task. The treaty banning the use of nuclear weapons in space, of course, precludes the legal use of such a system," General Clay said. Explaining that many military satellite systems are in fixed orbits, he pointed out that Soviet space-rendezvous capabilities appear to be sufficiently sophisticated to perform a successful intercept, "although the practical merits of such an attack may well turn out to be highly dubious." Since an attack on the US military satellite systems is likely to be construed—whether intended as such or not—as a precursor of a nuclear attack, such an action would "be extremely risky from the attacker's point of view and signal his punches."

(A surprise attack on satellites in synchronous orbit is difficult to mount since the

interceptor, if fired from the ground, requires several hours to reach geosynchronous altitude. It is possible, however, to place spacecraft, with either a nuclear or conventional kill capability in high-altitude orbits and keep them there in a dormant state until they are directed to attack. There is evidence that the Soviets have tested systems employing nonnuclear kill mechanisms successfully.)

Because of the risks inherent in any attack on the US early warning system, it is more likely that attacks on military satellite systems will be directed selectively against nonvital systems outside of the command and control area. "A potential aggressor might go after systems that, once destroyed, would deprive us of capabilities he does not want us to have. In the process, the attacker would produce a low-level crisis, which may serve his political end, yet he would avoid a situation that would be interpreted automatically as a precursor of a nuclear attack on the United States," General Moore said.

(Air Force Secretary John L. McLucas told Air Force Magazine that USAF started development of a nuclear-armed antisatellite system, known as Program 437, on orders from former Defense Secretary Robert S. McNamara almost ten years ago. Theoretically, this capability is still in existence, but is not usable in a practical sense because the US is a signatory of the treaty barring use of nuclear weapons in space.)

General Clay commented that "in a military sense it is always necessary to maintain capabilities that can cope with each element of the enemy's threat."

OVER-THE-HORIZON WARNING SYSTEM

The most effective means for assuring the survivability of the US ICBM warning system is through redundancy. Even in the unlikely event of a successful attack on US satellite warning systems, the nation's warning mechanism would be curtailed only slightly. The reason for this is the Warning System 440L, a forward-scatter, over-the-horizon system that detects missile launches from the northern tier of the Eurasian land mass.

The system relies on signal reflections between the ionosphere and the ground, meaning that signals from the transmitters are bounced back and forth between the ground and the ionosphere until they reach the receiving stations.

The 440L system, General Clay explained, serves a vital augmentation of the other components of NORAD's ICBM warning apparatus. The ionosphere extends to altitudes between ninety and 150 miles, depending on weather conditions.

The 440L system has two weaknesses, according to General Moore: "It provides only an approximation of what is happening, and it can't track. Also, because it depends on both transmitter and receiver sites on foreign territory, it is subjected to the vagaries of international relations. While it is our long-term objective to come up with a system that eliminates these vulnerabilities, we are years away from reaching that goal."

BMEWS: THE MOST PRECISE WARNING SYSTEM

NORAD's oldest ICBM warning system is BMEWS, for Ballistic Missile Early Warning System, which consists of a series of radars covering the northern approaches to the continental U.S. BMEWS provides fifteen to twenty-five minutes of warning of an impending ICBM attack and can predict impact areas through very precise radar tracking. BMEWS is also used to warn of IRBM (intermediate-range ballistic missile) attacks against Great Britain and to keep track of satellites in low orbit. (High-orbit satellites are outside the range of ground-based radars.) The system uses three sites—one in Alaska, another in Greenland, and a third in England.

The BMEWS warning net uses two types of radar—detection radar (DR) and tracking radar (TR). The first is a pulsed system that emits two beams of different but fixed elevation, scanned in azimuth in the manner of fans. The "fans" are arranged one on top of the other so that any penetrating missile has to go through both of them. The tracking radar is a mechanically scanned pulse radar that tracks individual missiles, after they have been detected by the DR fans. BMEWS detection range extends out to distances of 3,000 miles from each site.

BMEWS' computers, collocated with the radars, process the sensor signals to establish trajectory information about objects within the system's range and to determine whether or not they are in fact enemy ICBMs. The data-processing system issues warnings to NORAD's Combat Operations Center on the second floor of the hardened Cheyenne Mountain complex in Colorado.

BMEWS dates back to the early 1960s and, according to General Clay, "is still a highly effective system." In order to increase U.S. attack assessment capabilities, the Air Force is, however, exploring means for modifying BMEWS. "We want to be able to get more accurate information about the missiles as they pass through the fans—in the main, by extracting larger data samples. We are examining specific means for achieving this goal," according to General Moore.

SLBM WARNING SYSTEMS

Because they probably will be launched from positions close to the US shoreline and because of their trajectories, SLBMs require a specialized warning system, in addition to the Early Warning Satellite System. For the time being, SLBM warning is provided by seven converted height-finder radars of the FSS-7 type. This system is augmented by a more advanced FPS-49 tracking radar installation in New Jersey and a sophisticated phased-array radar system of the AN/FPS-85 type at Eglin AFB, Fla., the principal mission of which is satellite detection and tracking.

These radars search out sectors of space just above the ocean horizon and can provide trajectory measurements. The warning times this system can provide depend on the location of the launching submarine. This system, in the view of Generals Clay and Moore, is antiquated and should be replaced, an assessment concurred in by Secretary Schlesinger.

In his current Posture Statement, the Defense Secretary has urged development of a "more effective and reliable" SLBM warning radar system. Dr. Schlesinger disclosed that the present SLBM warning system has "limitations against Soviet SLBMs, particularly the new longer-range [4,200 nautical mile] SS-N-8, [because] it does not fully encompass all of the areas from which the SS-N-8 could be launched.

Some time ago, NORAD proposed a new system of phased-array radars to replace the FSS-7s; Congress denied funding in FY '74 for that program. DoD has reinstated this program in the FY '75 budget request by asking for $50 million—of a total estimated cost of $100 million—for acquisition of two phased-array radars, one each for the east and west coasts.

Dr. Schlesinger informed the Congress that a phased-array SLBM system, operating in conjunction with the two satellites of the surveillance and warning system positioned above the Western Hemisphere, "would provide highly credible warning of a Soviet SLBM launch against the US. First warning of such an attack would come from the satellites, and, within a very short interval, which increases with the distance of the launching submarine from our coast, verification of the attack would come from the SLBM phased-array radars."

The radars, Dr. Schlesinger explained, "would not only verify the signals received from the satellites, but would also fill in any gaps that may occur in the satellite coverage as a result of solar reflections."

Phased-array radars differ from conventional systems in that their solid-state systems steer search beams electronically rather than mechanically; they don't use either the familiar moving dish antennas or the large bubble-shaped domes of older systems. The AN/FPS-85 installation at Eglin AFB can track nearly simultaneously about 200 objects over extended ranges. The radar transmitters and receivers are built into the face of a building that is a city block long and thirteen stories high. The more than 5,000 radar transmitters of the AN/FPS-85 are controlled by a computer, and the direction of their scanning beams can be changed in a fraction of a second. Radar-beam steering is accomplished by varying the way energy is fed to the antennas of a phased-array radar ssytem.

General Clay rated deployment of such a system "one of the most pressing NORAD requirements."

NORAD'S SPACE DETECTION AND TRACKING SYSTEM

NORAD's surveillance and warning mission includes the job of detecting, assessing, and keeping track of space satellites. This is the task of the Command's Space Defense Center, which is operated by ADC's Fourteenth Aerospace Defense Force. The Center's computers process information from NORAD's Space Detection and Tracking System (SPADATS), the principal component of which is ADC's Spacetrack System, also operated by the Fourteenth Aerospace Force.

"We attempt to track everything that goes into space and then, through SOI [space object identification], establish the nature and purpose of the object as soon as possible," according to General Moore.

At the time of this writing, SPADATS was tracking 3,137 space objects, including 352 US and 233 Soviet active satellites. Identification is performed by analyzing radar returns from a space object to deduce its size, shape, and type of motion. The information resembles an electrocardiogram and provides precise clues about the object under examination. (During the initial troubles of NASA's Skylab space station, SPADATS rapidly established that a solar panel had failed to deploy.) The system also acts as an air traffic controller in space by predicting conflicting orbits as well as projecting decaying orbits, reentry of space objects into the atmosphere, and forecasts of where they will fall to earch (important because it reduces the chance of false ICBMW-launch alarms).

Spacetrack's radar network is augmented by Baker-Nunn ten-foot-high telescopic cameras, located at five sites, which can photograph light reflected from an object the size of a basketball out to about 20,000 miles in space, a distance well beyond the limits of radar coverage.

In its FY '75 budget request, DoD provides for improved SPADATS capability. Dr. Malcolm R. Currie, the Director of Defense Research and Engineering, told the U.S. Senate, "We are now working on detectors, target discrimination techniques, data processing, and other critical components in both the visual optical and radar portions of the spectrum, with the goal of demonstrating the feasibility of a near-real-time, ground-based capability to detect, track, and identify all objects. We are also developing technology to determine whether a space-based surveillance system would be cost-effective."

WEST'S DOUBLE STANDARD

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. McDONALD. Mr. Speaker, the so-called liberal spokesmen who spend a

great deal of time complaining about Chile and South Korea as regards lack of democratic rights have not even deigned to take notice of the atrocities being carried on in Southeast Asia since American participation in the conflict ended there. This is particularly true as regards the sickening things taking place in Cambodia. Columnist Allan Brownfeld recently wrote about this "selective morality" in his syndicated column and I include it here for the RECORD as it appeared in the Lima News of August 24, 1976:

WEST'S DOUBLE STANDARD

(By Allan C. Brownfeld)

The United States walked away from Southeast Asia, proclaiming that it had achieved a "peace with honor." The agreement negotiated by President Nixon and Secretary Kissinger with the Viet Cong was totally one-sided on the face of it, even if the other side had kept the bargain, which it was clear that it would not and which it did not.

The U.S. withdrew all of its troops from South Vietnam and granted the North Vietnamese the right to keep all of its troops in place. The collapse of the Saigon government was inevitable. Nixon's fondest hope, that the collapse would come after he was re-elected and not before, came true.

Since the Communist takeover of South Vietnam, Cambodia and Laos, the West has ignored the tales of horror emerging from these countries. Why do we ignore them? Perhaps we feel guilty about the manner in which we delivered these people to their enemies and wish not to be reminded. Perhaps we simply don't care.

Life in Vietnam itself is deteriorating. An Italian journalist, Tiziano Terzani, who spent four years covering the war for Der Spiegel, the West German news magazine, recently visited Saigon and noted that for most people, particularly those in the cities, daily life is worse now than during the war. He writes, "It is worse in terms of food, in terms of commodities, in terms of comfort . . . There are enormous economic problems . . . They are suffering very much from lack of medicine."

Terzani reports that the Vietnamese countryside looks like "a huge construction site," with people everywhere working on bridges, patching the road and rail lines. Laborers perform what is called "socialist work" and were impressed into labor by party officials who moved through the villages with bullhorns.

There are, in addition, many reports of persecution and imprisonment of any who do not fall in line with the new regime. People of an entire social class of perhaps a million people have been dispossessed, stripped of their jobs, their housing and their savings. The only choice for those who have not been imprisoned is to go to the "new economic zones" which have been set up in the countryside.

In Cambodia, the documentation of real horror and mass murder is worse. According to reports from the few who have escaped to neighboring Thailand, between 500,000 and 600,000 people—one tenth of the nation's population—have perished from political reprisals, starvation or disease.

Whole villages have been executed, by bullet, club, suffocation and burial. The victims have included not only supporters of the Lon Nol Government but many other groups—students, teachers and religious leaders. Some were shot simply for objecting to being uprooted from their homes to work in the rice fields. Thousands of others died when the inhabitants of the cities—including infants, the sick and the elderly—were forced to march into the countryside.

The French newspaper Le Monde, which has a center-left political orientation, recently published two detailed articles on Cambodia. Le Monde puts the casualties from the organized slaughter at close to 800,000. One of the slogans about Catholic priests which is being circulated among the Cambodian population is: "There is no benefit in keeping them alive and no loss in making them disappear."

The Le Monde report has been confirmed by another description of the horror in Cambodia by Time magazine. "In recent months," Time notes, "the pogrom has been extended to include anyone with an education, such as school teachers and students. Whole families and sometimes entire villages have been massacred . . . Refugees tell tales of people being clubbed to death to save ammunition. Others have been bound together and buried alive by bulldozers or suffocated by having plastic bags tied over their heads."

The stories are among the most shocking ever recorded in the history of man's inhumanity to man: Khmer Rouge soldiers using dried palm leaves to saw through the flesh and cut the throats of their victims; the mouths of men, women and children being stuffed with grass to prevent them from screaming as throat slitters move down the line like workmen in a slaughterhouse; bands of starving dogs eating the old and sick who had fallen along the road. By direct order of Khieu Samphan, any young Cambodian who went to school was killed because he had enjoyed a privilege which others had not had. Khieu Samphan was himself educated in France.

Where are the voices of protest from the United Nations, which so comfortably and so regularly decries the actions of Israel, South Africa and Rhodesia? Where is Clergy and Laity Concerned, the "peace" group which called for American withdrawal from Vietnam and characterized the Diem government as "brutal" and "dictatorial?" This group has issued no statement about Cambodia. A staff member, Janice Stern, says it is convinced that the stories are false. What of Women's Strike for Peace? When queried, it replied that it was "not into that area any more," yet it has continued to promote posters celebrating the "victories of the Indochinese people."

In an important article in New America, the voice of the Social Democrats of the U.S., Stuart Elliott declares, "One of the most total dictatorships in history has been imposed upon the Cambodians and the evidence of a bloodbath . . . is as substantial and convincing as one could expect under the circumstances. The refusal of the peace groups and American liberals to condemn the terror, or at least to demand that the Cambodians allow an impartial international group to investigate the charges, is a betrayal of moral and political responsibility. The time has surely come to condemn the Gulag Archipelago in Cambodia."

DISPOSAL OF UNOBLIGATED BALANCES FROM TERMINATED INDOCHINA ACCOUNTS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues information concerning the status of funds appropriated for economic and development aid to Indochina.

A recent General Accounting Office study prepared for the Special Subcommittee on Investigations of the House International Relations Committee on the status of funds appropriated for economic and food aid to Indochina prior to the collapse of the Thieu and Lon Nol regimes indicated that there was nearly $30 million in deobligated funds for which final disposition was not completed.

Inquiries on this matter to the Agency for Internal Development and Department of Defense show that $25.7 million was scheduled for return to the Defense Department because the obligational authority represented by these funds was provided to AID by the Defense Department in previous years to finance projects for which AID was designated the implementing agent. The remaining $4.2 million was returned to the security supporting assistance account and will be used probably in the Middle East. Congress receives appropriate notification of the uses of funds in the security supporting assistance account although the specific uses of this $4.2 million will be difficult to determine.

Similarly, the funds that were returned to the Department of Defense were credited to general Army and Air Force appropriations accounts for operations and maintenance, and their end uses will be difficult to determine.

Although the circumstances surrounding our departure from Indochina were unique and the records of our assistance programs were complicated by our abrupt exit, the return of some $29.9 million to AID and the Defense Department for uses other than those intended by the Congress should not go unnoticed. Without completely removing all flexibility in funding, Congress should create better and more systematic procedures for finding out about such changes in the use of funds.

There can be no other conclusion than the fact that the fall of Indochina in 1975 gave the bureaucracy a nearly $30 million free ride, even though the end use of these funds may, in fact reflect important congressional priorities.

I enclose for my colleagues a copy of my correspondence with the Defense Department and the Agency for International Development:

APRIL 26, 1976.

Hon. DANIEL PARKER,
Administrator, Agency for International Development, Department of State, Washington, D.C.

DEAR MR. PARKER: The General Accounting Office recently prepared for the Special Subcommittee on Investigations a brief study of the status of funds appropriated for economic and food aid to Indochina.

In its report, the GAO said that as of January 16, 1976 your Agency had identified about $112 million as unobligated balances from terminated Indochina programs and that $83 million was being held for obligation adjustments or for return to the Treasury the end of the current fiscal year. The report went on to say:

"Disposition of the other $29 million . . . had not been completed . . . However, the Agency had earmarked part of the funds for return to the Department of Defense and the remainder for reprogramming in Agency Middle East programs."

I would like to know how much of these funds will be returned to the Defense Department, under what authority and for what specific purposes. I would also like to know to what countries other funds are being reprogrammed, in what amounts and for what purposes.

Two other questions are raised by this report which I would like to address. First, can the Agency furnish Congress with a plan for closing out all Indochina activities and

can the Agency tell us precisely how long this process will take? Second, can the Agency tell us how and when the U.S. share of Cambodian Exchange Support Fund assets will be retrieved and returned to the Treasury?

I would appreciate your consideration of the matters mentioned in this letter.

With best regards.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Special Subcommittee on Investigations.

DEPARTMENT OF STATE, AGENCY FOR INTERNATIONAL DEVELOPMENT,
Washington, D.C., May 29, 1976.

Hon. LEE H. HAMILTON,
Chairman, Special Subcommittee on Investigations, Committee on International Relations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter dated April 26 in which you requested information concerning the status appropriated for economic and food aid to Indochina.

Of the $29,380,000 in deobligated funds referred to in the GAO Report for which final disposition was not completed, $25,180,000 is scheduled for return to the Department of Defense. The obligational authority represented by these funds was provided to AID by DOD over the period FY '67–FY '74 to finance certain projects for which AID was designated the implementing agent. With the demise of Indochina the projects were terminated. Inasmuch as the funds were provided through DOD appropriation accounts, they are not available to AID to reprogram for foreign assistance activities.

The AID controller is now processing a voucher to return the obligational authority to DOD. In addition to this amount, other DOD funds will be deobligated as appropriate and returned to DOD. As of March 31, 1976, for example $7,395,000 in DOD funds still remain unliquidated in terminating AID contracts. AID is negotiating settlement with contractors and as DOD-funded contracts are closed out, all surplus funds will be returned to DOD.

Of the $4,200,000 deobligated funds remaining, $4,021,000 was in the supporting assistance appropriation account. Like other Indochina SA funds, these will be reprogrammed in the Agency's worldwide SA account with appropriate congressional notification. An additional $146,000 is the Title X, population account, $31,000 in narcotics, and $2,000 in administrative expenses which will be reprogrammed in the operating expenses account.

The specific projects for which these particular funds will be reobligated are not necessarily identifiable, since all recoveries count rather than a part of specific projects. become a part of a specific appropriation ac- Pursuant to the Foreign Assistance Appropriations Act, the House and Senate Appropriations Committees are notified prior to reobligation of all prior year grant recoveries.

With regard to your second question on our plans for closing out Indochina activities, pursuant to Section 4(B)(3) of the Indochina Migration and Refugee Assistance Act of 1975, AID is providing quarterly reports to Congress on this subject. As of February 27, 1976. 130 claims totaling $11.9 million have been received from a total of 141 contractors whose contracts were cancelled at the termination of AID programs in Vietnam and Cambodia. We are actively engaged in the orderly termination of all contracts, grants, and procurement actions associated with the Indochina program as quickly as possible. Because of the large number of U.S. suppliers who must be given an opportunity to recover monies due them and the fact that under U.S. government regulations, a supplier may delay action up to a year or more, it is not possible at this time to establish an accurate date for termination of all activities.

The closing procedures for these contracts involve review and approval of a number of documents whose facts require verification. Obviously this is an extremely difficult task given the nature of our programs in Indochina and the extant circumstances surrounding the termination of these programs. It is not possible, therefore, to predict with any accuracy the time required to complete all negotiations with regards to these contractors.

With regard to your final question on the Cambodian Exchange Support Fund (ESF), we are making every effort to resolve this matter. The ESF which was created in 1972 by a government decree and extended annually by a note from the Government of Khmer Republic formally expired on December 31, 1975.

Contributions to the fund were made pursuant to an Agreement between the U.S. and the Government of the Khmer Republic. The Agreement provided for its termination upon expiration of the ESF and, upon termination, for the remaining assets to be divided among all contributing governments in proportion to their actual contribution.

On January 6, 1976, AID wrote to the Irving Trust Company, the sole depository of the U.S. contributions to the ESF, requesting release of $1,404,805.71 which represented the U.S. equity remaining in the ESF, as determined by a draft audit report conducted by Price Waterhouse and Company. AID further requested that these funds be transferred to an interest bearing account pending their distribution. Irving Trust Company formally responded on April 15, 1976 stating that it was unable to comply with AID's request for a release of the U.S. funds. It stated that assets held for the account of the ESF should be distributed only upon receipt of satisfactory evidence of the concurrence of each member of the Working Group. The bank did, however, agree to transfer the funds to an interest bearing account, and this was established on March 22, 1976.

The Working Group was composed of representatives of each of the contributing governments and the Governmet of the Khmer Republic. It provided policy and operational guidance in managing the ESF. Concurrence of the Working Group as required by Irving Trust Company includes concurrence of the Cambodian Government.

As we do not have diplomatic relations with the Cambodian Government, the prospect of obtaining a release of the U.S. share in the ESF in the near future is limited unless the bank were to change its position. We are currently exploring alternative positions together with the Departments of State and Treasury in order to once again approach Irving Trust Company on the release other options are open to the United States of these funds. If Irving Trust Company remains unwilling to release these funds in its ESF account without full concurrence of the Working Group, we will consider what at that time. It should be noted that since the ESF accounts are frozen under the Foreign Assets Control Regulations of the Department of Treasury, any disposition of funds in these accounts will require a license from that Department. We will advise the Subcommittee of the eventual resolution of this matter.

If I can provide you with further information, please let me know.

Sincerely yours,

DANIEL PARKER.

JUNE 7, 1976.

Hon. DONALD H. RUMSFELD,
Secretary of Defense,
The Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: The General Accounting Office recently prepared for the Special Subcommittee on Investigations a brief study of the funds appropriated for economic and food aid to Indochina.

It is my understanding that about $25.18 million in unobligated balances were returned by AID to the Department of Defense. These were funds originally provided through DOD appropriations accounts.

I would like to know to which accounts these funds were returned, for what purposes they are being used, and what transfer authority existed to enable this use. If these funds remain unobligated, I would like to have notification of their end use.

I appreciate your attention to this matter.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Special Subcommittee on Investigations.

DEPARTMENT OF THE ARMY, OFFICE OF THE COMPTROLLER OF THE ARMY,
Washington, D.C., June 30, 1976.

Hon. LEE H. HAMILTON,
House of Representatives,
Washington, D.C.

DEAR MR. HAMILTON: This responds to your inquiry of 7 June 1976 regarding the return of unobligated balances to the Department of Defense (DOD) by the Agency for International Development (AID).

AID returned $26.78 million to the Department of Defense rather than the amount of $25.18 million cited in your letter. This amount represents unallotted/unobligated balances resulting from cancellations of prior obligations due to the termination of the Vietnam program. The refund distribution by department is as follows:

DA $26.52 million (OMA) accounts—
FY 73 and prior $25.95 million.
FY 74, $0.57 million.
DAF $0.26 million (OMA acounts)—
FY 74, $0.26 million.

These refunds will be credited to the appropriation accounts from which advanced, e.g., refunds for FY 73 and prior will be credited to the merged OMA (21M2020) account and refunds for Army FY 74 will be credited to the OMA (2142020) account. The Air Force FY 74 refunds will be credited to the O&M, AF (5743400) account.

Prior year unobligated funds in an annual appropriation cannot be reobligated to meet subsequent year requirements, but they can be used to cover increase obligation adjustments to the respective accounts as they occur. As of 30 September 1976, any unspent balances in the FY 74 O&M accounts will lapse to the U.S. Treasury.

DA and DAF advanced funds to AID in accordance with a DOD/AID agreement to provide funds for supporting assistance such as road building and medical support. AID returned the unused funds via a check-issue basis to the respective DOD Departments. This transaction constituted an advance of funds rather than a transfer of funds, per se, therefore, no transfer authority was required.

There seems little likelihood that these funds will be used by DOD.

I trust this information will be of assistance.

Sincerely,

R. L. WEST,
Major General, GS, Director of Army Budget.

CONGRESS OF THE UNITED STATES, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES,
Washington, D.C., July 20, 1976.

Maj. Gen. R. L. WEST,
Director of Army Budget, Office of the Comptroller of the Army, Department of the Army, Washington, D.C.

DEAR GENERAL WEST: I appreciated your reply of June 30, 1976 to my letter of June

7th to Secretary Rumsfeld concerning unobligated Indochina program balances returned to the Department of Defense by the Agency for International Development.

Your letter raises some additional questions:

First, you state that: "Prior year unobligated funds in an annual appropriation cannot be reobligated to meet subsequent year requirements, but they can be used to cover increased obligation adjustments to the respective accounts as they occur."

I would like to know precisely what this statement means.

Second, I would like to know which specific OMA and O&M, AF accounts were credited, whether any of the returned funds were used to cover what you term are "increase obligation adjustments" and if so, how much is being used for these purposes and is Congress notified of such uses.

Third, I would like to know whether any funds of FY 1973 and prior years accounts have been returned to the U.S. Treasury. After September 30 of this year, I would like to know whether any of the FY 1974 funds were similarly returned.

I appreciate your consideration of these additional queries.

With best regards.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Special Subcommittee on Investigations.

DEPARTMENT OF THE ARMY, OFFICE OF THE COMPTROLLER GENERAL OF THE ARMY,
Washington, D.C., September 2, 1976.

Hon. LEE H. HAMILTON,
House of Representatives,
Washington, D.C.

DEAR MR. HAMILTON: This responds to your follow-up inquiry of 20 July 1976 regarding the return of unobligated balances to the Department of Defense (DOD) by the Agency for International Development (AID).

In response to your first question, the following explanation is provided:

The Operation and Maintenance, Army (OMA) account is a single-year appropriation that provides funds for the operation and maintenance of all organizational equipment and facilities of the Army. A high percentage of the dollar resources available to pay the day-to-day costs of installation operations is contained in this appropriation. Authority to obligate these funds expires on the last day of each fiscal year. At the end of the fiscal year, an account is established by all operating agencies for each single-year appropriation which has expired for obligation purposes. The available funds in these appropriation accounts will be used for adjusting obligations as the result of liquidating actions and cannot be used for the incurring of new obligations.

In response to your second question, the following explanation is provided:

Army OMA accounts credited were:
21M2020, $25.95 million.
2142020, $0.57 million.
Air Force OMA account credited was:
5743400, $0.26 million.

Army funds credited to the merged (21M2020) appropriation have lost their identity as to year of appropriation. These funds are available to cover increased obligation adjustments. It is impossible to positively state that any of these funds have been used to date to cover increased obligation adjustments; however, it can be said that if one assumed a first-in, first-out method of accounting for merged funds, then none of these funds have been used to cover prior year program restoration costs.

Congress is not specifically notified of the uses of these funds, but Services report monthly via departmental reports to OSD, OMB and US Treasury on the status of all appropriation accounts.

In response to your third question, the following explanation is provided:

FY 1975 and prior funds have been returned to the US Treasury in accordance with the provisions of 31 U.S.C. 701.

It can be anticipated that FY 1974 funds will be returned to the U.S. Treasury on 30 September 1976, but not later than 15 November 1976.

I trust this information will be of assistance.

Sincerely,

R. L. WEST,
Major General, GS, Director of the Budget.

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent from the House on rollcalls Nos. 710 and 711.

Had I been present for these votes, I would have voted aye on H.R. 8603, approving the conference report on the Postal Reorganization Act, and aye on S. 327, approving the conference report on the Land and Water Conservation Fund.

SAINT ELIZABETH SETON

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. RODINO. Mr. Speaker, today marks a very special anniversary, for it was exactly 1 year ago that Pope Paul VI elevated Mother Elizabeth Seton to sainthood.

We can experience renewed pride in that historic occasion when the first native-born American was canonized. It is also a very fitting time to pay tribute again to Saint Elizabeth Seton's magnificent contributions to our society in educational, health, charitable, and religious activities. Her contributions can serve as an inspiration and incentive to us, as we seek ways to help the poor and disadvantaged of our Nation, and I believe her dedicated ideals of service and love can guide us wisely in this difficult and complex undertaking.

WRONG PAY TILT

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. FINDLEY. Mr. Speaker, while the goal of the Federal Pay Camparability Act is clear to me, I must take exception to the recommendation of the "Federal pay agents" that the suggested average salary increase of 4.83 percent be weighted so that higher grades receive as much as 7.92 percent while those in the lower grades receive less than 4.83 percent. It strikes me as neither appropriate nor fair. If weighting is used, it should be the reverse of that recommended.

Equity dictates that every Federal employee receive the same percentage increase. Inflation has affected not just those civil service grade classifications of GS–11 or above. In fact, higher grade employees reap many more dollars in spendable income through an across-the-board salary increase because their base is higher. To compound that windfall by giving them a higher percentage increase than those Government employees below GS–11 would be the height of perversity.

I can well understand the outrage of every Federal employee who finds that while the higher echelons will receive as much as a 7.92 percent increase, he or she must be content with an increase of 4.83 percent or less. The acrimony which will be bred by such inequity is neither necessary nor helpful to the spirit of cooperation essential to the smooth functioning of Government.

Inflation is the cruelest tax of all and the proposal you have before you is inflationary. Thanks to your determined leadership we are emerging from the recession that has plagued us. I hope you will continue your prudent and fair fiscal policy. I urge you to reject the recommendation of the "Federal pay agents" that gives special benefits to higher salaried Government employees.

END FISCAL NEGLECT

HON. W. HENSON MOORE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. MOORE. Mr. Speaker, the message conveyed by our colleague from California (Mr. ROUSSELOT) in his introduction of a balanced budget alternative to the second concurrent resolution on the budget is one that merits thorough study by Congress. A balanced budget cannot be achieved overnight and care must be given so that necessary programs are continued. At the same time, Federal spending must be brought more in line with the amount of tax revenues received by the Treasury. The importance of this move toward fiscal responsibility was expressed in my views on the first concurrent resolution on the budget found in the CONGRESSIONAL RECORD of May 11, 1976, on page 13462.

Since then, our taxpayers have witnessed the end of a fiscal year that cost them $35.5 billion just to pay the interest on the Federal debt during the preceding 12 months. In view of this continued expense to the taxpayer, I believe it is high time Congress took hard and fast steps toward a balanced budget in order to avoid the same financial disorder that faces Britain today.