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SENATE—*Wednesday, May 3, 1978*

(Legislative day of Monday, April 24, 1978)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. DICK CLARK, a Senator from the State of Iowa.

PRAYER

Rabbi Alex Pollack, Congregation Emanu-El, Philadelphia, Pa., offered the following prayer:

Let us pray:

Our God and God of our fathers, Thou hast taught us in Thy teachings that the Lord standeth in the congregation of the godly.

As we assemble here today to administer to the welfare of the people of our beloved country, make us worthy of Thy presence.

After a night of rest, this morning the sun rose to herald a new day. New flowers have bloomed and the plants have borne new fruit. Let us, here in these hallowed Chambers, be inspired and refreshed by the ever-renewing miracles of life and God's laws of the universe. Let us try once more to solve the problems which challenge us, feeling cleansed and reborn, ready to begin again. Let us in our deliberations remember the Biblical injunction to be ever mindful of the needs of the orphan, the widow, the sick, and the needy.

Heavenly Father, give these Senators the insight to consider tomorrow as well as today—to be able to anticipate the consequences of their decisions. May they always reflect the dignity of their office, respect the people they serve, and honor themselves by their acts as the duly elected leaders of the American people.

Guide them in Thy paths of justice and compassion. Give them the wisdom and the courage to be of unselfish service to all the people of the United States of America and the world.

Grant us all that most precious gift of all—peace—peace of mind and heart, peace with our fellow man, and peace with our God. 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 second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington D.C. May 3, 1978.

To the Senate:

Under the provisions of rule I, section 3 of the Standing Rules of the Senate, I hereby appoint the Honorable DICK CLARK, a Senator from the State of Iowa, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. CLARK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

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

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Banking, Housing, and Urban Affairs Committee be authorized to meet during the session of the Senate today to consider the Export Import Bank Authorization Act of 1978 and housing authorization legislation for 1978.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Foreign Relations Committee be authorized to meet during the session of the Senate today to receive testimony of the Middle East arms sales proposals.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Judiciary Committee be authorized to meet during the sessions of the Senate today, and tomorrow, May 4, 1978, to consider S. 2252, the Alien Adjustment and Employment Act.

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

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with the minority. I ask unanimous consent that the Communications Subcommittee of the Commerce, Science, and Transportation Committee be authorized to meet during the session today and Thursday, May 4, 1978, to hold hearings on authorization of the public broadcasting bill.

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

Mr. ROBERT C. BYRD. This request has also been cleared with the minority. I ask unanimous consent that the Unemployment Compensation, Revenue Sharing, and Economic Problems Subcommittee of the Finance Committee be authorized to meet during the session of the Senate today to consider the President's national urban policy recommendations.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Energy and Natural Resources Committee be authorized to meet during the session of the Senate today to hold a markup session on S. 2692, the Department of Energy authorization bill.

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

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination 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 ENERGY

The second assistant legislative clerk read the nomination of John Kenneth Mansfield, of Connecticut, to be Inspector General of the Department of Energy.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. BAKER. I move to lay that motion on the table.

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

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

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. 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.

Mr. ROBERT C. BYRD. Mr. President, I have no requests for time, so I yield my time back.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

Mr. BAKER. Mr. President, I yield to the distinguished junior Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I thank the leader for yielding.

RABBI ALEX POLLACK

Mr. HEINZ. Mr. President, it is a great pleasure for me to welcome Rabbi Pollack to the Senate this morning. His thoughts and prayers for our country, which he so beautifully expressed, are most appropriate to the current problems we face in America and around the world.

Rabbi Pollack currently fills the pulpit at Congregation Emanu-El in Philadelphia, and formerly was spiritual leader at Temple Beth Israel in Lansdale, Pa. The only one of five children to be born of Russian immigrant parents in the United States, Rabbi Pollack shares a special sense of the "melting pot" aspects of our national heritage, and one of which I know he is, as we are, extremely proud.

Equally important, Rabbi Pollack and his wife Elayne are strongly, deeply, and intimately involved in community programs and projects in the Philadelphia area, spending much time and energy to ease the burdens of their fellow men and women. Rabbi Pollack gives a great deal of his time to community groups and has served as chaplain at the State Correctional Institution at Graterford, Pa.

Rabbi Pollack is a concerned and giving person—who lives and works to bring joy and comfort into the lives of all those he touches.

I am confident that his spirit and inspiration in his prayer here today to open the Senate will touch us and be with us for many days and weeks and months to come.

SPECIAL ORDER

Mr. BAKER. Mr. President, I have no further requests or requirements for my time under the standing order.

I yield back the remainder of my time.

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

Mr. LEAHY. I thank the Chair.

TRIBUTE TO SENATORS JOHN STENNIS AND HUBERT HUMPHREY FOR THEIR WORK IN FORESTRY LEGISLATION

Mr. LEAHY. Mr. President, I would like to take this opportunity to bring to the attention of my colleagues another example of the fine leadership and initiative provided by Senator JOHN STENNIS and the late Senator Hubert Humphrey in the development of this Nation's policy for the management of our abundant forests and rangelands.

Last May 27, Senators STENNIS and Humphrey introduced the Forest and Rangeland Renewable Resources Research Act (S. 2536). This legislation is just one of many significant actions both men have taken over the years toward developing a comprehensive national forestry policy.

This legislation recognizes the growing need for Americans to become much more familiar with the ecological and economic fabric of our 1.5 billion acres of forest and rangelands. There are two points about the bill that I consider to be especially significant. First of all, it recognizes that there must be close coordination and cooperation among those people who conduct research in forestry and rangeland by providing a link between the Forest Service and the 61 forestry schools of the Nation whose research is supported in part by the McIntyre-Stennis Act. The Association of State College Forestry Research Organizations, representing the 61 forestry schools, endorsed the essential content of the rangeland renewable resources research bill at the time it was introduced.

Second, the major thrust of this bill is to improve the process of getting information from the laboratory/research stage to the application of the information in the field. This is essential to insure that we actually benefit from our research efforts.

Mr. President, I am honored to report that this bill is being considered with two related forestry bills I introduced earlier this year: the Cooperative Forestry Assistance Act (S. 2926), and the Renewable Resources Extension Act (S. 3237).

Yesterday, the House Agriculture Committee acted favorably on all three House companion bills, introduced by Congressman WEAVER last June. Senator STENNIS and Senator Humphrey's research bill was approved unanimously by the committee.

Today, the Senate Committee on Agriculture, Forestry, and Nutrition is scheduled to consider all three bills and I have every reason to expect the Senate committee to approve these bills, too.

Mr. President, I would like to take this opportunity to pay tribute to Senators STENNIS and Humphrey because few Members of this body have a record as distinguished as theirs on forestry issues.

I think their efforts have figured significantly in the spirit I see evolving in this country: That the development and use of our natural resources for economic purposes on the one hand, does not inherently conflict with our recreational and environmental needs on the other.

Senator STENNIS can, I think, best be characterized as a workhorse in the area of forestry legislation. Active both nationally and in his own State of Mississippi, he is well known for the McIntyre-Stennis Act of 1962. As a result of this important legislation, 61 State institutions as well as several private institutions currently receive grants from the Federal Government to conduct forestry research.

Since the enactment of this research program in 1962, the recognition of the importance of forestry research has grown significantly. The forest and rangeland renewable resources research bill will permit the numerous research institutions and organizations, eager to conduct forestry research but not currently eligible for the Stennis-McIntyre grants, to participate in forestry and rangeland research.

In addition to this landmark research legislation, Senator STENNIS has tirelessly worked for the adequate funding of forestry research. This kind of persistence is the key to the continuation of any policy. Without Senator STENNIS' efforts, forestry research would not have developed to the point that it has.

The late Senator Humphrey authored the landmark Forest and Rangeland Renewable Resource Planning Act of 1974, known as the RPA, and was instrumental in the passage of the 1960 Multiple Use and Sustained Yield Act, and the Wilderness Act of 1964. The RPA may be one of the most far-reaching pieces of legislation providing for the proper planning, use and conservation of our natural resources that the Congress has ever passed. With passage of the RPA, we embarked on a policy of identifying the opportunities to improve the usefulness of our 1.5 billion acres of forests and rangelands.

The research legislation introduced by Senators STENNIS and Humphrey, as well as the two bills I introduced, build on the inventory and planning framework established by the RPA. Mr. Presibe added as cosponsors of the renewable with the tradition established by my distinguished colleagues toward the goal of managing our abundant forest and rangeland resources, to the economic as well as esthetic and environmental benefit of all Americans.

ADDITIONAL COSPONSORS

Mr. LEAHY. Mr. President, I ask unanimous consent at the next printing, that the names of the following Senators be added as cosponsors of the renewable resources legislation I introduced on February 10 of this year:

S. 2926, Senator JAMES B. ALLEN.

S. 2536, Senator JOHN C. STENNIS, Senator MURIEL HUMPHREY, Senator JAMES B. ALLEN.

S. 2537, Senator MURIEL HUMPHREY, Senator JAMES B. ALLEN, Senator ROBERT MORGAN, Senator WENDELL ANDERSON.

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

Mr. LEAHY. 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. ROBERT C. BYRD. 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.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

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

(Routine morning business transacted and additional statements submitted are printed later in today's proceedings.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there morning business? If not, morning business is closed.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, on Mr. Leahy's time and on mine.

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

The assistant legislative clerk proceeded to call the roll.

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

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

SPECIAL ORDER

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

THE UGANDAN CONNECTION

Mr. CHURCH. Mr. President, I strongly commend President Carter for linking our human rights goals with the other major objectives of our foreign policy. The President has embarked upon an admirable campaign to promote basic human rights for all people. This policy is in line with the basic traditions and heritage of the American people.

From the days of the American Revolution, we have believed that our country had a moral significance which transcended her military or economic power. Unique among nations of the world, the United States was created by men dedicated to a set of political and ethical principles which they believed to be universally applicable. Small wonder, then, that Santayana concluded:

> To be an American is of itself the most moral condition.

From the beginning, our republic was to be a safe harbor for liberty. Government was to be by the consent of the governed, and individuals were guaranteed certain rights, including free speech, free press, freedom of assembly, and freedom of religion. Thus, it was natural for Americans to feel a bond of sympathy and concern for foreign peoples who still suffered under tyrannical governments. During our revolution, Benjamin Franklin ventured to predict:

> Establishing the liberty of America will not only make that people happy, but will have some effect in diminishing the misery of those who in other parts of the world groan under despotism by rendering it more circumspect and enducing it to govern with a light hand.

Mr. President, that is the esssential point. Insofar as possible, American foreign policy must be made to conform to our historic ideals—the same fundamental beliefs in constitutional processes, economic justice, and popular government that once made us a beacon of hope for the oppressed and downtrodden everywhere. The fact that we are again seriously discussing the role of morality in foreign policy is an indication that we are on the way to restoring that essential balance between principle and pragmatism which has characterized American foreign policy at its best throughout our history.

In keeping with this policy, the United States has a number of options available when dealing with those nations found to be in violation of basic human rights. Congress has mandated, in the Foreign Assistance Act of 1974, that we should not supply military aid to any nation "in gross violation of human rights." I agree with this policy. Section 310 of the International Development and Food Assistance Act of 1975 amended the Foreign Assistance Act to provide that economic assistance may not be given to any country which consistently violates internationally recognized human rights. Thus, Congress has stated our general policy not to give aid to any foreign government that grossly violates the human rights of its own people. The withholding of military and economic assistance is a legitimate means of putting pressure on governments which engage in a consistent pattern of serious violations of human rights. Still, there are other instances where the United States does not provide aid but nevertheless has some leverage, which it should exercise if we are to be consistent with our basic principles.

For example, the United States rightly objects to the evils of the apartheid policies of the Republic of South Africa. These racist policies go to the very root of "human rights." The United States does not supply any military or economic aid to South Africa, and thus the aforementioned congressional directives do not apply. However, we have vast corporate and business interests in South Africa, ranging from American industries that deal with South Africa, to American banks that lend money to firms in South Africa. Senator DICK CLARK has just completed an excellent study of these business dealings with South Africa. This study, in my opinion, should be a guide to our future actions in helping to ascertain what leverage the United States can and should use to help alleviate the evils of apartheid.

Mr. President, I am also deeply disturbed by the total disappearance of human rights in Uganda. While the United States does not provide direct military or economic assistance to Uganda, it does have significant commercial and economic relations with that country. For this reason, the Subcommittee on Foreign Economic Policy of the Senate Foreign Relations Committee will conduct a set of hearings into the full ramifications of our relations with Uganda. These hearings will seek to determine whether those relations are instrumental in keeping the dictatorial regime of Idi Amin in power, and whether a breaking off of those economic ties could lead to an improved climate for human rights in Uganda.

Last May, Senator CLIFFORD CASE introduced a resolution expressing the sense of the Senate that the actions of the current regime in Uganda violates the human rights of its citizens and deserves the rebuke of the world community and the Organization of African Unity. This resolution was unanimously passed by the Foreign Relations Committee, and agreed to by the Senate by voice vote; however, the affronts to humanity continue unabated in Uganda.

Idi Amin is a cruel dictator who has wiped out thousands of lives, either to satisfy his own caprices, or to retain his tyrannical grasp on power. He brutalizes his subjects, tortures his opponents, and murders whomever his momentary whims dictate. The International Commission of Jurists estimates that at least 150,000 people have been murdered since 1971. They believe this total might actually be as high as 300,000. Other reputable sources cite a figure even higher, perhaps 350,000 Ugandans killed during Amin's reign of terror.

Despite Amin's recent attempts at improving his image through an intensive public relations campaign, tales of horror continue to come out of Uganda. Within recent weeks eight Catholic priests, including one bishop, were arrested and brutally beaten in the Masaka region. Justice Ssebuggwaawo, the president of the International Court, was the most recent prominent victim of the State Research Bureau when he was murdered in February.

I have recently met with Dr. Thomas Melady, the most recent U.S. Ambassador to Uganda. Dr. Melady has kept close watch on the regime of Idi Amin both during his tenure as U.S. Ambassador and since he left the country in 1973. Dr. Melady detailed the continuing brutalities perpetrated by Idi Amin in his recent book, "Idi Amin Dada, Hitler in Africa." He has informed me that these practices are still being carried out in Uganda.

President Carter has stated that Amin's actions have "disgusted the whole world." That may be, but the fact re-

mains that many nations have refused to criticize Amin's policies, and have refused to go along with U.S. sanctions or criticisms of Uganda.

The U.S. Congress cannot speak for other nations. But it is imperative that we reexamine the policies of our own Nation, particularly if these policies serve directly to aid and abet the regime of Idi Amin.

Mr. President, specifically there are two areas which must be explored in greater detail. First, and most important, we should look into the question of U.S. imports from Uganda, particularly coffee. Second, we must know the full extent of U.S. exports to Uganda, including the training of Ugandan technicians and the sale of equipment which might be used for persecution.

Mr. President, I believe that most Americans would probably be horrified if they realized that U.S. trade plays a major role in maintaining the regime of Idi Amin in power. Amin desperately needs foreign capital to pay his soldiers, to buy the luxury goods for his supporters, and to buy arms and weapons. Coffee exports have become an increasingly larger percentage of the total Ugandan exports. For example, in 1974, 66 percent of Uganda's total exports were coffee; in 1975, it rose to 76 percent; in 1976, it rose to 86 percent and, in the early months of 1977, coffee exports accounted for 93 percent of total Ugandan exports.

Mr. President, in 1976, coffee exports earnings brought $350 million into Uganda. The United States is the largest single purchaser of Ugandan coffee. In 1976, over one-third of Uganda's coffee exports came to the United States; which means that over $112 million U.S. dollars went into the pockets of Amin's government.

Mr. President, the earnings from the coffee sales enable Amin to purchase arms, to pay his mercenaries, and to buy luxury items for his supporters. His survival depends directly upon the sale of coffee overseas, and I stress again, that the United States is his largest customer.

In 1975 and 1976, 33 U.S. companies imported more than 242 million pounds of Ugandan coffee. This coffee was valued at nearly $158 million. The largest single customer of Ugandan coffee during 1975–76 was the Folger Coffee Co., which purchased nearly 54 million pounds at over $33 million. General Foods Corp., which makes Maxwell House, Maxim, Sanka, Uban, Freeze-Dried Sanka, Max-Pax, and Brim, purchased over 45 million pounds at nearly $29 million during that period. Saks International, Inc., a coffee distributor bought nearly 22 million pounds at over $14 million. Other major purchasers incuded the ACLI Sugar Co., Nestles Co., J. Aron and Co., and Coca-Cola Co. Foods Division.

In 1977 U.S. imports of Ugandan coffee increased. Total purchases for the first 9 months of the year were valued at $220 million. This was an increase of nearly 33 percent over purchases made during the same period of 1976.

American charter airline companies are helping Amin to export his coffee. Page Airways, based in Rochester, N.Y., not only sold Amin his executive jet a few years ago, but also flies and maintains the Stansted-Entebbi freight shuttle. Page pilots also help to fly coffee out of Uganda. Another American charter company, Seaboard World Airlines, which has offices in New York and New Jersey, has aso been involved in Uganda. In May 1977, it sent a DC-8 freighter which made 57 round trips between Entebbi and Djibouti, carrying out approximately 50 tons of coffee on each flight.

American coffee firms admit that they are concerned about the human rights policies in Uganda. However, they can also purchase coffee cheaper in Uganda than elsewhere in the world. Thus, they maintain that this coffee helps to keep the price of coffee down in the United States. This does not appear to be a valid argument. In 1976, the United States imported nearly 20 million bags of green coffee. Of this total, less than 1 million bags were imported from Uganda. This means that in 1976, the United States purchased only 4.76 percent of its coffee imports from Uganda. While the coffee business is vital to the Ugandan economy, it is not significant to the American economy or the price the American consumer pays for coffee.

In November 1977, the National Coffee Association unanimously approved a resolution deploring the "abhorrent and morally repugnant" actions of Idi Amin. They went on to declare that only the U.S. Government could ban the commercial trade with Uganda. They insisted that individual companies should not be asked to determine foreign policy. Thus, they requested the Government to "declare and implement a uniform national policy in the United States concerning trade by private and commercial interests in the United States with entities in Uganda." In effect, the National Coffee Association was requesting a policy decision from Congress.

Mr. President, it has been charged that a coffee boycott in Uganda would harm the small coffee farmers. To determine the validity of this statement, one must look at how Ugandan coffee is produced and marketed. Most of the coffee is grown in small plots by individual farmers, not on plantations. The farmers then give the coffee to the Government Marketing Board in exchange for vouchers to be redeemed at a later date. The Ugandan Coffee Marketing Board, with an office in New York, then enters into marketing agreements. It has become common knowledge that farmers can rarely redeem their vouchers. In short, Ugandan farmers are not getting a fair return for their crops. Amin's Finance Minister, Al-Hajji Brigadier Moses Al, admitted that Ugandan farmers receive only 14 cents per bag of coffee. As a result, many have turned to subsistence farming, while others resort to smuggling coffee into Kenya. Numerous individuals have already been executed for attempting to smuggle coffee out of Uganda.

Richard Ullman, in an article in the April issue of Foreign Affairs, "The United States versus Idi Amin," stresses the connection between Uganda's coffee industry and the hold Idi Amin has on power in that country:

> * * * There is a direct relationship between foreign purchases of Uganda's coffee and Amin's murderous regime. Whether he would fall from power if those purchases ceased is a question impossible to answer. Many knowledgeable persons think that he would. There is no doubt, however, that he and his closest collaborators would feel the impact on a boycott of Uganda's coffee, and feel it hard.

Mr. President, I am also concerned about U.S. exports to Uganda. In 1976, the United States exported $6.3 million worth of goods to Uganda. According to the Department of Commerce, our trade with Uganda increased in 1977 to $14.2 million. Approximately 70 percent of these exports consisted of telecommunications equipment, including shortwave radios, field telephones, and walkie-talkies, which Amin uses for military purposes. The United States has also provided Amin with numerous luxury items, including stereo equipment, passenger cars, handbags, and perfume, which Amin uses to bribe his supporters and army for their continued allegiance.

The United States has sold airplanes, helicopters, and spare parts to Uganda. A key figure in these sales has been Charles Hanner, a vice president of Page Gulfstream. Idi Amin has named him an honorary Ugandan citizen and has appointed him as his personal representative in the United States. Mr. Hanner's role in United States-Ugandan relations has not been satisfactorily explained and deserves further investigation.

There are other recent examples of American firms dealing with Amin. I am deeply concerned by a number of these cases. For example, Amin has purchased equipment for a communications satellite ground system from the Harris Corp. of Florida. This equipment was valued at over $4 million. Amin hopes to use it to broadcast his message to other African nations. Harris has also trained Ugandans in the use of this technology.

On October 15, 1977, Idi Amin's personal jet, a Grumman 5XUPF-Gulfstream II, arrived in Savannah, Ga., for maintenance. A Grumman spokesman maintained that the company was installing a tiptank system which will improve the plane's fuel capacity. He denied that they were adding any military or communications equipment, stating that this particular Grumman plant did not deal in that type of equipment. He also mentioned that the plane arrives in Savannah approximately once a year for servicing. The plane was accompanied by seven pilots who are members of the Ugandan military on permanent loan to fly Amin's private plane. It is possible that these pilots received additional training while in the United States.

A great deal of press attention has been given to the fact that a group of Ugandan police personnel were trained by the Bell Helicopter Co. at their facility in Fort Worth, Tex., in November 1977. The State Department originally announced that they had no knowledge of this training until after the initial press reports. The visas were issued under normal proce-

dures, but this incident has motivated the Department to reconsider its visa application procedures for Ugandans. One of the 24 pilots trained in Fort Worth was Babu Tabani, reputed to be one of Idi Amin's sons. These pilots were members of the Ugandan State Research Bureau, which Amin uses as an instrument of terror. While these pilots did receive their full training by Bell, their subsequent training by three subcontractors, Oakgrove Airport in South Fort Worth, Acme School of Aeronautics at Meacham Field in Northwest Fort Worth, and AVCO-Lycoming Co. in Stratford, Conn., was not approved due to the publicity received.

On December 4, the Scripps League Newspapers announced that Bell had contracted to train an additional 40 Ugandan pilots in 1978.

During 1977, Ugandans also received training at three different locations in Florida, and in Rochester, N.Y. The fact that we are assisting to train Idi Amin's military deserves greater public attention, and is proof that we need a more thorough analysis of our relations with Uganda.

Mr. President, the action Congress should take right now is to begin a full-scale investigation into our relations with Uganda. The full gamut of our relations should be studied, from our trade policies to our diplomatic exchanges. We should determine if our present policies conform to the administration's human rights position, and, if not, how these policies may be changed in an effort to stem the barbaric practices occurring in Uganda.

Mr. President, however brutal a regime may be, I believe we must deliberate with care before reaching a decision to institute economic sanctions against any country. For example, we must consider the risk that American actions may turn out to be counterproductive. There are over 100 Americans presently living in Uganda. Most of these are missionaries. They have been warned as to the possible dangers, but they have chosen to remain in Uganda. Their continued safety is naturally a matter of grave concern to us.

We must also determine whether or not economic sanctions by the United States would be effective. While coffee sales provide Amin with his major source of foreign capital, and while the United States is his major purchaser, the question remains as to whether a boycott could be made effective. Are there ways to prevent Ugandan coffee from being sold to the United States via a third country, so that Amin does not continue to receive American money indirectly?

Mr. President, these are serious and important matters that deserve the attention of Congress and the Nation. It is my hope that greater public and congressional attention to our relations with the regime of Idi Amin may help to change the cruel and inhuman practices currently taking place in Uganda. For these reasons, the Foreign Economic Policy Subcommittee of the Senate Foreign Relations Committee will soon conduct hearings into our relations with Uganda.

John de St. Jorre has written an excellent article for the New York Times magazine outlining "The Ugandan Connection." I request unanimous consent that this article be printed in the RECORD.

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

THE UGANDAN CONNECTION

(By John de St. Jorre)

What do Melbourne in Florida and Stansted in England have in common, apart from their airports? A clue is Entebbe, and the answer is the "Ugandan Connection," an aerial link that makes a significant contribution to sustaining the bloody and chaotic rule of Idi Amin Dada, now entering the eighth year of his life presidency.

Stansted, an old wartime R.A.F. base, is a small airfield in rural England, some 45 miles from London. Almost every night a large American cargo plane, flown by an American crew, speeds down the runway where the Liberators and Lancasters used to lurch and sway, and heads south to the warm skies of Africa. Its cargo would excite the envy of a general trader but hardly that of a conventional airline operator. A typical load might include several cases of Scotch whisky, a consignment of Land-Rover tires, boxes of expensive perfume, boots for the Uganda Prison Service, a Mercedes-Benz (second-hand), bundles of new Ugandan bank notes printed in Edinburgh, tunics, trousers, badges and chevrons for Amin's army, aircraft parts for the Uganda Police Air Wing, and a few mournful pedigreed Hereford cows.

In the plane with the American pilots, well-paid veterans of wars, of trouble spots and of offbeat charter operations, are three armed Ugandans from Amin's feared State Research Bureau, the "Tontons Macoutes" of Uganda, and throughout the aircraft there is a pervasive aroma of coffee.

From the Melbourne Regional Airport in Florida a similar operation has been going on for much of the past year. An aircraft of Uganda Airlines has been flying in approximately twice a month and loading up with telecommunications equipment and other made-in-the-United States supplies. Its crews comprise many different nationalities, including some Americans. No flight arrives or leaves without its complement of Ugandan security guards.

This is the Ugandan shuttle, Amin's lifeline: Two converted Boeing 707's and a Lockheed Hercules C–130 ply regularly between Uganda and the West, carting raw coffee beans one way and a morally bankrupt dictator's jumbled necessities the other. The shuttle is the linchpin of Uganda's economic relationsip with the West because it is the sale of coffee, which accounts for virtually all of Amin's foreign exchange, and the provision of goods, technology and the means of transporting them that put sinew into the Ugandan leader's grasp on power.

It is this connection that an initiative in the United States Congress, which has been steadily gathering momentum since last summer, is designed to destroy. Since coming to power on a wave of popular euphoria in 1971, Idi Amin has instituted a reign of terror in a country that used to be one of the most peaceful and promising in Africa. Every precept in the human-rights canon has been violated, every appeal for moderation ignored. Reputable human-rights organizations like the International Commission of Jurists and the Nobel Prize-winning Amnesty International estimate that tens of thousands of Ugandans have been killed, scores of thousands forced into exile and hundreds of thousands brutalized under Amin's rule. While there has been an occasional exaggeration in the press, the evidence of countless witnesses, the mutilated bodies in the Victoria Nile, the crushed skulls in prison yards, and the unexplained disappearances in the night add up to an overwhelming indictment.

The Ugandan shuttle has now put the United States ahead of Britain as the single largest importer of Ugandan coffee. Coffee valued at nearly $158 million was bought by American companies in 1975 and 1976. Coffee imports for the first nine months of 1977 alone stood at $220 million, an increase of 33 percent over the same period in 1976, and they are still rising. This constitutes a small proportion of the total United States coffee imports, but to Amin it is vital. The United States accounts for roughly a third of Uganda's total coffee exports and provides Amin with the same proportion of his total foreign exchange (coffee exports to Britain provide another fifth of Uganda's foreign-exchange earnings.) American exports to Uganda, though small, are also expanding. In 1976, the total value was $6.3 million; in 1977, this figure rose to $14.2 million.

Idi Amin is a man who touches off no small amount of human passion, and a trade embargo can also become a highly charged subject. Together they can be expected to arouse considerable fervor, as the leading sponsor of the proposed boycott, Representative Donald J. Pease, a freshman Democrat from Ohio, is beginning to find out. His initiative comes at a time when public awareness of the horrors of Amin's rule is rising, when the international community is making it clearer than ever that it is not going to do anything about it, and when President Carter's emphasis on human rights as a motivating impulse of foreign policy is under scrutiny.

The commercial ties that link the United States with Uganda are now being viewed as an important weapon against Amin. These ties are considered doubly important by the anti-Amin forces because the normal government-controlled sanctions—the ending of technical and financial aid, the withdrawal of diplomatic representatives and so on—were implemented long ago. And the commercial alliances are much more extensive than is generally thought.

American businessmen are performing a number of useful functions for President Amin, who in his landlocked country surrounded by hostile or less-than-friendly neighbors, is particularly dependent on aeronautical and communications technology. Page Airways of Rochester, and its subsidiaries, Page Gulfstream and Airjet sold Amin two jet aircraft and fly the Lockheed C–130 on the Entebbe-Stansted shuttle. The American flight crews are well-paid—pilots earn more than $4,000 and flight engineers $3,000 a month—and all their living expenses are covered. They are paid by the Uganda Government from bank accounts in Switzerland and airport officials have told me, the pilots carry large amounts of cash with them in the planes to pay for fueling and landing fees (Uganda's credit rating is not high). The crews are hired on an annual contract, renewable if they choose. But, as a Page spokesman pointed out: "If they don't stick it out, we don't pay their fares home."

The key figure at Page is a supersalesman named Charles Hanner, who is vice president of Page Gulfstream. He is a familiar figure at the Ugandan mission to the United Nations and in Kampala, where, Ugandan sources report, he has established a close relationship with Amin; they say further that in 1973 he sold a Grumman Gulfstream executive jet to Amin by flying him in it to a meeting of third-world leaders in Algiers; that two years later he sold the Ugandans a Lockheed C–130 for $6 million. Hanner's name comes up with regularity when American commerce with Uganda is discussed. "He's Mister Uganda in the States," said one businessman who did not want his own name mentioned; "there's no one who

can touch Charles Hanner when it comes to dealing with the President." Amin made Hanner an honorary Ugandan citizen and appointed him his personal representative in the United States with the rank of honorary consul at large. In a telephone conversation Hanner at first denied having any connection with Uganda; later, a Page spokesman confirmed the operation but said the firm was interested in terminating it, though he conceded that it had not done so.

The two Boeing 707's in Uganda Airways' minuscule fleet were sold to Amin's Government by a Swiss company called Zimex Aviation Ltd., based in Zurich. Zimex provides crews—English, French, Irish, American and Egyptian principally—for the Boeings, and also supplies aircraft spares to the Uganda Police Air Wing.

The principal function of the Ugandan Boeing that had been appearing so frequently in Melbourne, Fla., was to ship out telecommunications equipment provided for Uganda by the Harris Corporation under a $4 million contract signed in April last year. Harris has established an earth-satellite station in western Uganda and has trained a number of Ugandans in Melbourne and Rochester in the use of communications technology. Last year, according to the manager of Melbourne Airport, Uganda Airlines flew in regularly to pick up telecommunications equipment and, when there was room, luxury goods for Amin's army and cronies.

Last October, three of the Ugandans being trained by the Harris Corporation in Melbourne asked for political asylum in the United States and were granted it. The trio were the only Christians in the 21-man group; the rest, like Amin, were Moslems from minority tribes in northwestern Uganda or from neighboring countries such as the Sudan, Zaire and Kenya. According to the refugees, 13 of this group work directly for the dreaded State Research Bureau, while four more are employed by Uganda's Ministry of Defense.

The Flight Safety International School in Vero Beach, Fla., is also training a score of Ugandans. Most of these are members of Moslem minorities and are—according to Ugandan exiles who have had contact with them—members of Amin's air force on Ugandan Government scholarships although they entered the United States as civilians. So far, the American Government has voiced no objection, though many of this group had received earlier flight training in Perth in Scotland and, in 1976, were asked to leave by the British Government when Britain broke diplomatic relations with Uganda. Another educational institution in Florida, the Embry-Riddle Aeronautical University in Daytona Beach, has one of Amin's cousins among its alumni, a man also reputed to work for the State Research Bureau.

Until recently, Bell Helicopters, in Fort Worth, was training Ugandan pilots. A dozen students were there last year, but since their departure following unfavorable publicity in the press, Bell has declared it will not consider training any more Ugandans without prior State Department permission. Bell also planned to sell three helicopters to Uganda; that deal was blocked at the last minute by the State Department, which must approve sales of military or quasi-military equipment, after Congressman Pease and Jim Mattox, a Texas Democrat, raised objections. The Ugandans by that time had already deposited more than $2 million for the purchase in a New York bank. Similarly, an attempt by Zimex Aviation of Zurich to buy another Boeing 707 on behalf of Uganda Airlines was blocked.

Most aspects of the Ugandan connection are subterranean, but one becomes more visible every day. Next door to the United States Mission to the United States on 45th Street in New York, builders are working overtime to put the finishing touches to a 15-story office building which will house Uganda's mission. Its final cost will be more than $4 million—cash, in advance—and it will be three floors higher than the United States building when it is finished.

By a curious coincidence, it is being built by another firm from Rochester, called Wilmorite Inc. Wilmorite's offices are in the same building as Page Airways but any closer organic links are denied by both firms, although several members of the Wilmot family seem to work in executive positions at both companies. A spokesman for Wilmorite indicated that he saw nothing untoward in the Ugandan-financed job. "We enjoy doing specialty buildings," he said cheerfully.

One of the reasons for this burgeoning Ugandan connection is the rising price of coffee, and there is no sign of the world's addiction to the beverage abating or of its retail price diminishing. Another American charter company, Seaboard World Airlines, which has offices in New York and New Jersey, can attest to coffee's new status. In the spring of last year, Seaboard was approached by "coffee interests" on the London commodity exchange and contracted to fly raw coffee beans out of Uganda to the Red Sea port of Djibouti. In what a spokesman of the company described as a "one-shot operation," a Seaboard DC-8 made two round trips a day between Entebbe and Djibouti throughout the month of May, shipping out 50 tons of coffee on each flight and returning empty. At that time coffee was bringing about $7,000 a ton on the London market. Ugandan coffee has been marketed in the United States for many years, long before Amin came to power, by the Ugandan Government's Coffee Marketing Board, which has an office in New York. The coffee is the robusta variety, cheaper than the high-grade arabica, and an essential ingredient for the lower-priced blends. Only about 6.5 percent of American coffee imports currently comes from Uganda, but it is used by most of the major coffee importers and roasters in the country.

In recent months, the coffee companies have come under increasing pressure from human-rights groups and the general public to stop their Ugandan purchases. Congressman Pease has published a detailed list of all the companies involved in the trade and the amount and value of their imports from Uganda. The "big five" are the Folger Coffee Company (a subsidiary of Procter & Gamble), General Foods (Maxwell House), Saks International, ACLI Sugar Company and Nestles'. At the end of November 1977, the National Coffee Association, a trade organization representing most of the major coffee companies in the United States, issued a statement reflecting these pressures and urged the U.S. Government to implement "a uniform national policy" concerning trade with Uganda.

The president of one major coffee company, Maxwell House, met State Department officials in Washington last November and urged the Government to take the lead. He was firmly rebuffed and told that it was the responsibility of each individual company to make up its own mind about whether or not it should buy Ugandan coffee.

Sources in the coffee trade say the companies are worried about violating antitrust legislation if they decide voluntarily to boycott Ugandan coffee; they say they would be accused of engaging in monopolistic practices against Uganda. Their critics, including some voices in the State Department, reply that what the coffee traders really fear is losing sales through having their prices undercut by those who might refuse to join such an embargo.

There is also controversy over what effect a trade ban might have on domestic coffee prices. Some companies believe an embargo would force prices up; others feel new sources of robusta would materialize and the worst that would happen would be a temporary dislocation. The U.S. Department of Agriculture favors the latter view. "The tight world supply situation would create some immediate difficulties for the United States. However, the overall effect on the average price of coffee to the American consumers, all other factors aside, would most likely not be very great," one official said.

Congressman Pease and his supporters have two basic aims. First, they hope to close down the Ugandan Embassy, headed by a chargé d'affaires, in Washington. The U.S. Embassy in Kampala was closed in 1973, but the Washington mission was permitted to remain open as a channel of communication with Amin. Second, they hope to cut out all trade and commercial links with Uganda through the embargo legislation they have introduced into Congress.

Their argument runs something like this. There are all too many sinners against human rights in the world but Amin's regime is exceptional, a Hitlerian monstrosity, that demands an exceptional response. Pease asserts that Amin is guilty of the crime of genocide on a massive and ever-increasing scale. He admits that the proper way of dealing with such an international criminal should be through the international community, but he feels that the United Nations is not going to take any effective action. The United States should therefore have the courage of its human-rights convictions, absolve itself of guilt by association, and take the only positive and practicable step within its power toward shortening Amin's tyranny.

Pease and his supporters are not trying to reform Amin—he is beyond redemption in their view—but to destroy him. They say they do not, as a matter of principle, like using the controversial weapon of economic sanctions but there is no alternative in this case. They believe that although a United States trade boycott will not immediately lead to Amin's overthrow, it will measurably weaken him and give hope to the thousands of Ugandans in exile and the oppressed millions at home.

The boycott legislation is aimed principally at the coffee artery. Coffee now accounts for 93 percent of Uganda's foreign exchange and, although the boycotters accept that Amin may be able to find new outlets, the sudden cutoff of his lucrative American market will constitute a damaging physical and, psychological blow. To the charge that it will be Uganda's peasant farmers—most of the country's coffee is produced on small holdings and sold through the Government-run Coffee Marketing Board—who will suffer most, the boycotters and exiles reply that the farmers already receive very little for their crops and their plight could not be much worse.

Representative Pease's campaign has steadily gathered momentum since he began to take a serious interest in the issue last summer. He now has 74 Congressmen, Democrats and Republicans, liberals and conservatives, behind him on Capitol Hill. Hearings were held in the House in February, and Senator Frank Church has taken the lead in calling for a Senate probe this spring. Religious groups, Ugandan exiles (there are more than 4,000 Ugandan political refugees in the United States), Jewish organizations and a host of human-rights committees are actively supporting Pease.

There are also indications of a popular groundswell behind the concept of tougher measures against Amin. Letters of protest to the State Department and to American companies involved in trade with Uganda have increased. Several coffee importers have been threatened with consumer boycotts if they continue to use Uganda coffee. The

literature of Amin's misdeeds has produced three serious books in as many months. The titles of these books and the background of their authors alone tell a small part of the sad tale. There is "Idi Amin, Death-Light of Africa" by David Gwyn (a pseudonym), a British civil servant who served three successive governments in Kampala and loved the country more than most. "Idi Amin Dada: Hitler in Africa" is an account by Thomas and Margaret Melady, the last American ambassador to Uganda and his wife, and finally there is "State of Blood," a chilling insider's story by Henry Kyemba, Amin's former Minister of Health. Time and Newsweek have had Amin on their covers, and even Playboy and Penthouse have found room to squeeze in Amin stories.

Pease's campaign has already had some quantifiable results. The State Department is showing greater sensitivity over visa applications by Ugandans who want to come to the United States for aviation training, and the refusal by the Government to grant licenses for the sale of the Bell helicopters and the Boeing cargo plane has made it more difficult for Amin to obtain the aircraft he needs. The coffee companies are displaying nervous symptoms; the National Coffee Association, which rarely concerns itself with politics, has publicly called upon the United States Government to take a clear stand on trade with Uganda. "The violations of human rights occurring under the Government of President Idi Amin are abhorrent and morally repugnant and have caused pressures on members of the association to desist from purchasing Ugandan coffee," it said.

There is, however, strong opposition to Pease's initiative, opposition that focuses more on his tactics than on his goal. It comes from three principal directions: blacks, conservatives and the Government. Many prominent blacks, including Andrew Young, Franklin Williams, a former Ambassador to Ghana and president of the Phelps Stokes Fund; columnist William Raspberry; Vernon Jordan of the National Urban League and Roy Wilkins, executive director emeritus of the N.A.A.C.P., have spoken out against Amin's barbarities. This represents, as Raspberry has pointed out, "not so much an about-face as an end of silence."

Nevertheless, many blacks originally felt some sympathy for Amin, who they thought had been treated unfairly by a prejudiced and sensationalist white-controlled press both in the United States and in Western Europe. Far fewer believe that today, although there is a group that still regards the issue as exaggerated and taken out of context. In the last year, Amin has flown a number of black American journalists, teachers, lawyers and other professional people to Uganda. Most of them seem to have returned convinced that he has been a victim of a pernicious propaganda campaign.

Their most articulate spokesman is Carlos Russell, a Panamanian of West Indian origin who teaches African studies at Brooklyn College. While not glossing over the internal struggle that Amin is waging to stay in power or its human cost, Russell strongly asserts that there is no reign of terror, that Amin is neither a monster nor a buffoon, and that he has widespread popular support in Uganda. I asked Russell what he thought of the International Commission of Jurists' finding that 100,000 people had been killed under Amin's rule. "Bull," was his reply.

Russell has been to Uganda twice in the last year. He went as a skeptic and returned as a convert. He writes and broadcasts extensively in the sections of the black media that still display Amin in a favorable light. Amin named an island after Russell in Lake Victoria—"Carlos Island." The Ugandan mission in Washington, when asked by Congressman Pease's office to send someone to represent Uganda's case at the Congressional hearings, selected Russell as their man.

The black caucus in Congress is not happy with Pease's embargo legislation. "We don't approve of Amin," said one member, "and we are ready to condemn him. But a trade ban is excessive and unacceptable unless it is tied to similar legislation against South Africa." Although strongly critical of Amin's conduct and prepared to go along with a tough condemnatory resolution, the caucus feels that Uganda is being unfairly singled out from a number of other transgressors against human rights.

Black Congressmen receive a fair amount of pro-Amin mail and their African friends at the United Nations tend to reinforce their view that a double standard is operating when white liberals espouse the cause of an embargo against Uganda, where the United States has few economic or strategic interests, without linking it to similar sanctions against South Africa, where those interests are manifestly entrenched. The caucus wields considerable influence in the House of Representatives' Africa subcommittee, chaired by Charles Diggs. It is here that the embargo legislation may encounter its roughest passage, though Digg's recent indictment in a kickback case may diminish his effectiveness.

Conservatives in general and businessmen in particular are opposed to the Pease boycott because they dislike the concept of using trade as a political lever unless it is clearly in the national interest—as in the case of a hostile confrontation—or the result of an internationally sanctioned initiative by the world community. Even then, as the Cuban and Rhodesian embargoes showed, economic sanctions are far from popular. This group also fears that an embargo against Uganda, launched from the floor of the Congress and motivated by a passionate concern for human rights, will open the floodgates to other trade bans—with South Africa as the next likely possibility.

The State Department is firmly against the legislation. Officials list a number of reasons why they oppose an embargo, beginning with the principle of noninterference in international trade, an argument that has legal, political and economic implications.

No nation as dependent on International commerce as the United States, it is argued, can lightly wield the sanctions weapon. Officials stress that the United States has strongly opposed trade boycotts against Israel and the oil boycott against itself by the Arabs. It has cast its veto a number of times in the U.N. Security Council to block economic sanctions against South Africa. And it has to abide by the General Agreement on Tariffs and Trade (GATT).

The case of Uganda is further regarded as a bad way to break with tradition because, in the view of some officials, a unilateral trade ban will not have much effect anyway, and in the opinion of others it is a "cheap shot" because it will not hurt American interests either. Also, it is argued, why choose Uganda? What about Cambodia, Equatorial Guinea, Chile, South Africa and so on? Finally, and perhaps most important of all, the security of the 75 American missionaries who are still living in Uganda, despite appeals by Washington that they leave, has to be considered. Amin is regarded as a dangerous man, capable of wreaking his vengeance on those captive Americans if provoked. No responsible United States Government, the State Department stresses, can ignore this possibility.

There seems little likelihood that the Administration—President Carter affirms, through a spokesman, that the State Department reflects his view—will change its mind as the pressure grows for more positive action against President Amin. The most that the Carter Administration appears to be prepared to do is to maintain the level of its condemnatory rhetoric, to monitor more strictly the "gray areas" of indirect assistance to the Ugandan Government, and to work behind the scenes as the international community gropes to find some generally acceptable way of dealing with gross violators of human rights.

The track record of human-rights issues at the United Nations is not promising. The U.N. Commission for Human Rights, which has its base in Geneva, has produced reports on violations in only three countries: Israel, South Africa and Chile. Political pressures have always blocked its working groups from tackling other situations. An attempt by the Western countries in the General Assembly last session to appoint a U.N. commissioner on human rights was shelved after a heated debate that did nothing to help a hastily submitted "Nordic resolution"—initiated by Finland but backed jointly by the other four Nordic countries—condemning Uganda and asking the Organization of African Unity and the U.N. Human Rights Commission to look into the matter. The African group opposed a debate and it was finally agreed to refer the matter to the U.N. Commission at its next meeting in Geneva. This was less than the statesmanlike compromise it was depicted to be at the time because the Commission for Human Rights already had Uganda on its agenda.

Whatever the ultimate fate of the Pease legislation may be, it is elevating the profile of the human-rights question to new and controversial levels. This is the first time that a serious move to legislate economic sanctions against a nonbelligerent state has come out of both houses of Congress. And behind Uganda looms the larger problem of South Africa, for the one thing both sides in the Ugandan debate agree on is that if the ban goes through it will make similar action against South Africa considerably easier.

The Carter Administration is in a difficult position. The President's emphasis on human rights as a major factor in the conduct of his foreign policy has aroused great expectations among many Americans, greater perhaps than he had either conceived or intended. The problem is: How can you implement such a policy in a credible and equitable manner? In some cases, as with Cambodia and Equatorial Guinea, it can be argued that the United States possesses neither stick nor carrot. But with Uganda (and, of course, South Africa) both clearly exist.

Even if Pease's embargo gets no farther than the Byzantine labyrinths of the Congress's subcommittees, he and his supporters consider they will have achieved some measure of success by raising American public consciousness about Uganda, by taking the edge off the American businessman's appetite for trade with Amin through that process, and by showing similar boycott movements in Europe that Americans also care. If, however, the embargo bills do reach the floor of Congress, the Administraiton's dilemma will be brought into much sharper focus. For, as one State Department official put it, "voting against an Amin boycott would be like voting against motherhood. No one in Congress wants to be seen doing that."

After the House hearings in February, the State Department modified its position slightly by admitting that the Pease embargo package gave it some leverage over Amin but continued to stress that the threat of economic sanctions was more effective than their implementation. The department also believes that the situation in Uganda is not as bad as it was and that time should be given to a new initiative by the United Nations Human Rights Commission to dispatch a former Nigerian Chief Justice and ex officio member of the International Commission of Jurists to make a confidential as-

sessment of the Ugandan Government's behavior. But none of this will stop the Congressional progress of Pease's boycott, halting though it is. The consensus is that once the legislation reached the floor it would sail through both houses and the fat would be in the fire. Would Jimmy Carter then cast his first veto against motherhood?

Mr. CHURCH. Mr. President, I yield to the distinguished Senator from Oregon, my good friend, Mr. MARK O. HATFIELD.

The PRESIDING OFFICER (Mr. ZORINSKY). The Senator from Oregon is recognized.

Mr. MARK O. HATFIELD. Mr. President, I rise today for the fourth time on the floor of the Senate to focus attention on this particular problem in Uganda, and this is sort of a special day for me that I have looked forward to with great anticipation. For I have had a deep longing for the day when the U.S. Senate would place on its agenda serious discussion about what our Government could and should do to help bring an end to the Hitleresque regime of the diabolical Idi Amin.

I wish today to commend our distinguished colleague from Idaho, Senator FRANK CHURCH, for his leadership in announcing hearings in the Foreign Relations Committee.

Also, this morning, I pay tribute to Mr. Jay Treadwell, the director of the Senate Food Service, for his contribution to this dialog by means of his heartening response to my request of last week that the Senate no longer buy products with Ugandan coffee beans.

Mr. President, I ask unanimous consent to have his letter printed in its entirety in the RECORD.

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

MAY 2, 1978.

Hon. MARK HATFIELD,
U.S. Senate,
Russell Building,
Washington, D.C.

DEAR SENATOR HATFIELD: Your April 28th letter to me concerning Ugandan coffee caused us to focus on the country of origin of these products. We are currently purchasing all regular ground coffee from Weschler Coffee Company, who certify that our purchases are 100% Colombian (South American) in origin.

We had purchased two coffee products from General Foods, Sanka, a decaffeinated product, and packets of what are referred to as "International Coffees".

I have today returned the remaining stock of the International Coffees to General Foods, will discontinue its sale and will replace the Sanka with a similar product from Colombia. We will support this Uganda coffee restriction to the maximum extent.

Sincerely,

JAY TREADWELL.

Mr. MARK O. HATFIELD. Mr. President, Mr. Treadwell's letter is in response not only to a personal request made by me but is also in line with the resolution introduced by Senator WEICKER, of Connecticut, which I have cosponsored, calling for national boycott against the import of coffee from Uganda.

This particular genocide that has been conducted by Amin has had special emphasis and special focus upon the Anglican community of Uganda.

So I ask unanimous consent to have printed in the RECORD Mr. Treadwell's eloquent letter to the Episcopal bishop of Washington, the Right Reverend John Walker, suggesting that all area Episcopal Churches, and I hope all American churches, cease serving coffee from Uganda at Sunday morning coffee hours and instead make every effort to purchase products that contain Central and South American coffees.

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

MAY 2, 1978.

The Right Reverend JOHN WALKER,
Bishop-Diocese of Washington, The National Cathedral, Washington, D.C.

DEAR BISHOP WALKER: The effort mentioned in Senator Mark Hatfield's letter of April 28th seems vital to me. I am in charge of the Senate foodservice facilities and met you one day when you dined in the Senator's Dining Room with Dr. Edward Elson, the Senate Chaplain.

More germaine to the point is that I am a member of the vestry at Bill Swing's church, St. Columbia. Sunday mornings throughout the year there is a coffee hour at St. Columbia for which almost $2,000 is spent annually for coffee. If other churches in the diocese have similar social hours, the annual volume is certainly large. If churches buy from General Foods (Maxwell House, for example) up to 16% of the raw coffee is from Uganda; in St. Columba's case this means money representing $320 in sales value goes to Uganda. 95% of Uganda's export revenues come from coffee which, in turn, feeds these exterminations.

I would like to suggest that, even though a small token, as an indication of our conciousness in the "Outreach" program, we discontinue serving coffee from Uganda. There are many Central and South American coffees on the market.

If I may be of help, please let me know.

Sincerely,

JAY TREADWELL.

Mr. MARK O. HATFIELD. Mr. President, Dr. Thomas Melady, the last American Ambassador to Uganda, defines the situation in the introduction to his book "Idi Amin Dada . . . Hitler in Africa:"

As the representative of the President of the United States, I had to deal with Idi Amin Dada, president of Uganda. I am pleased to say that I was the last U.S. ambassador to his government, and I hope that there will be no others. For tyrants do not change; they only become more brutal. The tortures, killings, and atrocities do not stop; they increase.

Brutal tyrants are known to lie. They do not hesitate to distort and totally fabricate circumstances. At the same time, they are cunning. They like to play with people, especially those they eventually plan to liquidate.

Tyrants are often obsessed with sex. Victims of their oppression are frequently forced to submit to personal degradation, abuse, and cruel sexual mutilation.

Finally, brutal tyrants select easily identifiable minority communities to bear the brunt of the pressures and hatreds of the majority.

These were the characterstics of the tyrant Adolf Hitler and other members of the Third Reich. And they are the characteristics of Idi Amin and his henchmen.

Mr. President, the stark truth today is that our economic policies have profound political consequences. The decision to allow market forces to govern our behavior is also a tacit decision to wield our economic leverage in support of Idi Amin.

The principle of unrestrained free trade, which under usual conditions is a prudent and logical policy, does not merit unquestioned allegiance * * * our commitment to human dignity, freedom and our abhorance of Hitler-like barbarism does merit unwavering loyalty. Human rights are violated in many areas of the globe but fortunately genocide is not so commonplace. Fitting the world's tryrants and butchers into a neat package not only serves to blur the essential distinctions between them, but it divests us of making the most difficult decisions. The reality is that terror reveals itself in degrees, and that on any contemporary scale, Uganda's plight is in a class by itself.

We must direct our condemnation in a way that considers the level of abuse and the degree to which we share responsibility in the implementation of those policies. A failure to move in the face of systematic brutality on a scale rivaled only by Hitler's Third Reich and Stalin's Russia reduces our credibility and the consistency of our human rights policy to so much rhetoric, and it serves as a symbol of a rejection of the hopes and dreams of terror stricken people around the world.

I am deeply grateful that our efforts have moved us as a body to this important juncture this morning. I trust that our resolve will further the process of exposing and ending U.S. complicity in the slaughter in Uganda.

Once again I would like to commend Senator CHURCH for his sensitivity in responding to these requests, and to the President of the United States for his sensitivity in giving support to this particular effort.

Mr. CHURCH. I thank the distinguished Senator from Oregon.

I would like to yield the remainder of my time to the distinguished Senator from Iowa (Mr. CLARK).

The PRESIDING OFFICER. The Senator from Iowa is recognized for 1 minute.

Mr. CLARK. Mr. President, in just this 1 minute I join with Senator HATFIELD in congratulating the distinguished Senator from Idaho for undertaking these hearings. I think very often the charge is made—and quite accurately—that we sometimes seem to hold a double standard in Africa, that we speak out strongly against white suppression by white minorities in South Africa, Rhodesia, and Namibia, and quite accurately so. But certainly if we have to meet any kind of consistent standard, we have to be just as interested and concerned in what occurs in terms of Africa and the rest of the world. Idi Amin is no more typical of Africa than Adolph Hitler was of Western Europe, and yet it is a unique kind of oppression that this country ought to be particularly concerned about.

I think it is particularly appropriate, and I certainly want to join as a member

of the Subcommittee on Foreign Economic Policy which Senator CHURCH chairs, in taking a particular interest in these hearings.

I think the time has come that we really pursue this and do it with an open mind, as the Senator has suggested.

Mr. CHURCH. I thank the Senator very much for his remarks.

NAVIGATION DEVELOPMENT ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 8309, the Navigation Development Act, which the clerk will report.

The legislative clerk read as follows:

H.R. 8309, a bill authorizing certain public works on rivers for navigation, and for other purposes.

AMENDMENT NO. 1833

(Purpose: To authorize certain projects for river and harbor improvements)

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from West Virginia (Mr. RANDOLPH) to call up an amendment on which there will be 1 hour equally divided. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. RANDOLPH) proposes an amendment numbered 1833.

Mr. RANDOLPH. 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 16, line 19, strike all through line 5 on page 17, and insert the following:

"TITLE IV—WATER RESOURCES PROJECTS

"SEC. 401. Sections 201 and 202 and the last three sentences in section 203 of the Flood Control Act of 1968 shall apply to all projects authorized in this section. The following works of improvement for the benefit of navigation and the control of destructive flood waters and other purposes are hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the plans and subject to the conditions recommended by the Chief of Engineers in the respective reports hereinafter designated.

"SOUTH ATLANTIC COASTAL REGION

"The project for beach erosion control at Jekyll Island, Glynn County, Georgia: House Document Numbered 94–533, at an estimated cost of $3,399,000.

"The project for navigation for the Atlantic Intracoastal Waterway Bridges, Virginia and North Carolina, authorized by section 101 of the Rivers and Harbors Act of 1970 (84 Stat. 1818) is hereby modified in accordance with the recommendations of the Chief of Engineers in House Document Numbered 94–597 with respect to Hobucken, Core Creek, and Fairfield bridges at an estimated cost of $18,700,000.

"MIDDLE ATLANTIC COASTAL REGION

"The project for beach erosion control at Coney Island, Borough of Brooklyn, New York: Final report of the Chief of Engineers, dated August 18, 1976, at an estimated cost of $2,019,000.

"RAHWAY RIVER BASIN

"The project for flood control on Robinson's Branch at Clark, Scotch Plains, and Rahway, New Jersey: Final report of the Chief of Engineers, dated October 10, 1976, at an estimated cost of $11,702,000.

"The project for flood control on the main stem of the Rahway River and Van Winkles Brook, Springfield, New Jersey: Final report of the Chief of Engineers, dated October 24, 1975, at an estimated cost of $7,345,000.

"CHEHALIS RIVER BASIN

"The project for flood control on the Chehalis River at South Aberdeen and Cosmopolis, Washington: Final report of the Chief of Engineers, dated February 8, 1977, at an estimated most of $11,486,000.

"KODIAK HARBOR

"The project for navigation improvements at Kodiak Harbor, Alaska: Final report of the Chief of Engineers, dated September 7, 1976, at an estimated cost of $7,874,000.

"TERRITORY OF GUAM

"The project for flood control on the Agana River, Territory of Guam: Final report of the Chief of Engineers, dated March 14, 1977, at an estimated cost of $3,260,000.

"SEC. 402. (a) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to undertake the phase I design memorandum stage of advanced engineering and design of the following water resources development projects, substantially in accordance with, and subject to the conditions recommended by the Chief of Engineers, in the reports hereinafter designated.

"CONNECTICUT RIVER BASIN

"The project for water supply in Massachusetts, diverting water from the Millers River Basin to Quabbin Reservoir, near Springfield, Massachusetts: Final report of the Chief of Engineers, dated September 10, 1976, at an estimated cost of $400,000.

"The project for water supply in Massachusetts, directing water from the Connecticut River Basin by way of the Northfield Mountain project to Quabbin Reservoir: Final report of the Chief of Engineers, dated September 10, 1976, at an estimated cost of $400,000.

"PUGET SOUND

"The project for navigation on the Blair and Silcum Waterways, Tacoma Harbor, Washington: Final report of the Chief of Engineers, dated February 8, 1977, at an estimated cost of $200,000.

"CHEHALIS RIVER BASIN

"The project for navigation at Grays Harbor Washington: In accordance with the final report of the Chief of Engineers, at an estimated cost of $1,000,000. This shall take effect upon submittal to the Secretary of the Army by the Chief of Engineers and notification to Congress of the approval of the Chief of Engineers.

"GULFPORT HARBOR

"The project for channel deeping for navigation at Gulfport Harbor, Mississippi, in accordance with the final report of the Chief of Engineers, at estimated cost of $1,805,000. This shall take effect upon submittal to the Secretary of the Army by the Chief of Engineers and notification to Congress of the approval of the Chief of Engineers.

"(b) The Secretary of the Army is authorized to undertake advanced engineering and design for the projects in subsection (a) of this section after completion of the phase I design memorandum stage of such projects. Such advanced engineering and design may be undertaken only upon a finding by the Chief of Engineers, transmitted to the Committees on Environment and Public Works of the Senate and Public Works and Transportation of the House of Representatives, that the project is without substantial controversy, that it is substantially in accordance with and subject to the conditions recommended for such project in this section, and that the advanced engineering and design will be compatible with any project modifications which may be under consideration. There is authorized to carry out this subsection not to exceed $5,000,000. No funds appropriated under this subsection may be used for land acquisition or commencement of construction.

"(c) Whenever the Chief of Engineers transmits his recommendations for a water resources development project to the Secretary of the Army for transmittal to the Congress, as authorized in the first section of the Act of December 22, 1944, the Chief of Engineers is authorized to undertake the phase I design memorandum stage of advanced engineering and design of such project if the Chief of Engineers finds and transmits to the Committees on Public Works and Transportation of the House of Representatives and Environment and Public Works of the Senate, that the project is without substantial controversy and justifies further engineering, economic, and environmental investigations. Authorization for such phase I work for a project shall terminate on the date of enactment of the first Water Resources Development Act enacted after the date such work is first authorized. There is authorized to carry out this subsection not to exceed $4,000,000 per fiscal year for each of the fiscal years 1978 and 1979.

"(d) Sections 201 and 202 and the last three sentences in section 203 of the Flood Control Act of 1968 shall apply to all projects authorized in this section. The following works of improvement for the benefit of navigation and the control of destructive floodwaters and other purposes are hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the plans and subject to the conditions recommended by the Chief of Engineers in the respective reports hereinafter designated.

"SEC. 403. Section 7 of the River Basin Monetary Authorization and Miscellaneous Civil Works Amendment Act of 1970 (84 Stat. 310), as amended by section 48 of the Water Resources Development Act of 1974 (88 Stat. 12), is further amended to read as follows:

"'SEC. 7. (a) The project for Libby Dam Kootenai River, Montana, is hereby modified to provide that an amount not to exceed $6,500,000 is authorized for mitigation of fish losses attributed to the Libby Dam project, including the reregulating dam and any additional hydropower units that may be installed.

"'(b) Funds authorized for mitigation pursuant to subsection (a) shall be transferred to the State of Montana for construction or expansion of fish hatcheries of the State of Montana.'.

"SEC. 404. Section 181(a)(2) of the Water Resources Development Act of 1976, approved October 22, 1976 (Public Law 94–587), is amended by striking out '(A)' after 'constructed' and the following: ', and (B) unless such construction is not in conflict with the report of the Secretary of the Army, acting through the Chief of Engineers, submitted pursuant to section 85 of the Water Resources Development Act of 1974'.

"SEC. 405. Whenever the Secretary of the Army, acting through the Chief of Engineers, or the Secretary of Agriculture, acting under Public Law 83–566, as amended, submits a project to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives that can be anticipated to provide benefits, more than 10 per centum of which are produced by an in-

crease in anticipated land value to a single nonpublic corporation or individual, the Secretary of the Army or the Secretary of Agriculture, as appropriate, shall, prior to the construction of such project, require that the local sponsor of such project enter into an agreement with the Secretary of the Army or the Secretary of Agriculture, as appropriate, that provides that the sponsor contributes, either prior to construction or when such benefits are realized, 50 per centum of the project's costs allocated to such benefits.

"SEC. 406. (a) The authorization of phase I engineering and design contained in section 101(a) of the Water Resources Development Act of 1976 (Public Law 94-587, 90 Stat. 2918) for flood protection for Jefferson City on Wears Creek, Missouri, is hereby terminated.

"(b) The project for flood protection for Jefferson City on Wears Creek, Missouri, as described in the report of the Chief of Engineers dated October 21, 1975, is hereby authorized at an estimated cost of $29,110,000.

"SEC. 407. Any report that is submitted to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives by the Secretary of the Army, acting through the Chief of Engineers, or the Secretary of Agriculture, acting under Public Law 83-566, as amended, which includes construction of a water impoundment facility, shall include information on the possibility of failure of such facility due to geologic or design factors, the potential impact of the failure of such facility, and information on the design features that would prevent, lessen, or mitigate such possibility of failure or the impact of failure.

"SEC. 408. Section 134(a) of the Water Resources Development Act of 1976 (Public Law 94-587, 90 Stat. 2929) is amended by striking '1977' from the last sentence and inserting in lieu thereof '1985'.

"SEC. 409. The Secretary of the Army, acting through the Chief of Engineers, is authorized to investigate, study, and recommend remedial measures with respect to flood control, bank stabilization, sedimentation, and related purposes on the Homochitto and Buffalo Rivers, Saint Catherine and Coles Creeks, Bayou Pierre, and othe major tributaries draining into the Mississippi River between Bayou Pierre and the Buffalo River in the State of Mississippi.

"SEC. 410. (a) There is hereby established a Water Resources Mitigation Advisory Board (hereinafter referred to as the 'Board'), which is authorized to evaluate complaints of any existing or potential adverse impact of any proposed or existing water resources project undertaken by the Secretary of the Army, acting through the Chief of Engineers, and to make recommendations on any requested mitigation.

"(b) The Board shall be comprised of three members. One member shall be a Federal employee serving at the pleasure of the President. Two members shall be appointed by the President from the general public for terms of three years. Such public members, while attending meetings of the Board, shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5 of the United States Code, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses including per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently. Anyone who has been an employee of the United States Army Corps of Engineers shall be ineligible to serve as a public member of the Board.

"(c)(1) The Board shall meet at least four times annually to review matters referred to it by any State or local public agency, the Secretary of the Army, the Committee on Environment and Public Works of the Senate, or the Committee on Public Works and Transportation of the House of Representatives. At such meetings, the Board is authorized to review all information relating to any request for mitigation of an authorized project, and to recommend changes in the project that can be achieved administratively or by appropriate legislation. Any recommendation by the Board shall include a statement evaluating the equity of the mitigation request; an estimate, if appropriate, of the cost of such alteration and the effect such cost would have on the relation of total project benefits to cost; and an explanation of how the mitigation request meets or fails to meet established national water resources policy. Recommendations by the Board are advisory and not subject to judicial review.

"(2) A copy of any recommendation by the Board under paragraph (1) of this subsection shall be transmitted to the Secretary of the Army and to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives, as well as any interested State or local public agency. Following a review of any such recommendation, the Secretary of the Army shall notify the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives of any decision or proposal based upon such recommendation, together with a statement detailing any disagreement with the Board's recommendation.

"(d) For the purposes of this section, 'mitigation' means any change in project operations, any construction of new facilities or devices that would alleviate any anticipated or actual damages, or other adverse and definable unintended effects, or any change in requirements for local interests to provide, pay for, or share in the costs of any features of any project undertaken by the Secretary of the Army, acting through the Chief of Engineers.

"(e) The Board shall, from time to time, report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on issues and problem areas brought before it for advisory opinions, together with any recommended changes in the procedures or practices of the Secretary of the Army, acting through the Chief of Engineers, that would alleviate such problems in future projects.

"(f) The sum of $250,000, beginning in the fiscal year ending September 30, 1978, is authorized to be appropriated each fiscal year to carry out this section.

"SEC. 411. (a) The authorization for the Victory Lake project for flood control and other purposes on the Moose River, town of Victory, Essex County, Vermont, contained in the Flood Control Act of 1936 as amended by the flood control Acts of 1938 and 1941, is hereby terminated.

"(b) The authorizations for the Lafayette Dam and Reservoir and the Big Pine Dam and Reservoir on the Wabash River, Indiana, contained in section 204 of the Flood Control Act of 1965 (795 Stat. 1081), is hereby terminated.

"(c) (1) The authorization of the Kickapoo River, Wisconsin flood control project, provided by section 203 of the Flood Control Act of 1962 (76 Stat. 1173, 1190) is hereby terminated.

"(2) The Secretary of the Army, acting through the Chief of Engineers, shall immediately undertake such modification and landscaping of the uncompleted project for safety, aesthetic, and ecological purposes as the Secretary deems necessary. Such modification shall include, but shall not be limited to, demolition and removal of the outlet control structure and the right abutment.

"(3)(i) The Secretary of the Army, acting through the Chief of Engineers, shall take no action to dispose of works and interests in lands related to the project which are under his jurisdiction for eighteen months following the date of enactment of this Act.

"(ii) If Congress, by law, has not otherwise provided for the disposal of the project lands within eighteen months of date of enactment of this Act, the Secretary of the Army, acting through the Chief of Engineers, shall immediately proceed to dispose of such lands and interests under his jurisdiction pursuant to the applicable provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484).

"SEC. 412. The section may be cited as the 'Water Supply Act of 1977'.

"(a) Because many regions of the Nation confront water shortages that can be expected to continue or to increase, and because such shortages are, in part, aggravated by a lack of any coordinated, national policy for the efficient and productive use and reuse of water, the Congress declares that there is a national interest in the development of new water supplies, on an economical basis, for domestic, municipal, industrial, and other public purposes.

"(b) (1) In carrying out a policy to encourage a more efficient use and supply of water as a way to benefit municipal, industrial, and agricultural development, wetland preservation, fish and wildlife protection, and other national purposes, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to survey, plan, construct, and operate projects for the storage of water needed to meet present and anticipated demand, and for its transportation to regions of the Nation with present or anticipated water shortages: *Provided*, That each such project must be specifically authorized by law enacted subsequent to this Act.

"(2) The costs allocated to water supply in any project constructed as a result of the authority of subsection (a) of this section shall be repayable, with interest, by the water users over a period of not more than fifty years from the date that water is first delivered, pursuant to contracts with municipalities or other public organizations except as provided in subsection (d). Such contracts shall be precedent to the commencement of construction of any unit or stage of the project. The contracting organization shall be responsible for the disposal and sale of water surplus to its requirements, but revenues therefrom shall be used only for payment of operation and maintenance costs, interest, and retirement of the obligation assumed in the contract.

"(c) The interest rate used for computing interest during construction and interest on the unpaid balance of the costs of the project allocated to municipal water supply shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from date of issue.

"(d) The Secretary of the Army, acting through the Chief of Engineers, is authorized to recommend modified cost-sharing and repayment schedules for that portion of the water supplied under this section to a municipal system serving a rural community, whether incorporated or unincorporated, with a population of less than ten thousand, which is not part of a larger population center.

"SEC. 413. The plan for the harbor improvement at Honolulu Harbor, Oahu, Hawaii, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1092) is

hereby modified to delete the requirement that local interests contribute in cash, prior to initiation of construction, a lump sum amounting to 2.6 per centum of the estimated first cost of the general navigation facilities for the project, ascribed to land enhancement through deposition of dredged material.

"SEC. 414. Section 4 of the Act of July 5, 1884 (23 Stat. 147), as amended by the Act of March 3, 1909 (33 U.S.C. 5), is hereby amended to read as follows:

" 'SEC. 4. The Secretary of the Army, acting through the Chief of Engineers, is authorized to operate, maintain, and keep in repair and rehabilitate any project for the benefit of navigation belonging to the United States or that may be hereafter acquired or constructed: *Provided*, That whenever, in the judgment of the Secretary of the Army, the condition of any of the aforesaid works is such that its reconstruction or replacement is essential to efficient and economical maintenance and operation, as herein provided for, the Secretary may proceed with such work: *Provided further*, That the reconstruction or replacement does not increase the facility's scope or capacity or change the location of an existing facility: *And provided further*, That nothing herein contained shall be held to apply to the Panama Canal.'.

"SEC. 415. Notwithstanding the provisions of section 1 of the Act of June 21, 1940, entitled 'An Act to provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such bridges, and for other purposes' (54 Stat. 407), as amended, the Port of Houston Authority Bridge over Greens Bayou approximately 2.8 miles upstream of the confluence of Greens Bayou, Texas, and the Houston Ship Channel is hereby declared to be a lawful bridge eligible for replacement under such Act.

"SEC. 416. (a) Section 3 of the Act entitled 'An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property', approved August 13, 1946, as amended, is amended by striking out '$1,000,000' and inserting in lieu thereof '$2,000,000'.

"(b) The amendment made by this section shall not apply to any project under contract for construction on the date of enactment of this Act, except in those cases where the authorized project includes periodic beach nourishment in accordance with section 1(c) of the Act approved July 28, 1956.

"SEC. 417. (a) Any resolution previously or hereafter adopted by the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives for review of flood control and river and harbor reports is automatically deauthorized if no funds are expended for such survey within five years following its approval.

"(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to submit to the Congress, within six months of enactment of this section, a list of all existing survey studies that have an inactive or deferred status. All surveys on such list may be deauthorized within ninety days thereafter by resolution of either the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives.

"SEC. 418. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to make a study in cooperation with the government of the Trust Territory of the Pacific Islands for the purpose of providing a plan for the development, utilization, and conservation of water and related land resources of such territory. Such study shall include appropriate consideration of the needs for flood protection, wise use of flood plain lands, navigation facilities, hydroelectric power generation, regional water supply and waste water management facilities systems, general recreation facilities, enhancement and control of water quality, enhancement and conservation of fish and wildlife, and other measures for environmental enhancement, economic and human resources development, and shall be compatible with comprehensive development plans formulated by local planning agencies and other interested Federal agencies.

"SEC. 419. (a) In order to alleviate the critical conditions created by a natural disaster in April 1977, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to design and construct, at full Federal expense, flood control measures including, but not limited to, levees, floodwalls, cut-offs, and other appurtenant facilities, and to provide modifications to existing flood protection structures as appropriate, at or in the vicinity of Pikeville, Kentucky, on the Levisa Fork of the Big Sandy River; Pineville, Kentucky, on the Cumberland River; and Williamson and Matewan, West Virginia, on the Tug Fork of the Big Sandy River, that the Chief of Engineers determines are necessary and advisable to afford these communities and other flood damaged localities and their immediate environs on both the Levisa and Tug Fork of the Big Sandy River and Cumberland River a level of protection against flooding at least sufficient to prevent any future losses to these communities from the likelihood of flooding such as occurred in April 1977, at an estimated cost of $100,000,000: *Provided*, That non-Federal interests shall hold and save the United States free from damages due to the construction works, and maintain and operate all the works after their completion in accordance with regulations prescribed by the Secretary of the Army.

"(b) With respect to the works authorized by subsection (a) of this section, an economic analysis of the projects is hereby waived.

"SEC. 420. When submitting any report on a project which includes benefits for recreation, the Secretary of the Army, acting through the Chief of Engineers, or the Secretary of Agriculture, under authority of Public Law 83-566, as amended, shall describe the benefits of other, similar recreational facilities within the general area of the project, and develop a unit value for recreational attendance which is consistent with the unit values used to justify existing recreation facilities.

"SEC. 421. Section 208 of the Flood Control Act of 1954 (68 Stat. 1256, 1266), as amended, is hereby further amended by adding '(a)' after 'SEC. 208.' and adding a new subsection '(b)' as follows:

" '(b) Upon request of the Governor of a State, or appropriate official of local government, the Secretary of the Army, acting through the Chief of Engineers, is further authorized to provide designs, plans, and specifications, and such other technical assistance as he deems advisable, at Federal expense, to such State or political subdivision for its use in carry out projects, for removing accumulated snags and other debris, and clearing and straightening channels in navigable streams and tributaries thereof.'

"SEC. 422. (a) The Stamford Harbor, Connecticut navigation project which was adopted by the River and Harbor Act of 1919 is hereby modified to provide that for the upcoming maintenance dredging, only, non-Federal interests shall furnish without cost to the United States an area located between the harbor's East Branch Channel and Kosciuszko Park for the disposal of the material dredged and contribute 25 per centum of the costs of constructing a dike to retain the sediments. Non-Federal interests shall also acquire all easements and rights-of-way required for construction at the site and hold the United States free of damages incurred during construction. Immediately following completion of the dredging the dike structure will be conveyed to the city of Stamford for future maintenance.

"(b) The requirements for appropriate non-Federal interests to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State of Connecticut, interstate agency, municipality, and other appropriate political subdivisions of the State and industrial concerns are participating in and in compliance with an approved plan for the Stamford Harbor area for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

"SEC. 423. The Secretary of the Army, acting through the Chief of Engineers, is authorized to perform intermittent dredging and such other work as may be required on the Yazoo River in Mississippi, from Greenwood south, to remove natural shoals as they occur, at an annual average cost of $200,000, allowing commerce to continue: *Provided*, That responsible local interests furnish assurances satisfactory to the Chief of Engineers that they will (a) provide without cost to the United States all lands, easements, and rights-of-way required for dredging and disposal of dredged materials; (b) accomplish without cost to the United States such alterations, relocations, and/or rearrangement of facilities as required for dredging and disposal of dredged materials; (c) hold and save the United States free from damages due to the dredging and disposal of dredged materials, excluding damages due to the fault or negligence of the United States or its contractors; (d) comply with the applicable provisions of the United Relocations Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646, 84 Stat. 1894); and (e) comply with all other Federal and State laws and regulations applicable to the dredging and disposal of dredged materials.

"SEC. 424. (a) Section 203(e) of the Water Resources Development Act of 1976 (Public Law 94-587, 90 Stat. 2946) is amended to read as follows: "The Secretary is authorized to make expenditures from the fund for the phase I design memorandum stage of advanced engineering and design for any project that meets the requirements of subsection (a)(2) of this section, if appropriate non-Federal public authorities, approved by the Secretary, agree with the Secretary, in writing, to repay the Secretary for all the separable and joint costs of preparing such design memorandum, if such report is favorable and the appropriate non-Federal authorities are able, on the basis of the report, to borrow money to pay such costs based on the security of the project or its reveneus. Following the completion of the phase I design memorandum stage of advanced engineering and design under this subsection, the Secretary shall not transmit any favorable report to Congress prior to being repaid in full by the appropriate non-Federal public authorities for the costs incurred during such phase I. The Secretary is also authorized to make expenditures from non-Federal funds deposited in the fund (as an advance against construction costs) for costs incurred during such phase I if the Secretary agrees wtih the appropriate non-Federal authorities to reimburse said costs if the report is not favorable and the appropriate non-Federal authorities are therefore not able to borrow money to pay such costs based on the security of the proj-

ect or its revenues: *Provided*, That payments by the Secretary under this subsection for phase I remiburement shall be subject to appropriations Acts.';

"(b) Section 203(g)(1) is amended by striking 'anticipated' in the first sentence and by adding at the end of the third sentence ', as determined in the agreement between the Secretary and the non-Federal authorizing';

"(c) Section 203(g)(2) is amended to read as follows:

"'(A) In consideration of the obligations to be assumed by non-Federal public authorities under the provisions of this section and in recognition of the substantial investments which will be made by these authorities in reliance on the program established by this section, the United States shall assume the responsibility for paying for all costs over those fixed in the agreement with the non-Federal public authorities, if such costs are occasioned (1) by acts of God, (2) failure on the part of the Secretary, acting through the Chief of Engineers, to adhere to the agreed schedule of work or a failure of design, or (3) are otherwise necessary to be paid by the United States to permit operation of the project in accordance with the initial determination of feasibility: *Provided*, That payments by the Secretary of such costs shall be subject to appropriations Acts.

"'(B) Any Federal funds required to complete the project pursuant to subparagraph (A)(3) of subsection (g) shall be repaid to the Treasury with interest by the non-Federal public authorities from revenues received from the sale of power. Payments shall commence following retirement of all bonds issued by the non-Federal public authorities, for the project. Interest payable under this subparagraph shall be at the rate the Federal Government must pay on such obligations at the time of payment pursuant to subparagraph (A)(3) with accrual of interest beginning after all prior bonds are retired.'; and

"(d) Section 203(h) is amended by inserting 'and (2)' after '(g)(1)' in the first sentence.

"(e) Section 203 of the Water Resources Development Act of 1976 (Public Law 94-587, 90 Stat. 2946) is amended as follows—

"(1) subsection (a)(1) is amended by striking 'in Alaska';

"(2) subsection (b) is amended by striking 'Alaska' in the first sentence; and

"(3) subsection (i) is amended by striking 'Alaska'.

"SEC. 425. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to make a study of the possible rehabilitation of the hydroelectric potential at former industrial sites, millraces, or other types of facilities constructed in the past, and the possible conversion of such sites for use as new, small hydroelectric projects that will serve rural areas or communities. The Secretary of the Army, acting through the Chief of Engineers, is further authorized and directed to provide technical assistance to local public agencies or cooperative in any such rehabilitation at sites identified under this section, or that would qualify under the terms of this section.

"SEC. 426. (a) That those portions of the Trent River in the city of New Bern, county of Craven, State of North Carolina, bounded and described as follows, are hereby declared to be nonnavigable waters of the United States within the meaning of the laws of the United States:

"All of those tracts or parcels of land lying and being in Craven County, North Carolina, in the city of New Bern between the high water mark of Trent River as it formerly existed and the bulkhead marking the southern boundary of the lands of the New Bern Redevelopment Commission Project Numbered NCR-71, and more particularly described as follows:

"TRACT ONE

"Beginning at a point which lies south 12 degrees 12 minutes west 499.296 feet from the southwest corner of the intersection of Tryon Palace Drive and United States Highway North 70; and running thence along the former high water mark of Trent River, the following courses and distances:

"north 79 degrees 07 minutes 24 seconds west 2.65 feet;

"north 8 degrees 20 minutes east 12.45 feet;

"north 44 degrees 57 minutes west 30.00 feet;

"north 89 degrees 45 minutes west 22.00 feet;

"south 66 degrees 45 minutes west 35.00 feet;

"south 12 degrees 25 minutes west 76.00 feet;

"north 76 degrees 35 minutes west 40.00 feet;

"north 7 degrees 20 minutes east 54.00 feet;

"north 24 degrees 45 minutes east 43.00 feet;

"north 24 degrees 45 minutes west 29.00 feet;

"north 53 degrees 30 minutes west 26.00 feet;

"north 15 degrees 00 minutes east 21.00 feet;

"north 77 degrees 15 minutes west 15.00 feet;

"north 10 degrees 00 minutes east 19.00 feet;

"north 83 degrees 45 minutes west 28.00 feet;

"south 37 degrees 55 minutes west 26.00 feet;

"south 20 degrees 45 minutes west 26.00 feet;

"south 10 degrees 00 minutes west 30.00 feet;

"south 49 degrees 45 minutes west 34.00 feet;

"north 84 degrees 55 minutes west 24.00 feet;

"north 12 degrees 10 minutes east 100.00 feet;

"east 7.00 feet; north 11 degrees 00 minutes east 56.00 feet;

"north 28 degrees 15 minutes west 34.00 feet;

"north 89 degrees 35 minutes west 15.00 feet;

"south 17 degrees 40 minutes west 23.00 feet;

"south 12 degrees 45 minutes west 44.00 feet;

"north 78 degrees 30 minutes west 85.00 feet;

"south 11 degrees 00 minutes west 74.00 feet;

"south 79 degrees 35 minutes east 9.00 feet;

"south 6 degrees 30 minutes west 39.00 feet;

"north 84 degrees 35 minutes west 41.00 feet;

"north 9 degrees 35 minutes east 124.00 feet;

"north 76 degrees 50 minutes west 54.00 feet;

"south 11 degrees 00 minutes west 108.00 feet;

"south 84 degrees 00 minutes west 32.00 feet;

"north 7 degrees 30 minutes east 71.00 feet;

"north 72 degrees 00 minutes west 32.00 feet;

"north 7 degrees 35 minutes east 39.00 feet;

"north 79 degrees 50 minutes west 29.00 feet;

"south 13 degrees 20 minutes west 37.00 feet;

"south 42 degrees 50 minutes west 22.00 feet;

"north 64 degrees 15 minutes west 13.00 feet;

"south 57 degrees 20 minutes west 14.00 feet;

"north 82 degrees 15 minutes west 60.00 feet;

"north 80 degrees 00 minutes west 108.00 feet;

"north 52 degrees 30 minutes west 40.00 feet;

"north 80 degrees 50 minutes west 32.00 feet;

"north 79 degrees 00 minutes west 32.00 feet;

"north 9 degrees 30 minutes east 16.00 feet;

"north 86 degrees 00 minutes west 17.00 feet;

"south 15 degrees 15 minutes west 40.00 feet;

"north 77 degrees 00 minutes west 54.00 feet;

"south 11 degrees 10 minutes west 157.00 feet;

"south 78 degrees 35 minutes east 5.00 feet; and

"south 9 degrees 40 minutes west 87.92 feet to the outer edge of the existing bulkhead of the New Bern Redevelopment Commission;

"thence with the outer edge of said bulkhead the following courses and distances:

"south 85 degrees 59 minutes 41 seconds east 34.92 feet;

"north 48 degrees 37 minutes 43 seconds east 135.44 feet;

"south 86 degrees 14 minutes 57 seconds east 574.09 feet;

"south 41 degrees 01 minutes 58 seconds east 134.16 feet;

"south 86 degrees 11 minutes 18 seconds east 62.96 feet;

"north 48 degrees 44 minutes 56 seconds east 124.48 feet and north 79 degrees 07 minutes 24 seconds west 2.99 feet to the place of beginning, containing 2.83 acres.

"TRACT TWO

"Beginning at a point in the eastern line of Middle Street at its intersection with the former high water mark of Trent River, said place of beginning being south 9 degrees 41 minutes west 702.783 feet along the eastern line of Middle Street from the southeast corner of Middle Street and Tryon Palace Drive, and running thence from this place of beginning along the former high water mark of Trent River north 82 degrees 46 minutes 30 seconds west 12.256 feet;

"thence north 9 degrees 48 minutes east 101.36 feet;

"thence north 78 degrees 41 minutes west 36.37 feet;

"thence south 9 degrees 11 minutes west 110.69 feet to the outer edge of the existing bulkhead of the New Bern Redevelopment Commission;

"thence with the outer edge of the existing bulkhead of the New Bern Redevelopment Commission south 85 degrees 59 minutes 41 seconds east 120.50 feet to a point where the existing bulkhead intersects the former high water mark of Trent River;

"thence north 82 degrees 46 minutes 30 seconds west 72.544 feet along the former high water mark of Trent River, to the place of beginning; containing 0.09 acre.

"TRACT THREE

"Beginning at a point which is located south 80 degrees 00 minutes east 50 feet, south 9 degrees 50 minutes west 313.31 feet;

"south 5 degrees 54 minutes 24 seconds west 155.79 feet;

"south 2 degrees 08 minutes east 46.035 feet and south 6 degrees 20 minutes 48 seconds east 1.86 feet from the intersection of the southern line of Tryon Palace Drive and the center line of the Atlantic and North Carolina Railroad; and running thence from

this place of beginning with the outer edge of the existing bulkhead of the New Bern Redevelopment Commission the following courses and distances:

"South 86 degrees 41 minutes 04 seconds east 18.78 feet;

"thence south 41 degrees 08 minutes 50 seconds east 337.44 feet and south 85 degrees 59 minutes 41 seconds east 40.01 feet;

"and running thence with the former high water mark of Trent River the following courses and distances:

"north 9 degrees 34 minutes east 165.69 feet;

"north 79 degrees 25 minutes west 69.00 feet;

"north 74 degrees 05 minutes west 73.00 feet;

"north 8 degrees 58 minutes east 162.00 feet;

"north 47 degrees 30 minutes west 65.00 feet;

"south 11 degrees 20 minutes west 101.50 feet;

"north 80 degrees 20 minutes west 21.00 feet;

"north 9 degrees 50 minutes east 133.00 feet;

"north 35 degrees 45 minutes west 33.00 feet;

"north 28 degrees 20 minutes west 32.00 feet;

"north 59 degrees 28 minutes 42 seconds west 9.76 feet;

"south 2 degrees 00 minutes west 69.00 feet;

"south 9 degrees 40 minutes west 91.00 feet;

"south 89 degrees 10 minutes west 13.00 feet;

"south 20 degrees 10 minutes west 39.00 feet;

"south 47 degrees 10 minutes west 58.36 feet; and

"south 6 degrees 20 minutes 48 seconds east 1.86 feet to the place of beginning; containing 1.20 acres.

"Being that portion of the waters of Trent River which were bulkheaded and filled under permit bearing date January 16, 1970, addressed to the Redevelopment Commission of the City of New Bern, issued by the Wilmington District, Corps of Engineers, by authority of the Secretary of the Army.

"(b) The declaration in subsection (a) of this section shall apply only to portions of the above described area which are either bulkheaded and filled, or occupied by permanent pile-supported structures, plans for such work having been approved by the Secretary of the Army acting through the Chief of Engineers.

"SEC. 427. Nothing in any prior Act of Congress, committee report, or congressional document, shall be construed as requiring the State of Tennessee in connection with the mitigation of wildlife losses attributable to the West Tennessee tributaries feature, Mississippi River and tributaries project authorized by the Flood Control Act of June 30, 1948, November 7, 1966, and March 7, 1974, to furnish assurances that it will hold and save the United States free from any claims for damages resulting from such mitigation.

"SEC. 428. (a) The authorization for the Kaw Lake project, Arkansas River, Oklahoma contained in section 203 of the Flood Control Act of 1962 (Public Law 87-874) is hereby amended to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to design, construct, and provide treatment facilities and a regional conveyance system of water from Kaw Lake for the ownership, use, operation, and maintenance of non-Federal public members of the Kaw Reservoir Authority at an estimated cost of $82,000,000.

"(b) Non-Federal public members acting through the Kaw Reservoir Authority, who are benefited by the facilities to be constructed at initial Federal costs under this Act, shall repay such costs and the Federal costs of any interim maintenance of the facilities in accordance with the principles of the Water Supply Act of 1958 (Public Law 85-500): *Provided*, That the allocation and initiation of these repayment requirements shall be scheduled by the Secretary of the Army, as he determines to be equitable, considering factors such as the date of initiation and extent of usage of the facilities.

"SEC. 429. The project for flood control on Beargrass Creek in Jefferson County, Kentucky, is hereby authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the final report of the Chief of Engineers, at an estimated cost of $2,900,000. Sections 201 and 202 and the last three sentences in section 203 of the Flood Control Act of 1968 shall apply to this project. This shall take effect upon submittal to the Secretary of the Army by the Chief of Engineers and notification to Congress of the approval of the Chief of Engineers.

"SEC. 430. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to prosecute the plan for Trimble Wildlife Area replacement, in substantial accordance with the feasibility report, dated September 1976, with such changes as may be within the discretion of the Chief of Engineers, at an estimated cost of $3,970,000.

"SEC. 431. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to take necessary remedial measures to assure structural integrity and flood control capacity of the Trilby Wash Detention Basin (McMicken Dam) and Outlet Channel, Maricopa County, Gila River Basin, Arizona, constructed under authority of section 304 of Public Law 83-209 (67 Stat. 449) approved August 7, 1953, at an estimated cost of $7,000,000.

"(b) The Secretary of the Army, acting through the Chief of Engineers, shall make a study of such plans as he may deem reasonable and appropriate for the rehabilitation or reconstruction of McMicken Dam in Trilby Wash area at an estimated cost of $250,000.

"(c) All authority of the Secretary of the Air Force over such detention basin and channel is transferred to the Secretary of the Army.

"SEC. 432. The project for the town of Niobrara, Nebraska, as authorized by section 213 of the Flood Control Act of 1970 (84 Stat. 1824, 1829) is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to relocate existing Nebraska Highway Number 12 through the relocated town of Niobrara, Nebraska, with necessary connections to Nebraska Highway Number 14, at an estimated cost of $1,600,000.

"SEC. 433. The Saint Francis River Basin project, Arkansas and Missouri, as authorized by the Act of June 15, 1936 (49 Stat. 1508), is modified to require the Secretary of the Army, acting through the Chief of Engineers, to study improvements for flood control purposes in Saint Francis Lake and Floodways in Pointsett County, Arkansas, in accordance with the reconnaissance report thereon by the Corps of Engineers, dated April 15, 1977. Such study shall be transmitted to the Congress ten months after enactment of this Act.

"SEC. 434. (a) Section 8 of the Act entitled 'An Act to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam a feature of the Teton Basin reclamation project in Idaho, and for other purposes' (90 Stat. 1211), approved September 7, 1976, is amended to read as follows:

"'SEC. 8. (a) Beginning on December 31, 1977, and each year thereafter until the completion of the claims program, the Secretary shall make an annual report to the Congress of all claims submitted to him under this Act, listing each amount claimed, a brief description of the claim, and the status or disposition of the claim including the amount of each administrative payment and award under the Act. Such report shall not be disclosed to the public in a form which would reveal the names of the claimants and shall be maintained in such a manner as will protect the privacy of such claimants.

"'(b) Information acquired by the Secretary from or about claimants under this Act shall (1) be maintained in such a manner as will protect the privacy of such claimants and the confidentiality of information provided by such claimants, and (2) shall not be required to be disclosed under section 552 of title 5, United States Code, but shall be deemed a record which is contained in a system of records for purposes of section 552a of such title.'.

"(b) The amendments made by this section shall be effective as if enacted on September 7, 1976.

"SEC. 435. The project of Jackson Hole Snake River local protection and levees, Wyoming, authorized by the River and Harbor Act of 1950 (Public Law 81-516), is hereby modified to provide that the operation and maintenance of the project shall be the responsibility of the Secretary of the Army, acting through the Chief of Engineers.

"SEC. 436. (a) The water resources development project for Harlan County Lake on the Republican River, Nebraska, authorized by the Act of August 18, 1941 (Public Law 228, Seventy-seventh Congress), as amended, is further amended to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to replace, renovate, and upgrade the existing Federal facilities of the project, and provide for maintenance and operation of those facilities.

"(b) The work authorized by this section shall include purchase of a dredge, dredging of channels, construction of breakwaters, replacement and extension of outdated water access facilities, the performance of necessary bank stabilization and appropriate filling activities, and such other items as are identified in connection with these activities located at Gremlin Cove, Patterson Harbor, Hunter Cove, and Methodist Cove/Pheasant Point in the June 1977 report of the Army Corps of Engineers.

"(c) All work and activities authorized by this section shall be carried out at Federal expense, at a first cost presently estimated to be $4,811,100.

"SEC. 437. The Act entitled 'An Act to authorize construction of the Mississippi River-Gulf Outlet', approved March 29, 1956 (Public Law 84-455, 70 Stat. 65), as amended by section 186 of Public Law 94-587 (90 Stat. 2941), is further amended by deleting all after the colon following the phrase 'cost of $88,000,000' and substituting therefor the following: '*Provided*, That the same having been found economically justified by obsolescence of the existing industrial canal lock and increased traffic, the replacement and expansion of said lock or the construction of an additional lock in the area of the existing lock is hereby approved, said new lock to have minimum dimensions, of one thousand two hundred feet long, one hundred and fifty feet wide, and fifty feet over sills, with immediate connecting channels, thirty-six feet by five hundred feet except that width may be reduced to not less than three hundred feet between the Mississippi River and Florida Avenue if in the opinion of the Chief of Engineers such reduction is necessary to avoid unacceptably severe relocations, and that in recognition of the importance of this connection of the Nation's economy and defense, the Chief of Engineers will assure beneficial completion at the earliest possible date: *Provided further*, That the conditions of local cooperation specified in House Document Numbered 245, Eighty-second Congress, shall likewise apply to the construction of

said lock and connecting channels, except that the additional costs, as determined by the Chief of Engineers, of lands, easements, and rights-of-way acquisition and relocations of residences, industries, and utilities beyond those of the Meraux site shall be borne by the United States: *And provided further*, That such conditions of local cooperation shall not apply to the relocation, replacement, modification, or construction of bridges or to the substitution of tunnels (at a cost not to exceed $94,500,000) required as a result of the construction of said lock and connecting channels if the Secretary of the Army, after consultation with the Secretary of Transportation, determines prior to the construction of such bridges or to the substitution of tunnels that the Federal Government will not assume the cost of such work in accordance with section 132(a) of the Federal-Aid Highway Act of 1976 (Public Law 94-280); and before construction of bridges may be initiated the non-Federal public bodies involved shall agree pursuant to section 221 of the Flood Control Act of 1970 (Public Law 91-611) to (a) hold and save the United States free from damages resulting from construction of the bridges or the substitution of tunnels and their approaches, (b) subject to reimbursement as aforesaid, provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction of the bridges and their approaches, and (c) maintain and operate the bridges or tunnels and their approaches after construction is completed.'.

"SEC. 438. (a) The project for navigation improvements in Mobile Harbor, Theodore Ship Channel, Alabama, approved by resolutions of the Committee on Public Works of the Senate and the Committee on Public Works of the House of Representatives dated December 15, 1970, and modified by section 112 of the Water Resources Development Act of 1976, is hereby further modified to provide that the non-Federal interests shall contribute 25 per centum of the costs of areas required for initial and subsequent disposal of spoil, and of necessary retaining dikes, bulkheads, and embankment therefor.

"(b) The requirements for appropriate non-Federal interests to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State of Alabama, interstate agency, municipality, and other appropriate political subdivisions of the State and industrial concerns are participating in and in compliance with an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

"SEC. 439. Section 5 of the Flood Control Act approved August 18, 1941 (33 U.S.C. 701n), is amended by inserting at the end thereof the following: 'The Chief of Engineers is also authorized to accomplish advance measures using amounts in the emergency fund, when in his discretion local and State efforts are unable to complete emergency work for control of lava flow, in order to provide the minimum necessary protection to prevent loss of life and serious damages to improved property when such volcanic activity is reasonably imminent.'.

"SEC. 440. The Secretary of the Army is authorized to transfer funds to the relevant State agencies for the construction of fish hatcheries authorized under the Lower Snake River Fish and Wildlife Compensation Plan authorized under section 102 of Public Law 94-587 (90 Stat. 2971), the Water Resources Development Act of 1976 enacted on October 22, 1976.

"SEC. 441. The Mississippi River-Gulf Outlet, as authorized by Public Law 84-455, is hereby redesignated as the 'Allen J. Ellender Ship Channel' and any Federal law, regulation, map, or other document referring to such outlet shall be held to refer to the outlet as the Allen J. Ellender Ship Channel.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that I may modify the amendment and begin on page 17, line 5, strike from there until title IV.

The PRESIDING OFFICER. The Senator has that right.

The modification is as follows:

On page 1, before line 1, strike: "On page 16, line 5, strike all through line 5 on page 17, and insert the following:" and insert in lieu the following: "On page 17, after line 5, insert the following:"

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the majority leader, my colleague from West Virginia (Mr. ROBERT C. BYRD), be added as a cosponsor to amendment 1833, as modified, which I have offered at this time.

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

Mr. RANDOLPH. Mr. President, on behalf of our Committee on Environment and Public Works I offer this amendment to authorize 17 new projects and modifications of existing projects.

These will be carried out in the course of water resource development by the U.S. Corps of Army Engineers.

The total authorization is approximately $700 million, and the beneficial effects will cover 26 States.

Mr. President, the projects are authorized for flood control, water supply, navigation, and other useful and necessary purposes. These projects respond to various local needs, yet they are purposeful in the overall benefits to the country. I am sure they will have a usefulness to the American people when they come into being.

There is one project authorization which is of special importance to me. I do not say that it is provincial but it does have a keen interest and an understanding by those who serve in Congress from the State of West Virginia, both the majority leader, Senator ROBERT C. BYRD, and myself, and the Members of our House delegation, especially NICK J. RAHALL, who represents the district in which the project is located.

In April of last year, severe flooding occurred in southern West Virginia, eastern Kentucky, and eastern Tennessee. The Tug Fork River flooded to such an extent that two towns in West Virginia (Williamson and Matewan) were virtually destroyed. Other smaller communities were adversely affected.

The population of Williamson, is approximately 9,000 persons. The entire community and all of its business places and homes were virtually destroyed. The same is true, of Matewan, with a bridge there wiped out completely—devastation which is difficult for me to picture just in words spoken in the Senate.

I think I might tell you, if you do not know the terrain of the area, that the valley is very, very narrow. The hills, or in a sense the mountains, rise precipitously, and the problems that occur with the type of flooding that we have had really ripping the economy and the well-being of the area apart.

Many of these localities had local protection projects which were breached in this severe flooding. The corps under existing authorities could repair these facilities. However, because of the potential for such severe flooding in the future, a greater level of protection is called for. Section 419 of this bill authorizes the corps to construct in Kentucky and West Virginia those projects which will provide protection against a flood of at least the April 1978 severity.

The project authorization is for additional floodwalls and levies in both Kentucky and West Virginia and a cutoff on the Tug Fork which will straighten the course of the stream and reduce the tendency toward flooding. The estimated cost of this work is $100 million.

I ask unanimous consent that a letter from Col. George Bicher, Huntington district engineer of the corps, describing the work to be undertaken, be printed at this point in my remarks.

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

DEPARTMENT OF THE ARMY,
Huntington, W. Va., January 2, 1977.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: In view of the keen interest in the legislation which was reported out of the Senate Public Works Committee on 16 May 1977, we have developed a brief summary sheet for the proposed flood protection plan for the Tug Fork Valley which the legislation references. A copy of the summary sheet is enclosed.

It is understood that those measures which the proposed legislation is intended to authorize for the Tug Fork Valley consists of projects specifically for the protection of Williamson and Matewan and the additional projects contained in our "Plan V." It is further understood that other projects may be added to the plan if found necessary and advisable by the Chief of Engineers.

Sincerely yours,
GEORGE A. BICHER,
Colonel, Corps of Engineers,
District Engineer.

FLOOD PROTECTION PLAN FOR TUG FORK ENVISIONED BY PENDING LEGISLATION

Pending authorization legislation initiated by the Senate Public Works Committee would authorize and direct the Corps of Engineers to design and construct a system of flood protection measures in the Tug Fork Valley. Concurrent actions by the Congress to provide initial appropriations upon passage of the authorizing legislation would allow the immediate design and initiation of construction of the two key projects (Matewan Cutoff and Williamson Levee) included in the overall plan.

The authorization would provide specifically for the design and construction of projects to protect the cities of Matewan and Williamson. It further would provide for design and construction of the projects included in the plan developed by the Corps in its planning studies. This plan, which has become known as Plan V, is one of six alternative plans considered for protection of communities in the valley. The authorization also would provide for the addition of projects for other communities which were

damaged in April 1977, if found necessary and advisable by the Chief of Engineers.

The plan envisioned by the legislation, then, would consist of seven (7) floodwall and/or levee projects, one major channel cutoff project, and one channel modification project. The proposed projects, along with their estimated design and construction costs, are as follows:

Project	*Cost (July 1976 P.L.)*
Buffalo Creek levee	$ 2,200,000
Fairview floodwall	10,000,000
West Williamson floodwall/levee	13,300,000
South Williamson floodwall	7,500,000
Williamson floodwall	7,700,000
East Williamson floodwall	6,800,000
Matewan cutoff	20,300,000
Matewan levee	6,600,000
Welch Channel modification	8,600,000
Total	83,000,000

Each of the floodwall and/or levee projects included above would be designed to preclude flood waters from entering damage susceptible areas within the respective communities. As a minimum, the communities would be afforded protection from all future floods ranging in magnitude up to a flood equivalent to the April 1977 flood.

The cutoff project would consist of an open cut, approximately 1,300 feet long and 300 feet deep, through the neck of a 4½ mile loop of the Tug Fork just downstream of Matewan. Tug Fork would be relocated through the cut. About six million cubic yards of material would be removed from the cut and placed in the existing streambed around the loop, thus creating flat, developable land. Dikes would be constructed across the existing channel at the upstream and downstream ends of the cut to prevent floodwaters from entering the loop area. A total of approximately 420 acres of bottomland located within the loop would be provided a high degree of flood protection.

The channel modification project proposed for Welch would be designed to improve the hydraulic carrying capacity of Tug Fork, Elkhorn Creek, and Browns Creek through that community. This project would reduce flood heights for all frequencies of floods which might occur along either of these three streams which converge in this community.

Final design of the key projects (Matewan Cutoff and Williamson Floodwall) could commence immediately upon authorization and receipt of funding. It is estimated that construction could be initiated on these two projects within 21 months of initiation of the final designs and that an additional 22 months would be required for construction of these key projects. Design and construction of the entirety of Plan V would require approximately five years.

Mr. RANDOLPH. Mr. President, the damage in southern West Virginia alone from this flooding is estimated to have cost approximately $90 million. This project is a strengthening project. It is really an economic project. It is of vital importance to the area and to the production of coal in the region.

Because of the situation in the area, we have tried from time to time, in a sense, to patch it up. That has not worked and cannot work. Now we have to have, not a timid approach, but an all-out effort to do the job.

Because of the situation existing after this flooding it would have been very difficult for the corps to have developed a favorably cost-benefit ratio for this project. The committee, therefore, waived the cost-benefit analysis on this project. This procedure is rarely used by the committee but was found to be necessary because of the extraordinary severity of this damage. This procedure will only be recommended by the committee in those future situations that are unique and necessary for solution of a problem similar to those in the Tug Valley.

Mr. President, I commend this provision and all others in this amendment containing valuable projects to the Members of the Senate. I am sure, upon careful examination, my colleagues will find these projects meritorious.

I am very glad that the majority leader (Mr. ROBERT C. BYRD) is in the Chamber as I conclude the remarks in reference to the Tug Fork, its valley, and its people, the severe damage to a whole county like the county seat, Williamson, and to nearby Matewan.

This project has had the careful consideration of the 15 members of the committee, and as to this amendment I underscore the fact that the two Senators from the State, and those from Kentucky, have been deeply involved. Senator BYRD and I know, as do the Members of our House delegation, especially the Representative from the district in which this area is included, NICK JOE RAHALL—of the need and we believe that the response will be affirmative. The project is one of merit.

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

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield to me?

Mr. RANDOLPH. I yield to my colleague the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank my senior colleague for introducing this amendment. I thank him for his kind comments and his adding me as a cosponsor.

Mr. President, on April 11, 700 men, women, and children living along the Levisa Fork or Big Sandy River trekked by bus and train to their Nation's Capitol. Their petition, which was presented to their U.S. Senators from West Virginia and Kentucky, and to the House Members representing the areas involved, to Mr. RAHALL and Mr. PERKINS, was presented in a dignified and calm manner, characteristic of these people.

That petition can be summed up in a single sentence: We need relief from the yearly floods which ravage our homes and businesses.

In early April of last year these West Virginians and Kentuckians were inundated by a massive flood the Corps of Engineers said would probably come only once in a 500-year span.

This was little comfort.

Nine months later another flood, although less severe, again caused millions of dollars in damages.

We are talking about mountain people. They are a courageous and patient people. Today they cannot help but be a frustrated people. Their lives are haunted by what they perceive to be a bureaucratic ghost. They see a basic economic principle as a stumbling block in the way of a cherished principle: that of the pursuit of happiness.

Mr. President, this amendment would waive the cost-benefit ratio to provide flood protection for an area of our Nation that has suffered more than its share of misfortunes.

We are asking for special consideration because our Government must not be so inflexible as to be blind to a special problem. It has been said that our most pressing problem for today and for the future is that of finding a solution to our energy shortage. If this is true, and I am convinced that it is, then these Appalachian people have a unique petition. If there were famine in the land we would insure as best we could the breadbaskets of our Nation against the whims of national disaster. Likewise, the West Virginians and Kentuckians are living in the midst of an energy gold mine. Their toil, their sweat, will be essential to meeting our energy needs. The operations of businesses will be necessary to feed and clothe the army of coal miners who live in the hollows and valleys of this region.

In nearly all cases, the cost-benefit ratio for water projects is a sound formula. However, we must recognize it for what it is, a mathematical standard. We must not, in the words of one metaphor, cut off our nose to spite our face.

Mr. President, we must remember that we cannot win this energy fight by withholding reinforcements from our first line of defense in the Nation's coal field.

I urge adoption of the amendment and I again congratulate my senior colleague, the chairman of the Committee on Environment and Public Works, for his vision, his talents, his energy, and his efforts which have brought this amendment to the floor.

Mr. RANDOLPH. Mr. President, all Members will appreciate knowledge of the statement of our majority leader.

● Mr. FORD. Mr. President, the measure we are now considering includes a provision of extreme importance to my State, and I urge my colleagues to support its adoption.

This legislation authorizes additional flood protection to the people of eastern Kentucky and southern West Virginia who were victims of devastating floods in April 1977. In fact they experience floods almost every year. Under the bill, the Army Corps of Engineers is authorized to design and construct new flood control measures to prevent another disaster of similar magnitude and severity of the 1977 flood from occurring again.

Modifications to the existing flood protection structure, as determined by the corps, are authorized in the vicinity of Pikeville and Pineville, Ky., and Williamson and Matewan, W. Va.

In addition, the corps is provided authority to determine what new flood control measures are both necessary and advisable to protect these and other flood-damaged locations from the likelihood of future floods.

Mr. President, at this time I wish to get clarification from the committee of the phrase "other flood damaged localities and their immediate environs." It is my understanding that this language is intended to cover all of the flood damaged localities along these two river systems. Although towns and communities in Kentucky such as Cumberland, Baxter, Harlan, Loyall, Wallins Creek, Mid-

dlesboro, Barbourville, Williamsburg, Evarts, Betsy Layne, Allen, Martin, Prestonsburg, Paintsville, Louisa, Belfrey, Freeburn, Phelps, South Williamson, Warfield, and Beauty were not named it is my understanding that they are included within the phrase I have quoted because they were flood damaged localities. Is this correct?

Further, Mr. President, it is my understanding that the intent of this section is to expedite work to prevent future flooding as quickly as possible. The terrain of this region makes the risk great and it is important to consider the imminent threat by moving rapidly in undertaking work deemed necessary to protect the people and property in the river basins named to avoid major disasters.

The Federal outlay after the 1977 flood in Kentucky alone was about $150 million. The personal and emotional costs were tremendous, but a dollar figure cannot be determined. The emotional strain on these residents is hard for people outside the region to imagine. But consider the psychological effect that each torrential rain brings—another danger that one's home will be flooded or lives of family members lost.

Time is important and it is essential that the Corps of Engineers consider the risk of flooding that these people face with each heavy rain. To complete the flood protection measures at the earliest date possible it will be necessary to conduct environment assessments and place a top priority on awarding contracts for the work to be done.

Mr. RANDOLPH. Mr. President, I say to the Senator from Kentucky (Mr. FORD) that he is correct. It is the intention of this amendment to authorize a program of projects which will provide flood protection for those areas which are susceptible to a high degree of flooding.

I assure the Senator that the Committee on Environment and Public Works has carefully looked at this matter and that the project authorized by this section is one which will provide a degree of stability to the residents of southern West Virginia and eastern Kentucky.

Mr. FORD. I commend the committee for including authorization for this sorely needed assistance in this measure. I hope that it can soon be enacted into law so that the corps can begin to initiate action to relieve the serious and ever-present threat of floods for the people who live in this area.●

● Mr. HUDDLESTON. Mr. President, I wish to state my strongest possible support for the Emergency Flood Control Authorization for Kentucky and West Virginia that is known as section 119 of the Water Resources Act. This legislation—which I was pleased to cosponsor—was introduced as a direct result of the leadership of Senator RANDOLPH within the Senate Environment and Public Works Committee.

Section 119 would authorize the Corps of Engineers to design and construct, at Federal expense, floodwalls, levees, and other appurtenant facilities in those areas hit hardest by the repeated flooding on the Tug and Levisa Forks of the Big Sandy River and their tributaries and on the Cumberland River and its tributaries. It is my understanding that this authorization does not include any new flood control dams; it merely applies to flood control structures such as levees, floodwalls, and modifications of existing facilities.

I wish to emphasize that section 119 is not limited in its application to the communities included in the legislative language. There are a number of unnamed Kentucky communities located along the Big Sandy River and the Cumberland River that were severely damaged by the flood. The welfare of the people who live in these communities is just as important as that of residents of those communities mentioned in the legislation. I would like to make clear that the authorization contained in the legislation allows the corps to dredge, deepen, clear, and snag the Big Sandy River, including both the Tug Fork and the Levisa Fork and their tributaries and the Cumberland River and its tributaries. So I want to again make the point for purposes of legislative history. We must not forget the communities in Kentucky because they suffered just as much damage as West Virginia and Virginia communities.

I believe it is imperative that no time be lost in alleviating the potentially critical flooding conditions in this area that has received numerous Presidential declarations in the past. In anticipation of this authorization, at my request the Senate Appropriations Committee included language in the 1978 Public Works Appropriations Act directing the corps to use available funds to proceed with this work as soon as Congress approves the authorization. I quote the language:

> The committee understands the emergency situation existing in portions of Kentucky, West Virginia, and Virginia which suffered one of the most disastrous floods experienced in the area on April 3-4 of this year. The committee believes it is imperative that no time be lost in alleviating the potentially critical flooding conditions in this area that has received numerous presidential disaster declarations in the past. The committee is aware that section 119 of S. 1529 would authorize funds to deal with these disasters and this legislation is currently moving through the Congress toward enactment. The committee would expect the Secretary of the Army to be alerted to this legislation so that the Department of the Army would be in a position to initiate the appropriate budget request at the earliest possible date. For its part, the committee would be willing to entertain and consider reprogramming requests or budget requests in an early fiscal year supplemental request for relief of these disastrous conditions. In addition, the committee expects the Corps of Engineers to submit to appropriate committees of the Congress within 6 months its schedule and plan for flood protection measures to be undertaken.

I would urge the corps to be ready to provide its full capability once the authorization process is completed.

Mr. President, I personally joined several of my colleagues from Kentucky in touring the flood areas of my State immediately after the floods hit last April. The devastation was tremendous. The persons whose homes were ruined will spend years and thousands of dollars trying to put their lives back together. According to the Corps of Engineers, during the past 5 years there have been 85 floods in Kentucky causing actual damages amounting to $181,858,000. It is estimated that the floods of April 4–7, 1977, caused property damages well over $100 million to 15 southern Kentucky counties and took the lives of four persons.

The large number of floods, the actual damages caused by the floods, the sociological damages to persons requiring rehabilitation or relocation show the necessity for immediate design and construction of flood control measures to prevent or reduce damages from these repeated disastrous floods.

It is so much more logical and humane to try to prevent these floods in the first place. And if it can be done through the use of floodwalls and levees and modification of existing structures then we should move with haste to do so.

This emergency flood control legislation is absolutely vital and should receive the very highest priority we can give it.●

Mr. RANDOLPH. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator has used 19 minutes. He has 11 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. RANDOLPH. Yes.

Mr. ROBERT C. BYRD. I ask unanimous consent, Mr. President, that the final vote on passage of this measure occur at no later than the hour of 1:30 p.m. tomorrow rather than 2 p.m. and that paragraph 3 of rule XII be waived.

Mr. DOMENICI. Reserving the right to object, might I just discuss one question with the distinguished leader? The majority manager of the bill and I have been discussing the timing. We still have 8 or 10 amendments unrelated to locks and dam 26 and the user fees. I wonder if it would be appropriate to further agree that either the Long or the Domenici amendment will be the pending business at 1:30 p.m. today so that we can assure that we will get started on that this afternoon. It gives us the assurance that we will have this afternoon and part of tomorrow.

Mr. GRAVEL. If I might suggest 1:30 or before because we may not take the full debate time on the Panama Canal amendment and then the vote could proceed. The amendment of the Senator could be the pending business after the disposition of the Panama Canal amendment. The Senator and I could make judgments on other amendments being cleared.

Mr. ROBERT C. BYRD. Is this agreeable with Senator LONG, may I ask the distinguished Senator from New Mexico, inasmuch as he mentioned Senator LONG's name?

Mr. DOMENICI. I believe it would be. He and I discussed this morning that we would get together and work out arrangements so that this afternoon there would be that principal debate and vote. He was not looking for a great amount of time.

Mr. ROBERT C. BYRD. Does the Senator from Alaska believe that also?

Mr. GRAVEL. Yes.

Mr. ROBERT C. BYRD. Mr. President, I have no objection to adjusting my request in that fashion.

Mr. DOMENICI. Might I further reserve the right to object and state to the junior Senator from Missouri what we are agreeing to now is that final passage will occur no later than 1:30 tomorrow afternoon, and that at no later than 1:30 p.m. today we will begin the amendments and debates which concern themselves with lock and dam 26 and the taxes and user fees system.

Mr. DANFORTH. And that would also include the matter of the deep draft harbors?

Mr. DOMENICI. Yes. It has a time limitation on it. It would not come up before that, but we would start with whichever one comes up first at no later than 1:30 p.m. today.

The PRESIDING OFFICER. Is there objection to any part of the foregoing request?

Mr. RANDOLPH addressed the Chair.

The PRESIDING OFFICER. Does the Senator from West Virginia have an objection to the unanimous-consent request?

Mr. RANDOLPH. I have no objection.

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

● Mr. BARTLETT. Mr. President, included in the Water Resources Development Act of the 94th Congress was a provision authorizing construction of local, urban flood control projects in conjunction with ongoing Federal feasibility studies. The purpose of this provision was to assure local interests that they could initiate flood control improvements with the understanding that the cost of these improvements would be assumed by the Federal Government. Unfortunately, a termination date of December 31, 1977, was written into the law.

In response to this situation, I introduced S. 1036 on March 18, 1977. In doing so, I pointed out the extreme necessity of perpetuating this important program, and later the Environmental and Public Works Committee found that the essence of this legislation should be included in S. 1529 which passed the Senate on June 22, 1977.

This provision has again been included in Senator Randolph's amendment 1833 and I would like to again thank the chairman of the Environmental and Public Works Committee and the members of the committee for their farsighted decision to allow additional time for this new statutory authority to begin operating in eligible municipalities.

As you know, without the cooperation which this provision affords, completion of flood control projects requires several years of feasibility studies and authorization efforts. After being alerted to a flood control problem, the Corps of Engineers does what is called a reconnaissance report. If this report indicates the need and potential viability of a Federal projects, the corps then proceeds with an in-depth survey report which takes 2 or 3 years. The survey report is then submitted to Congress, which then may take 2 or more years to study the project before proceeding with authorization.

Once Congress does authorize the proposal, the corps then goes into what they call phase 1 and phase 2, which is planning and design of the project. This ordinarily takes as much as 3 or more years. Finally, after all of these lengthy steps, the construction begins. The indictment of the whole system is that the actual construction is the easiest step, often taking less than 2 years.

District engineers have lived with these procedures for many years and have suffered the abuses of many people who for good reason cannot understand why a flood control project requires 10 or 15 years for completion.

Mr. President, extension of section 134(a) of the Water Resources Development Act will enable the Federal Government to participate in a cooperative effort with local units of government on the projects that the local unit has planned and implemented.

The intention of this law is not to have the corps take over every local flood control project initiated by communities across the country, but to create a situation where efforts may be coordinated on certain specific projects which the district engineer has certified.

Section 408 of Senator RANDOLPH's amendment 1833 extends the program through 1985. Approval of this extension will greatly enhance the ability of local interests to raise funds for flood control projects—including bond issues—because people will know that a solution and actual project work are imminent rather than years in the future. In addition to the highly successful pilot project on Mingo Creek in Tulsa, other potentially eligible programs have been brought to my attention. These include the Sims Bayou project and the Cypress Creek project in Houston, and an ongoing project in Enid, Okla.

Without a mutually cooperative economic incentive, which section 408 provides, local officials are discouraged from taking initiative to solve local problems. This legislation will benefit everyone involved, since protection will be afforded much sooner and at a much lower cost than going through the drawn-out process followed in normal corps procedure.

Mr. President I again thank the distinguished Senator from West Virginia and I encourage the corps to take an active part in encouraging the use of this particular section.●

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

The PRESIDING OFFICER. Who yields time?

Mr. MARK O. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. GRAVEL. Mr. President, we have the Randolph amendment before us. From my side, we have no problem with that amendment. The Senate had passed it already and I had hoped we could dispose of this amendment and go on to other amendments like that of the Senator from Oregon. Maybe the minority will indicate its preference in this regard and we can yield back our time and vote on this amendment.

Mr. DOMENICI. The Senator from Oklahoma, I think, had been waiting.

The request of the Senator from Oregon has nothing to do with the Randolph amendment; does it?

Mr. MARK O. HATFIELD. No, I have three unrelated amendments and I wondered when I could dispose of them.

Mr. GRAVEL. There would be no problem considering that amendment right after the Randolph amendment.

Mr. DOMENICI. Before we dispose of the Randolph amendment, it is my understanding that the Senator from Oklahoma wants to offer an amendment; is that correct?

Mr. ALLEN. I do not believe the distinguished Senator from Oklahoma is ready to proceed. I have an amendment that I believe has been cleared.

UP AMENDMENT NO. 1283

Mr. DOMENICI. Is that an amendment to the Randolph amendment?

Mr. ALLEN. Yes, it is.

Mr. President, I send the amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. Do the Senators yield back their time on the Randolph amendment? Under the precedents of the Senate, the amendment to the Randolph amendment is not in order until all time has been yielded back on the Randolph amendment, except by unanimous consent.

Mr. RANDOLPH. I yield back my time.

Mr. GRAVEL. I yield back the remainder of our time.

Could we withhold that request for a moment? It might be better to have some time. We do have some time on the bill but we may need that for a more controversial area.

I ask unanimous consent that the amendment of the Senator from Alabama be in order at this time, so we do not have to yield back our time in case we need it.

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

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN), for himself and Mr. SPARKMAN, proposes an unprinted amendment numbered 1283 to amendment No. 1833, proposed by the Senator from West Virginia (Mr. RANDOLPH).

Mr. GRAVEL. 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 41, strike out lines 19 through 21 and substitute in lieu thereof the following:

"and of necessary retaining dikes, bulkheads, embankments, and movement of materials therefore."

Mr. ALLEN. Mr. President, the Mobile area in Alabama, particularly the Port of Mobile, is growing at a steady rate, and shipping needs for the port are expected to double or triple with completion of the Tennessee-Tombigbee waterway. Commerce and industry throughout the southeast are developing rapidly, and the Southern States are anxious to accommodate that growth with good planning, in order to stimulate economic improvements for the country as a whole.

Mobile Harbor will be one of the Nation's major ports for the handling of

fuel supplies and other important commodities shipped to and from 23 States and the world. In addition to this growing demand for expanded port facilities in the Southeast, there is a great need for port facilities for deep-draft shipping; those are the principal reasons for the construction of the Theodore Channel, the locally financed adjacent industrial park, and the State docks facility.

In fiscal year 1978, $4 million was appropriated to continue the design and preconstruction planning of the Theodore Channel. The total estimated Federal cost for the project now stands at slightly over $46 million, and non-Federal interests will be contributing a current estimated total of approximately $16 million. The most recent studies show that the benefit/cost ratio for the ship channel is still impressive at 2.7 to 1. Average annual benefits total $19.6 million, and average annual costs are just $7.2 million.

There is no doubt, Mr. President, that a major port facility at Mobile is greatly needed in the Southeast, there is also no doubt that the economic benefits from this particular project will be great. Theodore Channel has attracted major new industries that will bring with them economic growth and new employment opportunities. In fact, the economic benefits of this industrialization are already being realized. To date, approximately $422 million in private capital has been expended in the industrial park. Other major investment is forthcoming. The direct consequences of this development will be the creation of new jobs, increased personal earnings, increased bank deposits, and new retail sales. The industrial development made possible by the construction of the Theodore Channel will have far-reaching benefits for the entire Southeast.

In addition to this industrial investment, public and private utilities have spent approximately $25 million for electric power, gas, and sewer systems for the industrial park. These utilities include the Alabama Power Co., the Mobile Gas Co., and the Mobile Water and Sewer Board. The State of Alabama has constructed a bridge over the proposed canal and has under construction a major artery to connect the bridge with Interstate 10. The county of Mobile has constructed roads into the park. Also, the State has spent $1 million for a railroad extension into the industrial park.

I am greatly concerned, however, that almost half the State's total remaining contribution to the Theodore Channel project is for expenses necessary to comply with Federal environmental regulations, especially spoils disposal. I believe this is an undue financial burden on the State.

Mr. President, the favorable benefit/cost ratio on this project is attributable to the number of industries it is attracting and to the economic growth and transportation savings associated with the project. But those industries are dependent on the timely and orderly completion of the Theodore Channel. Based on a recent analysis of the contracting schedule for Theodore, it will not be completed until July 1981. Earlier completion of the project would advance realization of the project's commercial and industrial benefits, currently estimated at more than $18 million annually. It would also allow earlier utilization of the channel for industries which will have completed construction of new facilities in the industrial park in advance of the current completion date. In the long run, this would benefit the consumer and would certainly also reduce the total cost of the project, inflation factors considered. In testimony before the Senate Committee on Appropriations, the Corps of Engineers stated that the Theodore Channel project could be completed by December 1980.

But, Mr. President, a major impediment to rapid completion of this project is the burden which has been placed on the State of Alabama and other political subdivisions of the State in connection with complying with environmental requirements associated with the Theodore Channel project.

The placement of dredge material has become a major issue in dredging operations for new projects, as well as maintenance of existing harbors in the United States. To handle the material resulting from the dredging of the Theodore Ship Channel, the Corps of Engineers, in coordination with the Environmental Protection Agency and with input from many Federal, State, and local agencies, as well as environmental interests, designed a plan for accommodating the spill disposal which entailed the construction of an island in Mobile Bay. This alternative was a requirement of EPA. Previous dredging projects utilized open water disposal without diking. This Federal decision requires the construction of retaining dikes, bulkheads, and embankments. Present authorization of the Theodore Ship Channel requires the local interest to fund the construction of these facilities.

This amendment provides for modifying the project for navigation improvements in Mobile Harbor, Theodore Ship Channel, in Alabama, approved for resolutions of the Committee on Public Works of the Senate and the Committee on Public Works of the House of Representatives dated December 15, 1970, and modified by section 112 of the Water Resources Development Act of 1976. It further provides for the modification of the above act to provide that the non-Federal interest shall contribute 25 percent of the cost required for initial and subsequent disposal of spoil and the necessary retaining dikes, bulkheads, and embankments needed to accomplish the construction of the project. In the legislation authorizing the Theodore Ship Channel, the Board of Rivers and Harbors stipulated that the non-Federal interest would be required to pay 5 percent of the total dredging cost of the project in order to offset the cost of transporting dredged material to the site of the island where it would be used for the construction of dikes, bulkheads, and embankments. This legislation pertains to the non-Federal cost for erosion protection for the island and the movement of materials to construct the proper dikes to retain further dredged material.

Inasmuch as the island disposal, erosion protection, and transport of material therefor are requirements of the Federal Government, this provision is offered to provide for Federal sharing in the costs.

Now, Mr. President, the Theodore Channel provision was a part of S. 1529, which was the Senate version of H.R. 5885. Both measures are now dormant and are not expected to be enacted. Accordingly, the Theodore Channel provision was originally included as a part of both the Domenici substitute amendment and as a part of the basic Gravel amendment to the House bill. I am, of course, gratified that the Committee on Environment and Public Works has seen fit to include the Theodore Channel provision and that the committee recognizes the desirability of lifting this unexpected financial burden from local government. However, I am advised that the provision as presently written in both amendments may be misinterpreted, and therefore I am offering a clarifying amendment to the Randolph amendment 1833 designed to insure that the movement of materials for bulkheads and dikes, as well as the cost of initial and subsequent disposal of spoil, will be encompassed by the provision for Federal assumption of a portion of the cost imposed in meeting Federal environmental standards. This clarifying amendment will not raise projected costs but will insure that the provision has the effect originally intended; that is, assumption by the Federal Government of at least 75 percent of environmentally required expenditures.

I have discussed this amendment with Mr. GRAVEL, Mr. DOMENICI, and Mr. RANDOLPH.

Mr. GRAVEL. I have no problem with the amendment.

Mr. DOMENICI. We have no objection.

Mr. GRAVEL. I yield back the remainder of my time.

Mr. ALLEN. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from West Virginia desire to speak in opposition to the amendment?

Mr. RANDOLPH. No, I was just seeking recognition.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Alabama to the amendment of the Senator from West Virginia.

The amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from West Virginia as amended. Who yields time?

Mr. BELLMON. I just have two amendments to the Randolph amendment.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the two amendments which the Senator from Oklahoma will offer as amendments to the Randolph amendment be in order at this time.

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

AMENDMENT NO. 1844

Mr. BELLMON. Mr. President, I call up amendment No. 1844.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON), on behalf of himself and Mr. BARTLETT, proposes an amendment numbered 1844 to the amendment of the Senator from West Virginia (Mr. RANDOLPH) numbered 1833.

At the appropriate place in the bill add the following new section:

SEC.— (a) The authorization for the Tenkiller Ferry Lake project, Arkansas River, Oklahoma, contained in the Flood Control Act approved June 28, 1938, is hereby amended to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to design, construct, and provide treatment facilities and a regional conveyance system of water from Tenkiller Ferry Lake for the ownership, use, operation, and maintenance of non-Federal public entities at an estimated cost of $100,000,000.

(b) Non-Federal public entities which use the facilities to be constructed at initial Federal costs under this Act, shall repay such costs and the Federal costs of any interim maintenance of the facilities in accordance with the principles of the Water Supply Act of 1958 (Public Law 85-500); *Provided*, That the allocation and initiation of these repayment requirements shall be scheduled by the Secretary of the Army, as he determines to be equitable, considering factors such as the date of initiation and extent of benefit and usage of the facilities.

Mr. BELLMON. Mr. President, this amendment deals with a unique situation we have in the State of Oklahoma. The eastern part of our State is blessed with many beautiful lakes built by the Corps of Engineers. Yet, right in the same area where these lakes are located are many cities and towns which have extremely serious water shortages, and their rural water districts are facing the same problem. Many of these districts and towns are so small that they cannot, on their own, build a water transportation, water distribution, or water treatment system. Therefore, even though they are situated in an area of abundant water supply, they are virtually without water. This amendment, numbered 1844, is offered to authorize the Secretary of the Army, acting through the Corps of Engineers, to build a water treatment facility and a regional transportation system at Lake Tenkiller to the communities in the Tenkiller area. The amendment requires that the entities which use the water from the treatment facility and regional transportation system reimburse the Federal Government for the cost of the project and pay interest on the money they borrow.

The Bureau of Reclamation, which plans and constructs water storage projects, currently has authority to construct a system for the distribution and treatment of the waters impounded. It makes little sense to me to have huge quantities of water stored in Lake Tenkiller and no system for distributing this water to the areas which could benefit from its use.

Mr. President, the communities surrounding Lake Tenkiller do not have the resources to undertake water treatment and distribution projects on their own but they can do it jointly.

What is needed here is a vehicle, which I believe the Corps of Engineers could well provide, to make this economically possible and to bring the water from where it is located to the places where it is needed. I believe that Members can see that it would be totally uneconomical for each community or rural water district to attempt to build an individual water treatment and distribution system on its own. It is far more efficient to establish the authority for the Corps of Engineers to plan, design, and construct a system at Tenkiller on a fully reimbursable basis. In this way, a coordinated approach to the problem can be made with a significant savings in cost and improvement in efficiency which will benefit all involved.

Mr. President, this amendment corrects what I consider to be a serious oversight in the existing authority of the Corps of Engineers. In closing, I want to emphasize that the full cost of the system plus interest would be repaid to the Federal Government by communities in the Lake Tenkiller area that participate in the development of this water treatment and distribution system.

Mr. GRAVEL. Mr. President, I have no problems with this. This is something that we are doing in other areas. If there is something we discover about it between now and the time of the conference, we can address ourselves to that with the concurrence of the Senator from Oklahoma. I am prepared to accept it.

Mr. DOMENICI. I have no problem with this amendment. I say to the distinguished Senator from Oklahoma that in the amendments that our chairman (Mr. RANDOLPH) introduced, there is a correction of the error that he describes here, in that the corps is limited in his part of the country and in other huge parts of the country from involving itself in single purpose water supply projects. We thought that, with the water shortage we have in the country, with their expertise and capacity, they ought to have the authority nationwide, so long as it is under all of the required feasibility impediments, plus the recoupment provisions.

The Senator is just quickly implementing the general language that is now in the bill by seeking its application in one area, as I understand it.

Mr. BELLMON. Mr. President, that is the case.

Mr. GRAVEL. I yield back the remainder of my time.

Mr. BELLMON. Mr. President, I need to amend the amendment as it was introduced. It should read "At the appropriate place in the pending amendment, add a new section."

The PRESIDING OFFICER. Without objection, the amendment is so amended.

Mr. GRAVEL. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment, as amended was agreed to.

AMENDMENT NO. 1845

Mr. BELLMON. Mr. President, I call up amendment No. 1845.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON), on behalf of himself and Mr. BARTLETT, proposes an amendment numbered 1845 to the amendment of the Senator from West Virginia (Mr. RANDOLPH) numbered 1833:

At the appropriate place in the bill add the following new language: "In single and multiple purpose projects needed to meet anticipated demand, and for treatment and transportation to regions of the Nation with present or anticipated water shortages".

Mr. BELLMON. Mr. President, I would like to modify the amendment and I will read the new language:

On page 15, lines 5 through 7 strike the following language "needed to meet present and anticipated demand, and for its transportation to regions of the Nation with present or anticipated water shortages:" and add the following new language "in single and multiple purpose projects needed to meet anticipated demand, and for its treatment and transportation to regions of the Nation with present or anticipated water shortages:"

All this does, Mr. President, is give the Corps of Engineers the future authority to handle these projects the same way that the Bureau of Reclamation already does.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

Mr. GRAVEL. I have no objection to the amendment.

The PRESIDING OFFICER. Do Senators yield back all time?

Mr. GRAVEL. I yield back the remainder of my time.

Mr. BELLMON. Before the time is yielded back, Mr. President, as our country grows, it is becoming increasingly obvious that the development of our water resources is a matter of the very highest priority. Already in many sections of the Nation, the ability to support future growth is seriously hampered by the lack of dependable supplies of potable water.

Many Government agencies have a vital role in developing and preserving our Nation's water resources. The Environmental Protection Agency, the National Oceanic and Atmospheric Agency, the Bureau of Reclamation, the Corps of Engineers, the Geologic Survey, and many others are involved.

The impoundment and storage of water is primarily the responsibility of the Bureau of Reclamation and the Corps of Engineers. Both of these agencies have done a remarkably successful job of developing water resources in the areas they serve. However, there is a serious difference in the authority between these two agencies which my amendment attempts to correct.

When the Bureau of Reclamation plans and constructs a water storage project, present law gives the agency the authority to construct a system for the

distribution and treatment of the waters impounded. The Corps of Engineers up until this time has had no such authority. The result is that in many areas of the country huge quantities of water are stored in Corps of Engineers projects and no system exists for distributing this water to the areas which could benefit from its use. Impoundments built by the Bureau of Reclamation are not limited by this handicap.

My amendment would give the Corps of Engineers the authority to include the construction of a water treatment and distribution system in the planning of future single and multiple-purpose projects. These systems would be built on a fully reimbursable basis so that there would be no ultimate costs to the U.S. taxpayers.

Mr. President, communities surrounding the Corps of Engineers projects rarely have the resources to undertake water treatment and distribution projects on their own. Further, it is totally uneconomical for each community or rural water district to attempt to build an individual water distribution and treatment system on its own. It is far more efficient to establish the authority for the Corps of Engineers to plan, design, and construct these systems on a fully reimbursable basis. In this way, a coordinated approach to the problem can be made with a significant savings in cost and improvement in efficiency which will benefit all involved.

Mr. President, this amendment corrects what I consider to be a serious oversight in the existing authority of the Corps of Engineers. There is no reason why this agency should not have the same responsibilities in dealing with water developments as the Bureau of Reclamation has historically had. This amendment will do much to meet the future water needs of a large section of our country and I urge its adoption.

The PRESIDING OFFICER. Is all time yielded back?

Mr. GRAVEL. Yes.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment, as modified, of the Senator from Oklahoma.

The amendment, as modified, was agreed to.

UP AMENDMENT NO. 1284

Mr. RANDOLPH. Mr. President, I send to the desk an amendment which I offer on behalf of the Senator from Hawaii (Mr. INOUYE).

The PRESIDING OFFICER. The Senator's original amendment is still the pending question.

Mr. RANDOLPH. This is an amendment to that amendment.

The PRESIDING OFFICER. Without objection, the amendment will be in order and the clerk will state the amendment.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. RANDOLPH), for Mr. INOUYE proposes an unprinted amendment numbered 1284.

Mr. RANDOLPH. 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 19, line 3, delete all through line 19 and insert the following:

SEC. 418. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to make studies in cooperation with the governments of the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Mariana Islands for the purposes of providing plans for the development, utilization, and conservation of water and related land resources of such Territory and Commonwealth. Such studies shall include appropriate consideration of the needs for flood protection, wise use of flood plain lands, navigation facilities, hydroelectric power generation, regional water supply and waste water management facilities systems, general recreation facilities, enhancement and control of water quality, enhancement and conservation of fish and wildlife, and other measures for environmental enhancement, economic and human resources development, and shall be compatible with comprehensive development plans formulated by local planning agencies and other interested Federal agencies.

Mr. RANDOLPH. Mr. President, this amendment adds the Commonwealth of the Northern Marianas. It would add a study provision and that study provision is in my amendment. It would only add that area. It is a very proper amendment and I believe it should be included.

ASSISTANCE TO THE TRUST TERRITORY OF THE PACIFIC ISLANDS AND THE COMMONWEALTH OF THE NORTHERN MARIANAS

● Mr. INOUYE. Mr. President, on April 25, 1977, I introduced a bill, designated as S. 1376, that would authorize the Secretary of the Army, acting through the Chief of Engineers, to make a study in cooperation with the government of the Trust Territory of the Pacific Islands in order to promote improved planning for the management of its water and related land resources.

My bill was subsequently accepted by the Committee on Environment and Public Works and was designated as section 118 of the omnibus rivers and harbors bill passed by the Senate last summer as its version of H.R. 5885.

On January 9, 1978, the Northern Marianas achieved official commonwealth status and its government is now completely separate from that of the Trust Territory of the Pacific Islands. The intent of my amendment is simply to preserve the original purpose of the bill: The provision of prudent and timely planning assistance to the governments of both the Trust Territory of the Pacific Islands and the new Commonwealth of the Northern Mariana Islands in the development, utilization and conservation of their water and related land resources for the benefit of their people.

In this regard, I wish to bring to your attention a letter I received from Mr. Erwin D. Canham, then the Resident Commissioner of the government of the Northern Mariana Islands in support of this type of assistance for the new Commonwealth of the Northern Mariana Islands. I ask that the text of Mr. Canham's letter be printed following my statement.

(See exhibit 1.)

Mr. INOUYE. Mr. President, I urge your approval of this technical, but very worthwhile change to my bill that was previously accepted by the Committee on Environment and Public Works. I believe that this legislation is urgently needed and will be of considerable benefit both to the people of the Trust Territory of the Pacific Islands and to the citizens of the Commonwealth of the Northern Mariana Islands.

The text of the letter from Mr. Erwin D. Canham follows:

EXHIBIT I

GOVERNMENT OF THE NORTHERN MARIANA ISLANDS,
Saipan, Mariana Islands, April 18, 1977.

Hon. DANIEL K. INOUYE,
U.S. Senate, Russell Office Building, Washington, D.C.

DEAR SENATOR INOUYE: The new Government of the Commonwealth of the Northern Marianas will be placing great emphasis on water and land resources management planning. Contacts have been established with the Army Corps of Engineers, Honolulu Branch, relative to the type of assistance the Corps can provide to the Commonwealth of the Northern Marianas in the above area. We were informed that before the Army Corps of Engineers can provide any assistance to the Northern Marianas, legislation is required.

The purpose of this letter is to request your assistance in the passage of an enabling legislation to authorize such studies. The required legislation will authorize and direct the Secretary of the Army, acting through the Chiefs of Engineers, to make a study in cooperation with the Northern Mariana Islands with particular reference to providing a plan for the development, utilization and conservation of water and related land resources. Such study shall include appropriate consideration of the needs for flood protection, wise use of flood plains, navigation facilities, hydroelectric power generation, regional water supply and waste water management facilities systems, general recreation facilities, enhancement and control of water quality, enhancement and conservation of fish and wildlife, and other measures for environmental enhancement, economic and human resources development, and shall be compatible with comprehensive development plans formulated by local planning agencies and other federal agencies.

The Government of the Northern Marianas respectfully solicits your assistance in the introduction of the above-mentioned legislation and also appropriation therefor.

Mr. Clarence Fujii at the United States Army Corps of Engineers, Honolulu Branch, Telephone Number 808/438-9218, can provide all of the required information with regards to their assistance program for the Northern Marianas and the estimate of funds required for appropriation to undertake the planning studies which will outline areas of need for development.

Thank you in advance for your assistance.

Sincerely yours,

ERWIN D. CANHAM,
Resident Commissioner.●

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

Mr. GRAVEL. Mr. President, I move that we strike from the Randolph amendment section 424.

The PRESIDING OFFICER. Does the Senator refer to the second?

Will the Senator restate it?

Mr. GRAVEL. Yes.

I send my amendment to the desk to strike the whole section.

I send to the desk an amendment in more proper form than the one I just submitted.

The PRESIDING OFFICER. There is still a second-degree amendment pending and, therefore, without unanimous consent——

Mr. GRAVEL. I ask unanimous consent that my amendment be considered in order.

The PRESIDING OFFICER. Is there objection?

Do the Senators wish to have a second-degree amendment disposed of at this time?

Mr. GRAVEL. The amendment I just sent to the desk, I wish disposed of, yes.

If I might explain it, it is a very simple amendment.

Mr. DOMENICI. We have a parliamentary problem.

The PRESIDING OFFICER. The Senator from West Virginia has a first- and second-degree amendment pending at this juncture.

Mr. GRAVEL. I yield back all time so we can vote.

The PRESIDING OFFICER. Without objection, the question is on——

Mr. RANDOLPH. Speaking about the Inouye matter, is that correct?

The PRESIDING OFFICER. Without objection, the question is on agreeing to the second-degree amendment to the amendment of the Senator from West Virginia.

The amendment was agreed to.

UP AMENDMENT 1285

(Purpose: To strike a section which was embodied in a previous amendment)

The PRESIDING OFFICER. The amendment of the Senator from Alaska is now in order and the clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes an amendment numbered 1285 to the amendment proposed by Mr. RANDOLPH numbered 1833:

On page 23, line 18, strike all through line 15 on page 26.

Mr. GRAVEL. I have already explained the amendment. It is language already adopted yesterday, and therefore, it is redundant in this section of the bill.

I move for adoption and yield back the time.

Mr. DOMENICI. We yield back our time. This just cures the amendment in that we adopted separate language yesterday taking the place of this section.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. RANDOLPH. Mr. President, I make an inquiry of the Chair.

The PRESIDING OFFICER. The Senator will state it.

Mr. RANDOLPH. What is the present status of the amendment that I offered and the amendments thereto from the standpoint of the time which has been consumed?

The PRESIDING OFFICER. The Senator from West Virginia has 6 minutes remaining of debatable time. The Senator from New Mexico, 28 minutes remaining of debate time on the amendment No. 1833, as modified and amended.

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

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

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to amendment No. 1833, as modified and amended.

The amendment, as modified and amended, was agreed to.

Mr. GRAVEL. I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1791

Mr. MARK O. HATFIELD. Mr. President, I call up my amendment numbered 1791.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. MARK O. HATFIELD) proposes an amendment numbered 1791.

Mr. MARK O. HATFIELD. 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 17, after line 5, insert the following and number accordingly:

SEC. . The project for construction of navigation improvements at Chetco River, Oregon, substantially as described in the report of the Chief of Engineers dated May 2, 1977, is hereby authorized at an estimated Federal cost of $4,112,000.

Mr. MARK O. HATFIELD. Mr. President, I know the leadership is familiar with the two projects represented in amendments Nos. 1791 and 1790. They are similar in that these are two small ports along the Oregon coast which have uneven jetties. North Pacific division of the corps has recommended those jetties be evened out in order to prevent the problem of shoaling, particularly during winter periods, which brings about great danger to human life as well as property.

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

Mr. MARK O. HATFIELD. I yield.

Mr. DOMENICI. Is this project on the Chetco River?

Mr. MARK O. HATFIELD. Yes; the first one is the Chetco project, but there is a similarity between the Chetco project and the Siuslaw, which is No. 1790.

The Chetco project, which involves $4.1 million, was left out of the 1976 Water Resources Development Act. Because it was such a small project, it was thought that it would be best to take up under section 201 guidelines.

Mr. President, this project has been approved through chain of command up through the Office of the Secretary of the Army. The problem we have with the Chetco project is that it is a victim of administrative procedure that has postponed action. The Office of Management and Budget is holding these projects until the President's water policy has been established.

Mr. GRAVEL. We have no problem in accepting the Chetco navigation project. I think the Senator is moving very aggressively in that regard.

With respect to the Siuslaw project, our problem is, as the Senator says, that it has been turned down once by the Corps of Engineers. There is controversy in the corps itself as to whether or not and how it should be built.

I, for one, would be reluctant to move as aggressively on that, when we do not have a final report; but if we had no indication that there was any controversy, I think we would accommodate the Senator. Because there is controversy from a technical point of view—I am not a technician—I am reluctant to accept this amendment.

I do not think I would be doing the Senator from Oregon a favor in that regard, because that would exacerbate these technical differences rather than bringing it about in an orderly fashion.

Mr. MARK O. HATFIELD. I have a last-minute reprieve from the chief's office on this particular problem, in that the chief's office last week approved the Siuslaw project report. I am speaking now of the feasibility report.

I appreciate the Senator's concern, but I felt much freer now to raise this at this time, with the feasibility study having been approved by the chief's office, at this late hour, in order to get this accepted now on the floor. Otherwise, as the Senator realizes, this project is just a little over the limitation of section 201.

Mr. GRAVEL. Obviously, the objections I was enunciating are, in the words of a famous American, no longer operative. We have different information. Obviously, the Senator's information is more current than ours. If there is some difficulty, we can clear it up in conference.

Mr. MARK O. HATFIELD. I have only made this request conditioned upon the fact that we have the Chief's approval at this time.

Mr. GRAVEL. I think that is clear in the RECORD now. So why do we not accept the Senator's first amendment as to Chetco and vote on that, and then proceed with the other?

Mr. MARK O. HATFIELD. I thank the manager of the bill.

Mr. President, I move the adoption of amendment No. 1791, the Chetco project, and I yield back the remainder of my time.

Mr. GRAVEL. I yield back the remainder of my time.

Mr. DOMENICI. We have no objection, Mr. President.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Oregon.

The amendment was agreed to.

Mr. GRAVEL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MARK O. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1790

Mr. MARK O. HATFIELD. Mr. President, I call up amendment No. 1790.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. MARK O. HATFIELD) proposes an amendment numbered 1790.

Mr. MARK O. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 17, after line 5, insert the following and number accordingly:

SEC. . (a) The authorization of phase I engineering and design contained in section 101(a) of the Water Resources Development Act of 1976 (Public Law 94-587, 90 Stat. 2918) for navigation improvements on the Siuslaw River and Bar, Oregon, is hereby terminated.

(b) The project for construction of navigation improvements on the Siuslaw River and Bar, Oregon, substantially as described in the report of the Division Engineer, North Pacific Division, dated June 16, 1976, is hereby authorized at an estimated Federal cost of $17,148,000.

Mr. MARK O. HATFIELD. Mr. President, this is the other project which we had considered in tandem with the Chetco, the Siuslaw project, about which the manager of the bill has indicated a change of heart due to a last-minute reprieve from the Chief's office.

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

Mr. MARK O. HATFIELD. I yield.

Mr. RANDOLPH. Mr. President, it is very important for those of us in the Environment and Public Works Committee to attempt always to have the information from the Corps of Engineers; but, also, there is an equity that constantly is involved. When statements such as have been made by the able Senator from Oregon are a part of the RECORD, together with the response by the chairman of our Subcommittee on Water Resources, we are delighted to move on a project of this kind.

Mr. MARK O. HATFIELD. Mr. President, the Senator from West Virginia as well as Senator GRAVEL and Senator DOMENICI always have been most helpful. I speak not only for myself but also for all the people of Oregon when I thank them for their consideration.

I yield back the remainder of my time.

Mr. GRAVEL. I yield back the remainder of my time.

Mr. DOMENICI. We have no objection.

I say to the distinguished Senator that, yesterday, a number of projects much further down the pipeline of orderly development than this were approved. We appreciate the Senator supplying the information from the corps today.

Mr. MARK O. HATFIELD. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon.

The amendment was agreed to.

Mr. MARK O. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAVEL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1286

(Subsequently numbered amendment 1930)

Mr. MARK O. HATFIELD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. MARK O. HATFIELD) proposes an unprinted amendment numbered 1286.

Mr. MARK O. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 17 after line 5, insert the following and number accordingly:

The Yaquina Bay and Harbor Project, Oregon, authorized by the River and Harbor Act of 2 March 1919, as modified by subsequent Acts, is further modified to authorize the Chief of Engineers to provide for vehicular access to public use areas on lands which have accreted as a direct result of construction of the project, subject to the provision that local interests provide necessary lands, easements, and rights of way for such modification. The estimated Federal construction cost of this modification is $5,000,000.

Mr. MARK O. HATFIELD. Mr. President, I would like the manager of the bill to understand this amendment clearly, because this is one that involves a rather unique situation.

This happens to be in my home community, a fishing village on the Oregon coast. It is Yaquina Bay, which is one of our important ports.

Since the navigation improvement project was completed there in 1890, land has been accreting in the shadow of the jetties that were constructed to stabilize and maintain the entrance to Yaquina Bay. As a result, there has been a very attractive beach developed by these accreted lands south of the south jetty. To provide the access to these beaches a county road was built. But the condition of the jetty is making maintenance of this existing road virtually impossible.

This is a small village of about 6,000 people, so it is not a heavily populated area. In order to have year-round access, they would have to raise the jetty from an elevation of the present 10 feet to 18 feet for a distance of about 3,800 feet. The total cost would be about $2.2 million.

We have had about 680,000 visitors annually to this particular area. If you use the low and high values of visitor-day usage of 75 cents to $2.25, respectively, it gives an annual benefit ranging from about $510,000 to $1.5 million. That is using a 6.58-percent discount rate.

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

Mr. MARK O. HATFIELD. I yield.

Mr. GRAVEL. We have the problem that we know nothing about this project other than what the Senator is telling us right now. I think the Senator can appreciate, after his experience in this Chamber, that we, as a committee, in order to act responsibly on these things, need to have some kind of notice so that we can make some kind of inquiry. Apparently, there has been no staff contact on this at all. It undoubtedly is something very meritorious, and we would be prepared to take it to a hearing; but right now we are totally blind on it. I have spoken to my staff, and they do not know anything about it, either.

It is most difficult for us to accommodate my good friend from Oregon—as I would be happy to do, as I have illustrated with respect to the other amendments—without some advance notice and some participatory role in our capacity as a committee.

Mr. MARK O. HATFIELD. I say to the Senator that I cannot argue with the logic of his statement.

It was expected that we could deal with this matter on the appropriations measure in the Public Works Subcommittee, of which I am the ranking minority member. We expected to move in that direction. We found out only as recently as last week that we could not move in that direction, that we would have to have some formal authorization.

I have worked with the local district office on this matter. I certainly understand the point made by the manager of the bill.

It is a rather small amount; it is a rather small project. It is an improvement-type project. It does not carry with it a great deal of money. There is a lot of local involvement—$200,000.

Mr. GRAVEL. I do not question the merits of it. The Senator is so authoritative with respect to his State, that I would not question the merits at all. The Senator has to appreciate that if we are to act responsibly in a leadership role, we should have knowledge of our own as to the subject. All I can say is that we have not been contacted. I have no knowledge of it right now, and my staff has no knowledge of it; so I am in the position that I do not know what to say, other than the fact that it may have merit, but we do not know.

Mr. MARK O. HATFIELD. I understand, and I know the Senator's keen interest in all these matters and his fair mind and objectivity, and I say the same for Senator DOMENICI and all the members of the committee. I feel it is so meritorious that I wish to push it as hard as I can, but I also respect the procedures of the committee. So with assurance from the leadership that we will have expeditious hearing and handling of this matter at an early date, if I may have that assurance, I shall be very happy to withdraw my amendment.

Mr. DOMENICI. I say to the Senator from Oregon I am prepared to accept it from my standpoint. There were a number of amendments which we accepted yesterday which for one reason or another did not fit the phase I policy, which may very well not be working. But the Senator's explanation and what he will put in the RECORD on this will be as much as we know about four or five that I am

now looking at, as I review the RECORD of amendments accepted yesterday. I do not give the Senator any assurance it will remain there after conference, but from my standpoint I am prepared to accept it.

Mr. GRAVEL. I only say that this would be the first one that in my consultations with staff on the majority side we have no knowledge of at all, and maybe the minority does not have some knowledge of others that we passed on. If the Senator wishes to withdraw this amendment, I will be happy to look at it overnight and get some information so we have some inkling, as we are now flying by the seat of our pants, and if there are no problems at the corps level with it we will be prepared to go forward with it, but in the absence of that I shall have to oppose it and call for a rollcall vote.

Mr. MARK O. HATFIELD. I will then have an opportunity overnight to get additional information and have the Senate consider it tomorrow.

Mr. GRAVEL. I guarantee the Senator we will make time available from the bill so he can reoffer his amendment after we have had a chance to take a look at it.

Mr. MARK O. HATFIELD. I shall be very happy, and I appreciate the generosity of the Senator from New Mexico.

Mr. GRAVEL. I merely ask that the Senator have his staff contact our staff so we are in communication on that.

Mr. MARK O. HATFIELD. Let us withdraw it temporarily and set it aside temporarily with the idea that we will take it up tomorrow after we have had further information.

Mr. GRAVEL. I thank my colleague. He was very accommodating on the other two, and we merely want to be somewhat informed.

Mr. MARK O. HATFIELD. The Senator has been very accommodating, and I am very grateful to Senator DOMENICI also.

The PRESIDING OFFICER (Mr. ANDERSON). Does the Senator withdraw the amendment?

Mr. MARK O. HATFIELD. No.

I ask unanimous consent that it be set aside until tomorrow.

The PRESIDING OFFICER. Without objection, the amendment is set aside until tomorrow.

Mr. DOMENICI. 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. GRAVEL. 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. 1287

(Purpose: To authorize construction of a public recreation area in Indiana)

Mr. BAYH. Mr. President, I send an amendment to the desk, please.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk proceeded to read the amendment.

Mr. GRAVEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. BAYH. Mr. President, I thought the reading would be helpful.

Mr. GRAVEL. If the Senator feels that the reading should continue, I withdraw my unanimous-consent request.

The PRESIDING OFFICER. The clerk will continue reading.

The assistant legislative clerk concluded the reading of the amendment.

The amendment is as follows:

At the proper place in the bill insert a new section as follows:

SEC. . (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to construct at Federal expense a public recreation area on the north shore of the Ohio River at or in the vicinity of Rockport or Grandview in Spencer County, Indiana.

(b) Prior to construction the Secretary of the Army, acting through the Chief of Engineers, shall enter into an agreement with appropriate non-Federal interests to the effect that such non-Federal interests shall operate and maintain such structures and facilities for public park and recreation purposes.

(c) The Secretary of the Army, acting through the Chief of Engineers, is directed to dispose of the existing undeveloped recreation lands through exchange with the Indiana-Michigan Electric Company, which will provide land suitable for recreation development.

Mr. BAYH. Mr. President, the amendment I am offering today is meant to permit construction of a boat-launching facility that the people of Spencer County, Indiana have been promised for the last 20 years. The amendment is necessary because construction of this recreational facility has been held up by a number of events beyond the control of the county's residents, and the Corps of Engineers no longer has authority to proceed with the project without explicit congressional authorization.

Let me backtrack a little, Mr. President. At the time the Congress authorized construction of the Newburgh Navigation Lock and Dam Pool on the Ohio River, the Army Corps of Engineers possessed authority, under the 1944 Flood Control Act, to build recreational facilities associated with navigational projects. Under this authority, in 1972 the Louisville District Corps began discussions with the Spencer County Parks and Recreation Board which led to plans to build a public boat-launching facility promised Spencer County for years. To make good on this promise, the corps purchased a 30-acre tract located between Rockport and Grandview, at Honey Creek, and began planning for construction of this boat launching site on the Ohio River, which is one of the county's greatest recreational assets.

These plans, Mr. President, were disrupted, through no fault of the county's residents, when the Indiana-Michigan Electric Co. announced plans for development of a new coal-fired electric generating plant at Rockport, Ind. The area acquired by the power company purchased by the corps for the boat purchased by the corps for the boat launching site.

Once these plans became known, it was obvious to all interested parties that the Honey Creek site originally purchased by the corps for recreational purposes would no longer be appropriate. Therefore, all participants went back to the drawing boards and came up with a mutually satisfactory solution. Indiana-Michigan agreed to take an option to buy an alternative site—near Grandview, Ind.—and swap this land with the parcel the corps had purchased at Honey Creek. Once again, town and county officials were assured that if they could assume responsibility for operating and maintaining the boat launching facility, the corps would make good on its earlier plans to construct the facility.

At this point, once again, events outside the local community transpired that doomed the project. Last summer, the Army counsel ruled that although the corps has been building such projects for years under the 1944 Flood Control Act, it had overstepped its statutory authority and could no longer purchase or acquire lands for recreation purposes on navigational projects for which recreational facilities have not been specifically authorized by the Congress.

The upshot of all this, Mr. President, is that, through no fault of their own, my constituents will be deprived of an important community asset unless the Congress rectifies this situation, because of a bureaucrat's ruling in Washington and the decision of a major utility to buy up local land for a powerplant. This is true despite the fact that residents of the State of Kentucky have benefited from recreational projects initiated at the same time the Spencer County project was originally planned, as part of the Neuburgh navigation lock and dam pool.

Mr. President, I submit that my constituents in Spencer County, who have negotiated in good faith with the corps for years, have had the rules changed on them in the middle of the game and are being deprived of a community resource that is rightfully theirs. I urge my colleagues to support this amendment to authorize the Corps of Engineers to proceed with the planned land swap, between Indiana-Michigan and the corps, as well as the construction of this much needed county recreational facility.

Mr. President, I appreciate the courtesy of the two managers of this very important piece of legislation in permitting the Senator from Indiana to introduce an amendment at this time.

Mr. DOMENICI. Mr. President, will the Senator yield? I have no objection. I have an emergency call for a moment, and I just wanted to comment for the minority side and say that I have no objection.

Mr. BAYH. I appreciate the thoughtfulness of our colleague from New Mexico.

Mr. GRAVEL. Mr. President, if the Senator would yield to me, I also have no objection. In fact, I think this is an unusual situation where the people in the area have a high degree of unemployment and there is a possibility of establishing a tourist industry which

would create some employment which would revitalize the economic community from the general point of view, so I want to commend the Senator for bringing this project to our attention.

I am prepared to accept it, and we will fight to keep it in conference.

Mr. BAYH. I thank my colleague for recognizing the importance of this to the citizens of southern Indiana.

Mr. GRAVEL. I yield back the remainder of my time, if the Senator will yield back his time.

Mr. BAYH. I yield.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

Mr. GRAVEL. I move to reconsider the vote by which the amendment was agreed to.

Mr. BAYH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAVEL. Mr. President, I thank my colleague and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UP AMENDMENT NO. 1288

Mr. GRAVEL. Mr. President, I send to the desk an 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 Alaska (Mr. GRAVEL), for Mr. HUDDLESTON, offers an unprinted amendment numbered 1288.

Mr. GRAVEL. 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:

At the proper place in the bill insert the following:

"SEC. . Section 62(c) of the Water Resources Act of 1974 is amended by striking out "$330,000" and inserting in lieu thereof "$500,000.".

Mr. GRAVEL. Mr. President, this amendment is the same amendment that we have previously cleared with the staff and the leadership for Mr. HUDDLESTON. I am merely offering it in his behalf in his absence.

I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, is this the amendment that would change the language "not to exceed $330,000" to a figure of $500,000?

Mr. GRAVEL. That is correct.

Mr. DOMENICI. We have not had an opportunity to review it, but it appears to be a valid request, and we have no objection.

Mr. GRAVEL. I yield back the remainder of my time.

Mr. DOMENICI. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Without objection, the amendment is agreed to.

Who yields time?

Mr. GRAVEL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAVEL. 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. DOMENICI. 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. 1289

Mr. DOMENICI. Mr. President, I send an unprinted amendment 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 New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 1289.

Mr. DOMENICI. Mr. President, I ask unanimous consent to dispense with further reading of the amendment.

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

The amendment is as follows:

On page 17, after line 5, insert the following:

"Sec. . The project to increase flood control by raising the height of levees and other associated works, as part of the project for the Rio Grande River and Tributaries, New Mexico and Colorado, in the area of Albuquerque, N.M., now under consideration by the District Engineer in Albuquerque, is hereby authorized for construction at not to exceed $40,000,000."

Mr. DOMENICI. I have discussed this amendment with the manager of the bill, Mr. President. This project has been under examination by the corps for a number of years. It has to do with levees that have been heretofore constructed by the Federal Government which need adjusting because of changes in the river system and the urban development around it. This amendment would merely authorize the work which is now pending in the regional office. It is an authorized project.

Mr. GRAVEL. Mr. President, I can only tell my colleague from New Mexico that I am very happy he is pushing for a system which will create revenue to pay for some of these projects.

This project essentially is no different than some of the other projects in question. I believe we will have a chance to go over it in conference and get further information from the corps at that time. We will make adjustment as to its efficacy at that time. I am prepared to accept the admendment at this point. I yield back the remainder of my time.

Mr. DOMENICI. I yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. GRAVEL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAVEL. 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. HEINZ. 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. 1290

Mr. HEINZ. Mr. President, I send an amendment 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 Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 1290.

Mr. HEINZ. 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:

At the appropriate place, insert the following:

Sec. . The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase I design memorandum stage of advance engineering and design of the project for flood control in Harrisburg, Pennsylvania in accordance with alternate plan 7 as set forth in the report of the District Engineer, U.S. Army Corps of Engineers, Baltimore, entitled "Local Flood Protection Study, Harrisburg, Pennsylvania" and dated October 31, 1977.

Mr. HEINZ. Mr. President, the amendment which I offer would authorize the Secretary of the Army, acting through the Chief of Engineers, to undertake the phase I design memorandum stage of advance engineering and design of the project for flood control in Harrisburg, Pa.

Certain areas of Harrisburg have been devastated by floods over the years, particularly by Hurricane Agnes in 1972. The community has made a tremendous and commendable effort to rehabilitate those areas which have been ravaged by these floods. The flood control project which has been proposed by the Corps of Engineers for this area would give the residents of Harrisburg a feeling of security that all they have invested in their community, in their homes, and in their businesses would not be swept away by another devastating flood. I offer this amendment today in order to insure that the Federal Government provides this community with assistance in protecting itself in the future from flood disasters.

The Board of Engineers for Rivers and Harbors of the Department of Army has undertaken a detailed analysis of the need for flood control in this area and has strongly recommended the authorization of this project and have uneqivocally concluded that it is justified on a cost/benefit basis.

The initial phase I analysis which my amendment would authorize would cost approximately $850,000. This is a small step to take in order to give the residents of Harrisburg the protection and security which they deserve. For this reason, I urge my colleagues to support this amendment.

Mr. GRAVEL. Mr. President, I have no objection to the Senator's amendment. I am prepared to yield back the remainder of my time.

Mr. DOMENICI. We have no objection to the amendment of the Senator from Pennsylvania. We are prepared to accept it.

Mr. HEINZ. I thank the Senator from Alaska and the Senator from New Mexico. I am appreciative of their help for the people of Pennsylvania.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1291

(Purpose: To authorize the construction of certain park and recreation facilities)

Mr. HEINZ. Mr. President, I send another amendment 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 Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 1291.

Mr. HEINZ. 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:

At the proper place in the bill insert a new section as follows:

SEC. . The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to construct public park and recreation facilities with improved access thereto, upon certain lands situated on Neville Island within the Dashields navigation pool, Ohio River, that are owned by Allegheny County, Pennsylvania, for that purpose. For such purpose, the Secretary is additionally authorized to (a) cooperate with Allegheny County, Pennsylvania, as the non-Federal interest in general conformity with the provisions of the Federal Water Project Recreation Act, approved July 9, 1965, Public Law 89–72; and (b) allow Allegheny County the fair and reasonable market value of such lands as a credit toward its 50 per centum cost-sharing contribution, notwithstanding that Allegheny County will retain title to such lands.

Mr. HEINZ. Mr. President, today I offer an amendment that will give statutory authority to the Army Corps of Engineers to accept the value of land in lieu of cash to fulfill a local sponsor's matching requirement for water recreational projects. This particular amendment is specific, in that it deals with the Neville Island Park project in Pittsburgh. In February of 1977, I received verbal assurance from the corps that they would accept the value of the land donated to Allegheny County by the Hillman Foundation as the county's matching requirement. In October of 1977, I received formal notification from the corps that they were rescinding their past decision to participate, because the corps' legal department had decided that existing language in the Flood Control Act of 1944 was too ambiguous to permit this type of arrangement, despite the fact that there has been precedent established where the corps has accepted the value of land to fulfill the matching requirement.

I would also like to bring to the attention of my colleagues the fact that Allegheny County has been working under the assumption that the Neville Island Park project was, in fact, to be realized by the citizens of Allegheny and surrounding counties, and have proceeded with architectural design and management consultation to expeditiously get this project underway. As a matter of fact, at this very moment Allegheny County is in the position to let contract in the project. The county's budget for this year includes funds to move ahead on this project.

Also, the Department of the Interior's Bureau of Outdoor Recreation has awarded the county $900,000 in discretionary funding to be used in the development of the park, the Hillman Foundation has legally transferred fee title of the property to the county at an appraised value of $1.6 million, and the corps has developed a master plan outlining their participation in the project.

The Neville Island Park project if completed, will serve as a model to future water recreational development in the three-river area. Until such time when new facilities are developed, Neville Island will be the only urban water recreational facility within a 25-mile radius of Pittsburgh.

The citizens of Pennsylvania, the officials of Allegheny County, and the Hillman Foundation have all made a commendable effort to establish a much-needed recreational facility on Neville Island. I congratulate them for their efforts and urge my colleagues to support this amendment in order to insure the success of those efforts.

Mr. DOMENICI. Mr. President, from our side, we understand the problem and have no objection to the amendment. We will be pleased to consider it.

Mr. GRAVEL. I join my colleague from New Mexico in his remarks. We are prepared to accept the amendment. I yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. I thank my colleague from Alaska and New Mexico for their support.

Mr. DOMENICI. Does the Senator from South Carolina have an amendment?

Mr. THURMOND. Mr. President, my colleague (Mr. HOLLINGS) and I have an amendment. He will be here in just a minute.

Mr. DOMENICI. 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. HELMS. 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. 1292

Mr. HOLLINGS. Mr. President, I call up an amendment on behalf of myself and Mr. THURMOND and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS), for himself and Mr. THURMOND, proposes an unprinted amendment numbered 1292.

Mr. HOLLINGS. 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:

At the proper place in the bill insert a new section as follows:

SEC. . (a) The project for Charleston Harbor, South Carolina, is modified to authorize, and the Secretary of the Army acting through the Chief of Engineers is directed to construct a two mile extension of the Harbor Navigation Channel in accordance with dimensions to be recommended by the District Engineer, Corps of Engineers into the Wando River to the State Ports Authority's Wando River Terminal, as depicted on page 264 of House Document 94–436 which incorporates the Department of the Army's Interim Review of Reports on Charleston Harbor, South Carolina, dated October 9, 1974, at an estimated initial cost of $4,500,000.

(b) The authorization contained in section 101(a) of the Water Resources Development Act of 1976 relative to the Copper River Basin is hereby modified to include the navigation channel authorized in subsection (a) hereof, at an estimated cost of $100,000.

Mr. HOLLINGS. Mr. President, we are offering today an amendment which will enhance the ability of our Nation to serve international commerce through Charleston Harbor. This amendment will be of benefit to the people of South Carolina and of the Nation.

This amendment will authorize the construction of a short extension of the authorized channel in Charleston Harbor. This channel extension into the Wando River is intended to serve the marine terminal being constructed with State funds on the Wando River by the South Carolina State Ports Authority, our State's agency with responsibility for port development and operation.

The marine terminal on the Wando River, and the access channel which this amendment would authorize, have been subject to intensive study by the U.S. Army Corps of Engineers. These studies have provided all procedural opportunities for interested citizens and groups to fully consider and comment upon the environmental, social, economic, navigation, and other issues appropriate to such studies. These studies have examined environmental, navigation, dredged material disposal, economic and benefit-to-cost issues and have included public notices, public hearings, environmental impact statements and coordination with State and Federal agencies. A permit for the construction of the Wando River public marine terminal was issued by the U.S. Army Corps of Engineers on December 28, 1977.

Because the terminal is expected to be ready for operations in the summer of 1980, this authorization is needed now so as to allow the construction of the access channel in time to provide access to this terminal when it is ready to commence operations. Accordingly, I urge adoption of this amendment at this time.

Mr. THURMOND. Mr. President, I rise today in support of the amendment by my colleague, Mr. HOLLINGS and myself, which will authorize the construction of a navigation channel in the Wando River from the Cooper River to the site of the proposed marine terminal near Charleston, S.C.

The Charleston Harbor is a major port on the east coast serving both military and commercial traffic. Presently, the commercial port is handling over 2.9 million tons of cargo per year; shipments destined not only for the Southeast but for many ports in the mid and Western States. In order to handle this trade and the future demands on the Charleston Harbor, the South Carolina State Ports Authority received permission to construct a marine cargo terminal on the Wando River. The first phase of this terminal's construction will cost approximately $56 million, and by 1983 will serve over 700 vessels with cargo in excess of $1 billion per year.

Mr. President, on March 22 of this year I wrote the distinguished Senator from Alaska (Mr. GRAVEL), chairman of the Subcommittee on Water Resources, expressing my desire that all appropriate action be taken to insure that this 2-mile channel be constructed in order to accommodate ocean-going vessels by the early 1980's. The State of South Carolina has invested heavily in this terminal and is relying on the Federal Government to perform the customary function of maintaining navigable waters.

The existence and need of this channel has been recognized by the U.S. Army Corps of Engineers as being an integral part of the Charleston Harbor and the Wando terminal projects. In regard to these projects, the public notice, notice of public hearing, comments of the Charleston District Engineer at several public hearings, the environmental impact statement, the report of the Charleston District Engineer, and the report of the Chief of Engineers, all have given great consideration and study to this channel. The record is clear, and I urge the Senate act favorably on this amendment.

Mr. GRAVEL. Mr. President, speaking for the majority, I have no objection to this amendment.

I commend Senator HOLLINGS and Senator THURMOND for their assiduousness in working with our staff in working out a compromise. I think they are to be commended for their efforts.

Mr. President, I yield to my colleague.

Mr. DOMENICI. Mr. President, we have no objection.

I commend the Senators from South Carolina for their diligent work in arriving at a compromise. We have no objection.

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

Mr. HOLLINGS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAVEL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER (Mr. HODGES). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRAVEL. 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. 1832

(Purpose: To establish a Commission to assess the technical, economic, and environmental feasibility of constructing a sea-level canal)

Mr. GRAVEL. Mr. President, I call up my amendment No. 1832.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL), for himself and Mr. MAGNUSON, proposes an amendment numbered 1832.

Mr. GRAVEL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the bill add the following new section:

SEC. . (a) (1) There is hereby established a Commission to be known as the International Sea-Level Canal Study Commission, hereinafter referred to as the "Commission".

(2) The Commission shall conduct such studies and investigations as may be necessary, including onsite surveys, to update the report of the Atlantic-Pacific Interoceanic Canal Study Commission (submitted pursuant to Public Law 88-609) and to prepare an environmental impact statement in accordance with section 102 of the National Environmental Policy Act. The Commission shall, not later than three years from the date of enactment of this section, submit to the President and the Congress a report on its findings and recommendations. The Commission shall cease to exist six months after submission of such report. All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the Archives of the United States.

(b) Studies and investigations undertaken by the Commission shall include, but not be limited to—

(A) an inventory and assessment of flora, fauna, and ecosystems of the Isthmus of Panama, including, but not limited to—

(i) potential migration of marine organisms through a sea-level canal and the potential ecological effects of any such migration;

(ii) natural or manmade barriers that might mitigate the effects of any such migration; and

(iii) other potential environmental effects of a sea-level canal;

(B) an analysis of the best techniques and equipment presently available or which could be developed to excavate a sea-level canal;

(C) the preparation of alternative designs for financing the construction of a sea-level canal; and

(D) an assessment of the economic feasibility of a sea-level canal, including, but not limited to—

(i) a study of the obsolescence of the Panama Canal;

(ii) an analysis of a sea-level canal in relation to alternative transportation modes;

(iii) an evaluation of the potential contribution of a sea-level canal to alleviate the problem of world energy shortages; and

(iv) an assessment of the impact of a sea-level canal on world commodity movements and world port development.

(c) Following receipt by the President and the Congress of the report by the Commission pursuant to subsection (a), the Council on Environmental Quality shall afford interested persons an opportunity to present oral and written data, views, and arguments respecting the environmental impact statement submitted by the Commission pursuant to subsection (a). Not later than sixty days following the receipt by the President and the Congress of such report by the Commission, the Council on Environmental Quality shall submit to the President and the Congress a report, which shall be contemporaneously made available to the public, summarizing any data, views, and arguments received and setting forth the Council's view concerning the legal and factual sufficiency of such environmental impact as the Council considers to be relevant.

(d) The President shall, not later than thirty days following the receipt by him of the report of the Council on Environmental Quality pursuant to subsection (c), transmit his finding and recommendation to the Congress.

(e) The Commission shall be comprised of six members as follows:

(A) one member appointed by the President of the Senate;

(B) one member appointed by the Speaker of the House of Representatives;

(C) one member appointed by the President; and

(D) three members appointed by the President upon recommendation for appointment by the Republic of Panama.

(f) The Chairman of the Commission shall be elected by the Commission from among its members.

(g) (1) The Commission or, on authorization of the Commission, any committee of two or more members may, for the purpose of carrying out the provisions of this section, hold such hearings and sit and act at such times and places as the Commission or such authorized committee may deem advisable.

(2) The Commission is authorized to secure from any department, agency, or individual instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this section and each department, agency, and instrumentality is authorized and directed to furnish such information to the Commission upon request made by the Chairman.

(h)(1) Members of the Commission who are employed by the Federal Government, including Members of Congress, shall serve without compensation in addition to that received for their services as employees of the Federal Government; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(2) Members of the Commission, other than employees of the Federal Government, who are nationals of the United States, shall each receive compensation at a rate not in excess of the maximum rate of pay for GS–18, as provided in the General Schedule under section 5332 of title 5, United States Code, and shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(3) Members of the Commission who are nationals of the Republic of Panama shall be compensated as determined by the Republic of Panama; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(i)(1) The Commission is authorized to appoint and fix the compensation of a staff director, and such additional personnel as may be necessary to enable it to carry out its functions. The Director and personnel may be appointed without regard to the provisions of title 5, United States Code, covering appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Any Federal employees subject to the civil service laws and regulations who may be employed by the Commission shall retain civil service status without interruption or loss of status or privilege. In no event shall any employee other than the staff director receive as compensation an amount in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code. In addition, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title 5, United States Code.

(2) The staff director shall be compensated at a level 2 of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

(j) The Commission is authorized to enter into contracts or agreements for studies and surveys with public and private organizations and, if necessary, to transfer funds to Federal agencies from sums appropriated pursuant to this section to carry such such of its duties as the Commission determines can best be carried out in that manner.

(k) Any vacancy which may occur on the Commission shall not affect its powers or functions but shall be filled in the same manner in which the original appointment was made.

(l) There are hereby authorized to be appropriated not to exceed $8,000,000 to carry out the provisions of this section. Funds appropriated under this section shall be available to the Commission until expended.

Mr. GRAVEL. I yield myself such time as I may require.

Mr. President, I commend the gentlemen at the desk, who many times have put up with our idiosyncrasies, both graciously and humorously. I meant to say that some years ago.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Was this amendment not pending from yesterday?

The PRESIDING OFFICER. The order was to call it up at 12 noon today.

Mr. DOMENICI. Are we going to ask for the yeas and nays?

Mr. GRAVEL. Yes, as soon as we have enough Members in the Chamber to do so. Perhaps the attendants in charge of collaring Senators can collar enough so that we will have sufficient Senators here for the yeas and nays at an opportune time.

Mr. DOMENICI. All right. We can proceed, and we will obtain the yeas and nays.

Mr. GRAVEL. Mr. President, this amendment would set up a small Commission to update very quickly—in 2 to 3 years—the interoceanic sea-level canal study that was completed in 1970. That study went from 1964 to 1970, and $22 million of taxpayers' money was spent to determine the feasibility of a sea-level canal.

At the time, that Commission examined 30 possible sites and narrowed it down to four, then narrowed it down to one, site No. 10, which is 10 miles to the west of the present Panama Canal.

In one sense, this amendment would require this Commission to update that study in terms of the economies in question, in terms of the environmental situation. In fact, when the study was completed in 1970, that is when the NEPA Act came into being. So, obviously, there was not an extensive environmental examination made.

Before the United States could be involved in any capacity, we would have to have an environmental study made. The moneys authorized in this study would go to perform that necessary environmental study. So in addition to the economics and the environmental question, there is the question of technology.

Most of the money in the prior study was spent on the possibility of nuclear excavation for the new canal area. That excavation proved politically and technically not feasible. The costs that were estimated in that study were based upon existing technology. The experience of the past, in the construction of the Suez Canal in Egypt and the French effort in the 1880's and the American effort in the early 1910 period, reached out for new technology to do the excavation.

It struck me as odd that in our appraisal of the cost of a sea-level canal, no effort was made to reach out and determine what would be the abilities and the cost of effecting the excavation through new technology. So I hope that would be one of the areas of the amendment that would be considered.

To my knowledge, this amendment is noncontroversial. It is a study that is, to some degree, independent of and irrespective of the treaty process.

It was my interest in this subject that pressed the negotiators of the treaty to include language so that there would be a joint study effort. I first brought up this matter to the subcommittee last July and have pursued it ever since. Now that the treaties are out of the way, we obviously will be seeing implementing legislation coming from the administration. That, to my mind, is extraneous to this study commission, since this study has nothing to do with the present Panama Canal, other than the fact that if the study is affirmative and we go forward with the new agreement, it would obsolete the present Panama Canal. So I hope we can secure the adoption of this amendment and move forward.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement I have prepared outlining the problem with the present canal, the fact that it is obsolete and is becoming more obsolete at this time.

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

STATEMENT BY SENATOR MIKE GRAVEL ON SEA-LEVEL CANAL FEASIBILITY STUDY

(Charts not printed in the RECORD)

Foreign policy always starts with the question, What United States interests need to be protected? And that is the beginning point for any discussion of the Panama Canal.

There is no question that the United States has an interest in a canal at the Panamanian isthmus. But I have become convinced that our real interests lie less with the present canal than they do with the opportunity to construct a new, sea-level canal.

I have therefore joined with Senator Magnuson in offering an amendment to the Navigation and Development Act (H.R. 8309) which would authorize $8 million for the Army Corps of Engineers, in conjunction with the Department of Commerce, to conduct a three-year study to update the report of the Atlantic-Pacific Interoceanic Canal Study Commission.

The Canal Study Commission, appointed by President Johnson in 1964 to study the feasibility of constructing a sea-level canal across the Central American isthmus, issued its final report in 1970. At that time it stated that a sea-level canal is wholly feasible from a physical point of view and under reasonable assumptions could be expected to pay for itself within 60 years. The Commission further determined that the defense and foreign policy benefits of a sea-level canal are sufficiently great to warrant writing off a substantial portion of costs for those purposes.

In the eight years since the Commission issued its report it has become increasingly apparent that the present canal is rapidly obsolescing and that a sea-level canal would be not only of military and foreign policy significance, but also of great economic value. To fully appreciate this fact it is helpful to compare the economic projections made by the Commission with actual experience over the intervening years.

The most frequently heard argument against the economic viability of a sea-level canal is that the actual number of ship transits of the present canal has fallen considerably short of the Commission's potential transit forecast. There can be no dis-

puting the facts, although as I shall show momentarily, the interpretation placed upon them has been incorrect. In 1970 there were approximately 15.5 thousand transits of the canal per year. The Commission projected this figure would rise to 18.5 thousand by 1977. But in fact the number of transits declined to just over 13 thousand by 1977.

In part this discrepancy can be explained as the result of the world-wide recession which hit hard in 1974, and from which we began to emerge in only the last year and a half. But this certainly does not explain the whole picture, because even before the recession the number of transits was running noticeably below the Commission's projection. Transits also went down with the end of the Vietnam war, but this is not the whole story either.

The proper explanation becomes apparent when we look at the tonnage which has moved through the canal in the years since the Commission issued its report. As can be seen from Chart 2, the 1970 potential tonnage forecast is in fact an accurate reflection of actual experience. When the actual tonnage figures are graphed against the straight line projection of the 1970 Study, the crests and valleys are just above and just below the forecast figures. If anything, it appears that the tonnage forecast would have been too modest had it not been for the recession years 1974 to 1976.

It is obvious that where the forecasters miscalculated was on the growth of vessel size. The average vessel size in the world shipping fleet has increased at a rate much greater than expected, with the result that actual tonnage through the canal has met projections while the number of annual transits has actually declined.

This interpretation is further confirmed by comparing actual canal revenues since 1970 with the potential revenue forecast. As can be seen graphically in Chart 3, actual revenues have been running substantially above those which the Commission projected would be required to amortize the cost of a sea-level canal.

This unexpected growth in ship size revealed by comparing the Commission's economic projections with actual experience points up very starkly that the present Panama Canal is rapidly obsolescing. To see just how rapidly, it is useful to take a look at ship growth rates within recent years.

Chart 4 displays bulk carrier construction growth rates from 1950 to 1975 for those carriers over 60,000 dead weight tons (DWT)—in other words, for those ships too large to use the Panama Canal. It is readily apparent that until 1965 the number of bulk carriers too large for the canal were insignificant. But after that date large bulk carrier construction soared, such that by 1975 almost 20 percent of all bulk carriers were 60,000 DWT or larger, and hence too big to transit the canal. What is even more significant, in carrying capacity these large, new vessels represented fully 43.8 percent of the world tonnage for the bulk carrier fleet.

The situation is even more dramatic when we look at tankers. Chart 5 is a time-graph of average tanker size in the world fleet. It shows that as recently as 1960 only 2.4 percent of newly built tankers were over 70,000 DWT, and hence too large to use the canal. But by 1975 this figure had jumped to 66.7 percent, a phenomenal growth rate.

Chart 6 tells the same story in a slightly different way. It displays graphically the percent of tonnage of the world tanker fleet over 70,000 DWT. Again we see that the dramatic increase began about 1960, when the total world fleet contained only about 25 tankers too large for the Panama Canal. But by 1975 there were 900 such tankers, representing 37 percent of the total number and a walloping 76.5 percent of the tonnage.

While Charts 4, 5, and 6 relate exclusively to bulk carriers and tankers—the two types most significant in world trade—Chart 7 shows that these exponential growth rates in fact apply to the world fleet as a whole, not just to two particular kinds of vessel. As can be seen from the graph, in January 1966—a mere 12 years ago—only 10.41 percent of the world fleet tonnage was too large to transit the Panama Canal. But by January 1971 this had increased to 31.77 percent, and by January 1977 to 57.80 percent. In other words, more than half the world's tonnage is already too large for the canal.

Looked at in another way, this means that in the eleven years between 1966 and 1977, the portion of the world fleet tonnage able to use the Panama Canal has dropped from nearly 90 percent to a mere 42.20 percent. If we extrapolate this downward trend at only one-third the actual rate of the past decade, we find that by the year 2001 no more than 7.64 percent of the world fleet tonnage will be able to transit the canal.

These figures leave no doubt that the Panama Canal is in large measure already obsolete. Its value is rapidly declining as it is overtaken by advances in technology and engineering. It is not hard to imagine what the situation will be in another ten or twenty years, which is probably the shortest time in which we could expect to have a sea-level canal complete.

At present the most striking evidence of the dated character of the Panama Canal is its inability to handle economically the transhipment of Alaskan oil. By next spring Alaska's North Slope will be producing oil at the rate of 1.2 million barrels per day. Within a relatively short time this will be increased to 1.6 million barrels. Even at the lower 1.2 million barrel level, this will produce a West Coast surplus of at least 500,000 barrels per day.

There is every likelihood that these figures, as high as they are, will at least double in the next several years. The probability that large quantities of oil will be recovered from the Alaskan Gulf, National Petroleum Reserve No. 4, and other areas of Alaska, both on and off shore, is very high. According to conservative projections by the U.S. Geological Survey (USGS), recoverable reserves in Alaska may be five times as large as already demonstrated reserves.

I believe it is a conservative estimate that Alaska will be producing an additional two million barrels of oil per day within 2 to 5 years, and yet another two million barrels per day within 5 to 10 years. Figures of this magnitude are confirmed by an Atlantic Richfield Company estimate that the West Coast oil surplus could be as high as 2.4 million barrels per day in 1990.

As these Alaskan oil reserves are brought to production, a sea-level canal becomes increasingly attractive. It would require 120 million tons of canal traffic per year to move a surplus of 2.4 million barels per day through the canal. This represents almost exactly one-half of the Commission's entire potential tonnage forecast for 1990. They included in their 239 million tons per year estimate only 41 million tons of petroleum, or about one-third the volume that now appears likely to materials from Alaska alone.

If this oil and the accompanying gas is to reach U.S. markets where it is needed, it must be transported by tanker to the Gulf of Mexico and the East Coast, or else it must be moved inland by pipeline from the West Coast.

The pipeline alternative has considerable drawbacks. The nation's pipeline infrastructure for the delivery of oil and gas runs south to north, fanning out from the Gulf Coast States to serve the Midwest and Northeast. The explanation for this pattern is simple. Historically, oil and gas was discovered in the Gulf region and was moved to the nation's population and industrial center.

This infrastructure represents a $7 billion capital investment in the case of oil lines and $12.7 billion for gas lines. There is also an investment of approximately $19 billion in Gulf Coast refining capacity. If it were to become necessary in the next several years to move our energy supplies from west to east, rather than from south to north, much of this infrastructure would have to be replaced at capital costs much higher than the original investment.

For at least the next 2 to 3 years there is no real alternative to using the existing canal for transporting West Coast surplus oil to regions of the country which have a crude oil deficiency. But because of the inefficient lightering operations that are involved, transit charges on this route are sufficiently high that pipeline alternatives become attractive even though new pipeline investment costs would be required.

A number of such projects have been proposed to deliver surplus oil to markets in either the Central or Gulf States. (See Table 1) The most important of these are as follows:

TABLE 1.—TRANSPORTATION ALTERNATIVES, ALASKAN CRUDE WEST COAST SURPLUS (JANUARY 1977)

Project	Throughput [1]	Projected startup	Capital investment (millions)	Transport cost by route (per barrel)	
				Chicago	Houston
Trans-Guatemala	1,200	1/81	$934	$2.52	$2.16
Transmountain	165	1/79	115	2.30	.....
Northern tier:					
Phase I	600	1/81	1,630	2.78	.....
Phase II	800	1/84	[3] 118	.....	.....
Sohio: Phase I	500	1/79	472	2.29	2.06
Panama transshipment	[2]	.....	.....	2.83	2.46
Cape Horn	.....	[2]	.....	3.53	3.14

[1] Thousands of barrels per day.
[2] Incremental.
[3] Immediate.

Source: A.D. Little, Inc.

Trans-Mountain Pipeline. This is an existing line which at present carries oil east to west from Edmonton to the Vancouver area. Atlantic Richfield Company (ARCO) proposes a partial reversal of the flow to move 165 thousand barrels per day of Alaskan crude from Cherry Point in Washington to the so-called Northern Tier refineries in Montana, North Dakota, Minnesota, Wisconsin, and upper Michigan. The capacity of this line would satisfy the needs of these refineries. Capital investment costs would be a relatively minimal $115 million and transportation costs into Chicago would be $2.30 per barrel of oil. This project has, however, run into stiff environmental opposition in the State of Washington and may not get the necessary permits. Moreover, federal legislation effectively prohibiting supertankers at Cherry Point was enacted in the fall of 1977.

Northern Tier Pipeline. This proposal calls for the construction of 1570 miles of new pipe at a capital cost of $1.6 billion. It would move 600,000 barrels per day of Alaska crude from the Port Angeles area in Puget Sound to Clearbrook, Minnesota, thus serving the refineries in the Northern Tier States. It would deliver oil to the Chicago area at a cost of $2.78 per barrel. It faces environmental objections in the State of Washington at least equal to those confronting the Trans-Mountain project.

Kitimat Pipeline. This project would involve the construction of 753 miles of pipe from the town of Kitimat in British Columbia to Edmonton, Alberta. It would there inter-

connect with existing lines to serve the Northern Tier States and the upper Midwest. It would have a capacity of 525,000 barrels per day and would entail an investment of some $969 million. Transportation costs to Chicago would be $2.38 per barrel of oil. At present the sponsors of this project are inactive, but it could be revived if competing proposals fail.

Sohio Pipeline. Standard Oil Company of Ohio (SOHIO) proposed to convert to oil service existing gas lines running from Midland, Texas to Redlands, California. With the construction of an additional 219 miles of pipe, this would allow Sohio to move Alaskan crude from Long Beach to Texas at a rate of 500,000 barrels per day. This is the most economical of all the proposed pipeline projects, as it would transport the oil to Chicago for $2.29 per barrel and into Houston for only $2.06 per barrel. The Sohio project faces two major hurdles. First, the State of California has been extremely reluctant to issue the necessary permits because of concern that further degradation of air quality in the Los Angeles area might result. Second, both Federal Power Commission and California Public Utilities Commission approval are required for conversion of the existing gas lines to oil service. This approval may not be granted due to new discoveries of gas in the Mexican Yucatan. Mexico could very economically move its gas into Texas and then transport it through the existing system to California.

Trans-Guatemala Pipeline. The Central American Pipeline Company proposes to transport Alaskan crude 227 miles across Guatemala for marine delivery to the Gulf Coast. Investment costs would be $934 million for a 1.2 million barrel per day pipeline. Transportation costs would be $2.52 into the Chicago market, and $2.16 into Houston. The major drawback to this proposal is the absence of interest from the major oil companies, and the possibility that it could be interpreted as involving the export of Alaskan crude, which is currently not permitted.

To summarize, existing pipeline systems in the United States are designed to deliver oil and gas from the Gulf Coast to the Midwest and Northeast, where the nation's energy needs are the greatest. Now that our major source of domestic supply is shifting from the Gulf region to Alaska, we must either build new pipeline infrastructures at large capital costs and potentially significant environmental costs, or else we must find an economical marine delivery route that will enable us to bring Alaskan crude into Gulf Coast ports for transport through existing lines. Although a number of new pipelines have been proposed, each has severe political or financial hurdles to overcome. Moreover, even should one or two of these projects be built, their capacities would not be sufficient to handle the surplus supply of Alaskan oil expected on the West Coast ten years from now.

This set of facts, taken in conjunction with the generally positive findings of the Canal Study Commission, appear to make a sea-level canal a very attractive option. To further check this out I compared the oil transportation costs via the combined pipeline-marine routes I have just been discussing with an all marine route through a sea-level canal.

The pipeline costs vary from $2.06 to $2.78 per barrel of crude, and to be competitive transport costs through a sea-level canal would have to fall within this range. Apparently they do.

I have asked Arthur D. Little, Inc., using the same computer model from which the pipeline transport costs were derived, to calculate costs between Valdez and Houston via a sea-level canal. Here is what they found:

$1.74 per barrel for 165,000 DWT vessels.
$1.35 per barrel for 225,000 DWT vessels.
$1.31 per barrel for 265,000 DWT vessels.

To these figures must be added a reasonable toll figure, which I have calculated to be 44¢ per barrel of oil. (This compares with a toll of 27¢ per barrel of oil through the present canal.)

This means that transport costs through a sea-level canal may be preliminarily estimated to fall somewhere within a $1.75 to $2.18 range. As can readily be seen, the low end of this spectrum is 31¢ less, and the high end 60¢ less, than the respective low and high ends of the cost range for combined pipeline-marine routes.

Clearly, if these figures are sustained upon a more thorough analysis, a sea-level canal is a highly competitive alternative for transporting surplus West Coast oil. If we assume an oil surplus of only 500,000 barrels per day (the amount we definitely will have this spring), a sea-level canal would in ten years save the American public $1.3 billion as compared with the existing canal. Over a similar period of time, the savings would be $565 million when the sea-level canal is compared with the most economic of the pipeline routes, the Sohio project.

In addition to the capital investment costs for pipeline and refinery infrastructures which may be offset against the cost of construction of a canal, there are extremely important military and foreign policy values to be realized through a sea-level canal. Under agreements already entered into or soon to be concluded, much of the east coast of the United States will in the near future be dependent upon Algeria, and possibly the Soviet Union, for its natural gas supplies. Although such an arrangement is satisfactory at the present time, the desirability of long-term energy dependency on these two countries is questionable at best. The severe harm which could be done to the economy of the eastern seaboard by a cut-off of these foreign supplies is truly inestimable, but we may be certain it would run into the billions of dollars. A sea-level canal would enable us to meet these domestic energy needs with Alaskan gas, and thus provide us a great deal more foreign policy flexibility.

From a more strictly military point of view, a sea-level canal offers quite significant strategic and logistical advantages over the present canal. It would be almost totally invulnerable to long-term interruption by military attack, whereas the present locks canal can be incapacitated for as long as 2 years with relative ease. This means that the canal's important role in providing logistical support to military operations in the Pacific area would be wholly dependable. To get some sense of what this would be worth in dollar values, we may observe that since its inception in 1904 the U.S. Government has expended $5.31 billion—or approximately six times the net civilian investment in the canal—to defend the canal. These defense expenditures, as important as they are for the present locks canal, could be greatly reduced for a sea-level canal because of its invulnerability.

SEA-LEVEL CANAL—SAVINGS

[In dollars]

	Cost of transportation [1]	Total— Per day [2]	Per year	For 5 yr
Existing canal	2.46	1,230,000	448,950,000	2,244,750,000
Sea-level canal	1.75	875,000	319,375,000	1,596,875,000
	.71	355,000	129,575,000	647,875,000
SOHIO line	2.06	1,030,000	375,950,000	1,879,750,000
Sea-level canal	1.75	875,000	319,375,000	1,596,875,000
Savings	.31	155,000	56,575,000	282,875,000

[1] Dollars per barrel.
[2] At 500,000 barrels per day rate.

In addition, a sea-level canal could be transited by our aircraft carriers, which are too large for the present facility. At present, a Carrier Task Group moving from one ocean to the other must send part of its force around South America while the remainder transits the canal, only to lie idle for 10 days while the rest of the force catches up.

As an example of the strategic shortcomings and military inefficiency of the present canal, let us assume there is an emergency in the Mediterranean which calls for reinforcement from a Carrier Task Group stationed on the West Coast.

Under present conditions, the Task Group's cruiser and 15 of its destroyers would sail through the canal, reaching Gibraltar in 15 days. Meanwhile, the carrier and an additional 10 destroyer escort would steam the additional 5,000 miles around Cape Horn, not reaching Gibraltar for 25 days.

If a sea-level canal were available, the entire Carrier Task Group could reach Gibraltar in 15 days, at a savings of 47,000 barrels of fuel and $870,000. The strategic flexibility this could provide our Navy would be equivalent to adding an entire Carrier Task Group to our arsenal. In effect, this would provide us an additional $20 billion in defense capability at no extra cost to the taxpayers.

Taken together, the military and foreign policy values, the savings from retaining existing energy delivery infrastructures, and the reduced transportation costs of a sea-level canal would appear to justify such a project even in the absence of strict financial feasibility, which, as we have seen, is far from lacking.

The United States—perhaps in conjunction with other interested parties such as the State of Alaska, the international oil companies, Japan, Mexico, Venezuela, and countries on the west coast of South America—could guarantee the bonds to finance a new sea-level canal fully owned and operated by the Panamanians. It would be strictly a business arrangement with a Panamanian guarantee of access and reasonable tariffs as the only quid pro quo. This would provide Panama the economic control over her resources she demands, and would at the same time defuse the present controversy. The United States, for her part, would obtain the economic advantages already pointed out, and would achieve her ultimate goal of a defensible canal available to all at reasonable rates.

I think there can be no doubt that the advantages to the United States are sufficiently great to warrant the authorization of a further $8 million to update the comprehensive work already done by the Canal Study Commission. This update would include (1) a review of the shipping study, including an update of transportation economics; (2) a review of potential environmental effects, including the preparation of an environmental impact statement in accordance with section 102 of the National Environmental Policy Act, with special attention being given to potential ecological effects of the migration of marine organisms through a sea-level canal; and (3) a review of the 1970 engineering findings and recommendations.

Mr. GRAVEL. Mr. President, I reserve the remainder of my time, and I would appreciate a comment from my colleague from New Mexico.

Mr. DOMENICI. Mr. President, I commend the distinguished Senator from Alaska for his interest here today, as evidenced by his proposal that we proceed with dispatch to study the feasibility of a sea-level canal in Panama. I compliment him not only for the amendment and the work he has done on the floor today and on other occasions but also for his genuine interest in this area. He has examined this need for a number of years, has spent a

great deal of his time and effort in determining the economic necessity of this proposal.

However, it is with regret that I must oppose the proposal today. I will not take a great deal of time in opposing it. I merely state that I do not think this is the bill on which to do this. I do not think this is the time to do this. In another sense, I do not think it is the way to do it.

The Senator's proposal is for an American endeavor, a small commission to carry on from where the corps had left off a number of years ago.

I will state why I think all three points I have made are valid.

First of all, we have just completed the ratification of a Panama Canal Treaty; that is, treaties, both a Neutrality Treaty and a substantive transition treaty. We have yet to bring before both bodies the implementing legislation that would carry out the intentions of those treaties as required by the legislative arm of the U.S. Government. I read from page 20 of the message from the President of the United States transmitting the treaties, in particular article XII.

A SEA-LEVEL CANAL OR A THIRD LANE OF LOCKS

The United States of America and the Republic of Panama recognize that a sea-level canal may be important for international navigation in the future. Consequently, during the duration of this Treaty both Parties commit themselves to study jointly—

And although I have been reading literally I emphasize the words "both parties"—

the feasibility of a sea-level canal in the Republic of Panama.—

And continuing on literally:

And in the event they determine that such a waterway is necessary, they shall negotiate terms, agreeable to both Parties, for its construction.

Mr. President, it appears to me that here today in an omnibus waterworks bill for America it is not the right bill, considering this language, the language I have just read, it is not the right time, and certainly it might do more harm than good. If what I read as a message from the President is what the two countries have in mind then it appears to me that as we bring before the institutions, the House of Representatives and the Senate, the implementing legislation to carry out these treaties, then most obviously the subject of the responsibilities imposed on both parties to study this feasibility jointly and ultimately, if feasible, to make agreements with regard to the same, could be prejudiced by unilateral effort of the United States regardless of at this particular time how good we think or how much we think it is feasible.

So it is not with reference to the substance that I oppose the Senator, because I think he has been out front on the issue. He may have even, by virtue of his activities, been instrumental in having this kind of language that came in the message from the President with the treaties put in the message because indeed there sets a study of a few years vintage—my recollection is it was the Johnson administration—wherein the care went only so far in evaluating this and then stopped. Many things have changed since then, not the least of which are the big tankers that will have to carry crude oil from Alaska and elsewhere to America, and their time may very well have come.

But I do hope that when we vote on this, Senators will understand that a "no" vote on this will in no way, at least to this Senator's standpoint, have anything whatsoever to do with the provisions in the President's message with reference to the future relationships between Panama and America, vis-a-vis, the study, the jointly arrived at agreements, if any, if ever, but rather that they will be saying they should be evolved out bilaterally between the nations and in a different mode than a unilateral commission adopted by the Senate here today in this bill.

I reserve the remainder of my time.

Mr. GRAVEL. Mr. President, I cannot understand why my colleague would say this is a unilateral commission. It is not a unilateral commission by the Senate. Obviously this would have to be approved by the House of Representatives and signed by the President. So all parties to the administration would be involved. It is not a unilateral commission by the United States because under this commission there would be three members from Panama who would be appointed by the President. Obviously, it would be a recommendation by the Panamanian Government for the President to do this.

There is no question. You can wait for the implementing legislation if you feel this is a vital part of the implementing legislation, but I might say that when I first brought this up last July in subcommittee the same statement I heard from my colleague now is what I heard then. This may do us more harm than good. We have just been through 3 months of Panama Canal debate. A study could have been initiated last summer, and we would be well almost a year into that study. Then we would know a lot more about the technical problems involved than about all the political brouhaha and the emotionalism that has existed.

So there is no way that this will do any harm. If the acquisition of knowledge is harmful my colleague is very correct. This will do great harm to everyone concerned because all this study is going to do is go out and get some economic information, go out and get some engineering technical information, and go out and get some environmental information. I cannot see that any one of those areas are going to frighten anyone whether you are conservative or liberal or whether you are protreaty or antitreaties. The person who joins me as cosponsor in this amendment is Mr. MURPHY, the head of the Merchant Marine and Fisheries Committee in the House, the chairman of that committee and who is an outspoken opponent of the treaties.

So, if there is any possibility of doing harm, then great harm will be done because all we are going to do is acquire some knowledge. We can wait for the implementing legislation. I think everyone agrees it is going to take over a year before that legislation comes forward.

If the State of New Mexico were losing money daily as is the State of Alaska losing money daily over the obsolescence of a present Panama Canal and the fact that the Nation is suffering because we have an oil glut on the west coast of the United States, occasioned by the incompetence of Government, as it stands, maybe that does not bother people around here. But since we count the loss of money in Alaska and since some of us can perceive the unusual inefficiency that exists in our industrial society by not having this barrier breached, then I see no reason why we should continue to delay the acquisition of knowledge so that then we can make an intelligent decision in this body, in the House of Representatives, and in the governments of the world.

So I really do not understand the logic why we have to wait other than the only statement that could be made is it would do more harm than good. I put out the challenge, show me where the possibility of doing any harm exists by studying those three areas, the economics of building a sea-level canal, the environmental questions which a lot of people have concern about, and then of course, the engineering technology.

Right today the obsolescence of the canal is very, very clear. Fifty-seven percent of the world maritime fleet in tonnage cannot use the Panama Canal. If we project out into the future what has happened in the last 12 years, and if we only use a third of that experience, we see that only 7.64 percent of the world's maritime fleet will be able to use the Panama Canal that exists today. That means that we are in a situation where we are moving to a rapid degree of obsolescence.

To not recognize those simple facts, which have not been disputed and were not disputed in the extensive debate that we had on the treaties, and now to stand up and say, "Well, I think we should just wait until next year," to me is not very wise, not very provident and I do not think has any substantive reason behind it.

So I would hope the Senate will approve this commission in order that we can go into conference.

This bill is as good as any bill. We are talking about water transportation. My colleague is still very interested in water transportation and making it pay its way, and I submit if we had an effective, efficient water transportation system across the Isthmus of Panama that the efficiency and the savings of money would probably dwarf the sums he is talking about recouping with his user tax which, I think, is important.

Let me just say that many times when we are counting pennies we lose sight of the ability to focus on thousands of dollars.

So I would only hope the Senate would join me in pressing with dispatch to get this commission moving, to get this study, to get the facts to Congress so that Congress can make an intelligent decision rather than just an emotional reaction and rather than a simple reac-

tion of only delaying for no apparent reason.

I reserve the remainder of my time.

Mr. DOMENICI. Mr. President, I just want to make my point very, very simply. Again I have no criticism of the substance of making a study. I have nothing but admiration for the Senator from Alaska for pursuing this with vigor.

My point is simply this: We have just entered into a treaty with the Republic of Panama. Obviously, the message from the President of the United States relative to that indicates that a joint study is what we may do some day, and that both parties commit themselves to this joint study.

It just seems to me that that is exactly what we ought to do. I mean the countries are going to be negotiating over the existing treaty, and the Congress of the United States ought to at some point in time and if the Senator from Alaska is right that it is urgent, then obviously what I am suggesting is going to happen quickly, and that is that the two countries come together with reference to this study and how it would be run and by whom and who would share in its cost, and the like.

In one sense we could be delaying things. I do not want to make a big issue out of it. There are some Panamanians supposed to be on this commission the way it is set up. But it is not an official bilateral one, meaning the two countries getting together and saying "the time has come to study this; let us do it together. Let us agree on the kind of experts."

It just seems to me that is the way we ought to go, and not merely say, "We should decide that here at this point in time," when it is so obvious that the ultimate success, conclusion, what facts we derive from the studies, how believable they are, are going to depend totally on the good spirit existing between the two countries ab initio, from the very beginning of the evaluation to carry out the purposes of decisionmaking provided for on page 20, article XII, as I heretofore read.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER (Mr. HODGES). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAVEL. I just want to respond to my colleague. I do not know what he is driving at. We have a treaty, and I claim responsibility for the language in there to make a study, and so we have had the head of Panama, who has signed this treaty, who talks of a study; the head of the United States, who signed this treaty, who talks of a study. So what more do you need

The Senator talks in terms of "Well, we do not know if the time has come between these two countries in the light of the treaty." I mean, we have the language of the treaty. The treaty has been hotly contested, not only this language, and I think every reasonable person recognizes that we need to make a study, but we are still faced with this Luddite type of logic that we have to keep waiting to make this study. Somebody is going to have to descend from heaven to tell us when to go out and make the study.

Let me say if I am the person who initiated this and who is trying to push the study forward, all the study is for is for the purpose of acquiring information, and I do not know what the reason for delay is other than for the sake of delay itself, then all I can say is if it were costing my colleague money in New Mexico—and do you know something, it is, it is costing the Senator some money because when the oil comes in through the present canal at an excessive price like $2 a barrel more, and it comes into the Gulf Coast, I am sure some of that oil works its way up to New Mexico, and you are paying more for oil than you should be paying. Maybe that does not bother the Senator, but since it is a decrease in our revenue, and the Senator's consumers have not quite alerted him to that, then, fine. But I just do not like to stand around and be party to the ignorance that does not have the brains to lean over and pick up some money, and this is really what is involved here. Once we get the facts all we are going to have to do is go forward, make the decision, lean over and pick up some money and make some money because we are wasting money when things are inefficient and incompetent, and when that happens and it costs us money it is a waste, and to not move forward to acquire the knowledge to overcome that waste, I think, is not very farsighted, and that is all I can say about it.

I am prepared to yield back my time if my colleague is.

Mr. DOMENICI. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Alaska yield back the remainder of his time?

Mr. GRAVEL. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Alaska. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Colorado (Mr. HASKELL), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from New Hampshire (Mr. MCINTYRE), are necessarily absent.

I further announce that the Senator from Maine (Mr. HATHAWAY), is absent on official business.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) and the Senator from Kansas (Mr. PEARSON), are necessarily absent.

The result was announced—yeas 43, nays 49, as follows:

[Rollcall Vote No. 148 Leg.]

YEAS—43

Abourezk	Durkin	Hollings
Allen	Eagleton	Huddleston
Anderson	Eastland	Humphrey
Bayh	Goldwater	Jackson
Brooke	Gravel	Javits
Church	Hart	Johnston
Clark	Hatfield, Mark O.	Long
Cranston	Hatfield, Paul G.	Magnuson
Culver		Matsunaga
DeConcini		McGovern
Melcher	Pell	Sasser
Moynihan	Randolph	Sparkman
Muskie	Ribicoff	Stennis
Nelson	Riegle	Stevenson
Packwood	Sarbanes	Williams

NAYS—49

Baker	Ford	Percy
Bartlett	Garn	Proxmire
Bellmon	Glenn	Roth
Bentsen	Griffin	Schmitt
Biden	Hansen	Schweiker
Bumpers	Hatch	Scott
Burdick	Hayakawa	Stafford
Byrd, Harry F., Jr.	Heinz	Stevens
Byrd, Robert C.	Helms	Stone
Case	Hodges	Talmadge
Chafee	Laxalt	Thurmond
Chiles	Leahy	Tower
Curtis	Lugar	Wallop
Danforth	McClure	Weicker
Dole	Metzenbaum	Young
Domenici	Morgan	Zorinsky
	Nunn	

NOT VOTING—8

Cannon	Inouye	McIntyre
Haskell	Kennedy	Pearson
Hathaway	Mathias	

So Mr. GRAVEL's amendment (No. 1832) was rejected.

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

The PRESIDING OFFICER. The clerk will call the roll.

Th second assistant legislative clerk proceeded to call the roll.

Mr. GRAVEL. 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. MAGNUSON. Has the Chair announced the vote?

The PRESIDING OFFICER. Yes. 49 nays and 43 yeas. The amendment was rejected.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. LONG. Mr. President, I ask unanimous consent that if either the Senator from Louisiana (Mr. LONG) or the Senator from New Mexico (Mr. DOMENICI) offers an amendment on user fees and locks and dam No. 26, the amendment thereon by the other Senator be in order as a substitute therefor, be considered as before the Senate also, and that if one is agreed to, the other falls. If the Senate votes for the amendment, the one agreed to becomes a part of the bill.

I further ask unanimous consent that thereafter, it shall be in order to offer an amendment by Mr. DANFORTH relating to fees on deep-draft vessels, an amendment by Mr. ALLEN relating to LASH barges, and another amendment by Mr. ALLEN relating to the definition of inland waterways.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object, and I shall not object. I appreciate the courtesy of the distinguished Senator from Louisiana (Mr. LONG) and the

distinguished Senator from New Mexico (Mr. DOMENICI) in propounding this unanimous-consent request. It does get us out of a parliamentary bind that would have prevented the offering of amendments, because the substitute, if agreed to as to whichever amendment was pending, would have precluded offering other amendments. This does give us an opportunity to offer our amendments. I do appreciate this request being made.

Mr. DOMENICI. Mr. President, reserving the right to object, and I shall not, I thank the distinguished Senator from Louisiana and the distinguished Senator from Alabama for helping us work this out.

It is my understanding, I say to my good friend from Louisiana, that even though the so-called Long amendment and the Domenici amendment may touch different parts of the bill, it is our intention that, indeed, as the unanimous-consent agreement states, they would be considered substitutes, one for the other, as if they did not touch different parts of the bill.

Mr. LONG. Yes. As far as this Senator is concerned, I believe we have an understanding also that, however the vote goes between the two of us, we expect to abide by it.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. So that we will decide which will go first and we can settle the rest of it.

Mr. DANFORTH. Reserving the right to object, is it my understanding that the amendment of the Senator from Louisiana and the amendment of the Senator from New Mexico will both be debated at the same time?

Mr. LONG. Yes.

Mr. DANFORTH. It is my understanding that there is presently a time agreement on each of these amendments. Is it my understanding that those time agreements would then be aggregated between the two?

Mr. LONG. We could, but I think we should shorten the time.

Actually, the agreement was 3 hours on each of the amendments. I think on whichever amendment is pending we ought to take 3 hours. That would be 1½ hours for each side.

I know the Senator wants to speak to his amendment. I think we could yield him some time out of it. I think I have some time on the bill and also the time on the amendment. I think we could find time to accommodate him to speak on his amendment.

Mr. DANFORTH. Further reserving the right to object, I am very anxious to expedite matters. At the same time, I think that it is important we take whatever time is necessary to thoroughly air the subject. I think that the 3 hours has been agreed to on my amendment. I was wondering if it would be agreeable to the two Senators if I could get unanimous consent to include the debate on my amendment with respect to deep-draft harbors and ports as part of the debate on the two amendments that are subject to this agreement, and that I may have unanimous consent to charge against the time previously agreed to for my amendment that portion of my discussion on deep-draft harbors and ports, even though that amendment on deep-draft harbors and ports is not pending at the time we discuss the two amendments from the Senator from Louisiana and the Senator from New Mexico.

Mr. LONG. Is the Senator willing to settle for 20 minutes with regard to his explanation on deep-draft vessels?

Mr. DANFORTH. I will settle for 1 hour.

Mr. DOMENICI. No more than 1 hour?

Mr. DANFORTH. No more than 1 hour, equally divided.

Mr. DOMENICI. So he might be able to finish sooner, is all I am asking?

Mr. DANFORTH. I am not intending to prolong matters at all. But, at the same time, I want to make it clear that the issues on deep-draft harbors and ports and inland waterway and users fees pertaining thereto are thoroughly aired before the Senate.

I would prefer to do it at the same time we are considering the other two amendments.

Mr. DOMENICI. Would 1 hour equally divided be adequate?

I have no objection.

Mr. LONG. Then I ask unanimous consent the Senator may use some of the time on his amendment without his amendment being pending while we are discussing this.

Mr. DOMENICI. That was what he asked.

Mr. DANFORTH. That was what I asked.

Mr. LONG. I have no objection.

The PRESIDING OFFICER. Will the Senators make an expansion of the unanimous consent?

Mr. LONG. The expansion would be that the Senator from Missouri may use some of the 3 hours allotted to his amendment to debate his amendment while the other amendment is pending.

Mr. DOMENICI. Without that time being charged.

Mr. LONG. To either side.

Mr. DOMENICI. To either side that has time on the pending amendment.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

The Chair hears none. Without objection, it is so ordered.

Mr. DOMENICI. 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. LONG. 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. 1846

Mr. LONG. Mr. President, on behalf of myself and Senator EASTLAND, Senator EAGLETON, Senator DANFORTH, and Senator BARTLETT, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER (Mr. FORD). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG), for himself, Mr. EASTLAND, Mr. EAGLETON, and Mr. DANFORTH, proposes an amendment numbered 1846.

Mr. LONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 2, beginning on line 6, delete all through line 17 on page 7 and insert in lieu thereof the following:

"(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to replace, at Federal expense as a part of project costs authorized in subsection (a) terrestrial wildlife habitat inundated as a result of the construction of the project on an acre-for-acre basis in the respective States of Missouri and Illinois and to manage such lands as are thus acquired by the Secretary for wildlife protection purposes. The Secretary is further authorized to provide project-related recreation development on or in the vicinity of Ellis Island, Missouri, that requires no separable project lands and includes facilities such as roads, parking lots, walks, picnic areas, a boat launching ramp, and a beach, at an estimated cost of $4,000,000 to be cost shared with the State of Missouri and administered in accordance with the provisions of the Federal Water Project Recreation Act (Public Law 89-72) and undertaken independently of the navigation features of the project.

"(c) Within thirty days after the beginning of construction of the lock and dam authorized in subsection (a), the Secretary of the Army shall give notice in writing to the Secretary of the Treasury that such construction has begun, a copy of which notice shall be published in the Federal Register by the Secretary of the Treasury following receipt thereof.

"(d) The project depth of the channel above Cairo, Illinois, on the Mississippi River shall not exceed nine feet, and neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; the Mississippi River north of Cairo, Illinois; the Kaskaskia River, Illinois; and the Illinois River and Waterway, Illinois, unless specifically authorized by a future Act of Congress.

"(e) There are authorized to be appropriated to the Secretary of the Army such sums as are necessary to carry out the provisions of subsections (a) and (b) of this section for fiscal year 1978 and succeeding fiscal years. Any funds which have been allocated to a replacement project for locks and dam 26, prior to enactment of this Act, shall be available for the project authorized in this section and shall remain available until expended.

"SEC. 103. (a) There is hereby created an Upper Mississippi River System Council (hereinafter referred to as 'Council') consisting of the Secretary of Transportation, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of the Army, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chairman of the President's Council on Environmental Quality, and the Governors of the States of Wisconsin, Minnesota, Iowa, Missouri, and Illinois. The Secretary of the Interior shall serve as Chairman of the Council.

"(b) The Congress hereby authorizes and directs the Council to prepare a comprehensive master plan for the management of the Upper Mississippi River System in cooperation with the appropriate Federal, State, and local officials. A preliminary plan shall be pre-

pared by July 1, 1981, and take into account any appropriate recommendations in the report authorized by section 301 of this Act. The plan shall be subject to public hearings in each affected State. The Council shall review all comments presented at such hearings and submitted in writing to the Council and shall make any appropriate revisions in the preliminary plan, and shall, by July 1, 1982, submit to the Congress for approval a final master plan. Public participation in the development, revision, and enforcement of said plan shall be provided for, encouraged, and assisted by the Council. The Council shall, within one hundred and fifty days of enactment of this Act, publish final regulations in the Federal Register specifying minimum guidelines for public participation in such processes. Approval of the final master plan and any subsequent changes thereto shall be granted only by enactment of the Congress.

"(c) The master plan authorized under subsection (b) of this section shall identify the various economic, recreational, and environmental objectives of the Upper Mississippi River System, recommend guidelines to achieve such objectives, and propose methods to assure compliance with such guidelines and coordination of future management decisions affecting the Upper Mississippi River System, and include any legislative proposals which may be necessary to carry out such recommendations and objectives.

"(d) For the purposes of developing the comprehensive master plan, the Council is authorized and directed to conduct such studies as it deems necessary to carry out its responsibilities under this section, with provision that it utilize, to the fullest extent possible the resources and results of the Upper Mis sissippi River resources management (GREAT) study conducted pursuant to section 117 of the Water Resources Development Act of 1976 (Public Law 94–587) and of other ongoing or past studies. The Council shall request appropriate Federal, State, or local agencies to prepare such studies, and any Federal agency so requested is authorized to conduct any such study for the purpose of this section. Studies conducted pursuant to this section shall include, but not be limited to the following:

"(1) The Secretary of the Army shall provide for the Secretary of the Interior to undertake a study to determine the long- and short-term systematic ecological impacts of: (A) present and any projected expansion of navigation capacity on the fish and wildlife, water quality, wilderness, and public recreational opportunities of said rivers, (B) present operation and maintenance programs, (C) the means and measures that should be adopted to prevent or minimize loss of or damage to fish and wildlife, and (D) a specific analysis of the immediate and systemic environmental effects of any second lock at Alton, Illinois, and provide for the mitigation and enhancement of such resources and shall submit his report containing his conclusions and recommendations to the Congress and the Secretary of the Army.

"(2) The Council, acting through the Secretary of Transportation, is directed to immediately initiate a specific evaluation of the need for a second lock at Alton, Illinois, and the direct and indirect systemic effects and needs for such a second lock at Alton, Illinois.

"(3) Studies and demonstration programs, including a demonstration program to evaluate the benefits and costs of disposing of dredge spoil material in contained areas located out of the floodplain. Said program shall include, but shall not be limited to, the evaluation of possible uses in the marketplace for the dredge soil studies and demonstration programs to minimize the environmental effects of channel operation and maintenance activities.

"(4) Development for the Upper Mississippi River System of a computerized analytical inventory and system analysis to facilitate evaluation of the comparative environmental effects of alternative management proposals.

"(e) Guidlines developed pursuant to this section shall include, but not be limited to, guidelines for channel maintenance, minimization of dredging volumes, alternate uses of dredged material, protection of water quality, fish and wildlife protection and enhancement, wilderness preservation, and management of the wildlife and fish refuges within and contiguous to the Upper Mississippi River System.

"(f) To carry out the provisions of this section, there are authorized to be appropriated to the Council $20,000,000. The Council is authorized to transfer funds to such Federal, State, or local government agencies as it deems necessary to carry out the studies and analysis authorized in this section.

"(g) The Upper Mississippi River System consists of those river reaches containing commercial navigation channels on the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River and Waterway, Illinois; and Kaskaskia River, Illinois.

"(h) Except for the provisions of section 102 of this Act, and necessary operation, maintenance, and activities related to safety, no replacement, construction, or rehabilitation expands the navigation capacity of locks, dams, and channels shall be undertaken by the Secretary of the Army to increase the navigation capacity of the Upper Mississippi River System, until the master plan prepared pursuant to this section has been approved by the Congress, or unless otherwise authorized by law.

"(i) The lock and dam authorized pursuant to section 102 of this Act shall be designed and constructed to provide for possible future expansion. All new navigation projects authorized in the future or locks and dam navigation replacement projects now authorized but not under construction, initiated by the Secretary of the Army on the Upper Mississippi River north of Cairo, Illinois, and on the Illinois River north of Grafton, Illinois, shall be initiated only in accordance with the guidelines set forth in the master plan.".

On page 12, strike out lines 7 through 12, and insert in lieu thereof the following:

"(b) AMOUNT OF TAX.—The tax imposed by subsection (a) shall be in the case of a use during—

"(1) the 8 consecutive calendar quarter period beginning with the calendar quarter beginning on the effective date of this section, 4 cents a gallon,

"(2) the next following 8 consecutive calendar quarter period, 6 cents a gallon,

"(3) the next following 8 consecutive calendar quarter period, 8 cents a gallon,

"(4) the next following 8 consecutive calendar quarter period, 10 cents a gallon, and

"(5) any calendar quarter beginning after the last day of the period described in paragraph (4), 12 cents a gallon.".

On page 14, strike out lines 8 through 12, and insert in lieu thereof the following:

"(d) The amendments made by this section shall take effect on the earlier of—

"(1) January 1, 1982, or

"(2) the first day of the calendar quarter beginning after the 30th day after the day on which the notice required to be published under section 102(c) of this Act is published. the first proposed regulations under section 4042 of the Internal Revenue Code of 1954 shall be published in the Federal Register not later than the day which is 9 months after the date of the enactment of this Act.".

On page 14, beginning on line 14, delete all through line 5, page 17, and insert in lieu thereof the following:

"SEC. 301. (a) The Secretary of Transportation and Secretary of Commerce shall undertake a study, in consultation with the Secretary of Treasury, the Secretary of Agriculture, the Secretary of Energy, the Attorney General of the United States, the Secretary of the Army, the Chairman of the Water Resources Council, and the Director of the Office of Management and Budget, and make findings and policy recommendations regarding any fuel tax imposed on inland waterways users, or alternatives or supplemental charges and on related matters. Such study shall include but shall not be limited to a consideration of the following matters:

"(1) The economic impacts on (i) carriers and shippers using the inland waterways, (ii) users, including ultimate consumers, of commodities which are transported on the inland waterways, (iii) the balance of payments of the United States based on our international trade, (iv) the existing investment in industrial plants, agricultural interests and commercial enterprises and related employment in regions of the country served by water transportation directly or in combination with other modes, and (v) future economic growth prospects in such regions including anticipated shifts of industry and employment to other areas together with an evaluation of effects on regional economics and their development, including consistency with Federal policies as set forth in other legislation.

"(2) The effects of such taxes or charges on the freight rates charged by other modes and the extent of diversion of traffic from the waterways to such other modes as both short- and long-term prospects, giving consideration to the development of alternative sources of supply and alternative modes of transportation or routing to market, and specifying the extent of such traffic diversion to modes which are shown by reliable data to be less safe than water carriers in the handling and transportation of hazardous materials or which are shown by such data to be less efficient than water carriers in the use of energy.

"(3) The effect of such charges on the level of prices of commodities shipped to waterway and competing modes, including electric power rates and the costs of energy materials to ultimate consumers.

"(4) The effects of such taxes or charges upon small business enterprises and upon industrial concentration and competition, both within the transportation industry and in any line of commerce as defined in the antitrust laws.

"(5) The requirements of the Nation to the year 2000 for transportation service and the extent thereof which, considering the inherent advantages of waterway transportation, should be provided by inland waterway carriers, together with an estimate of the expansion and improvement of inland waterway capacity necessary to meet such requirement.

"(6) The effects of waterway fuel taxes and other forms of user charges upon the achievement of the objectives of the National Transportation Policy as set forth in the preamble to the Transportation Act of 1940.

"(7) The effects of waterway fuel taxes or other forms of waterway user charges in various forms and in various amounts upon the economic feasibility of waterway improvement projects.

"(8) The effects of waterway taxes or other charges of various types and at various levels on the achievement of the expansion and improvement of the inland waterways estimated to be necessary under subparagraph 5 of this subsection or determined to be necessary by the Secretary of the Army under section 158 of the Water Resources Development Act of 1976 (Public Law 94–587).

"(9) The extent to which the Federal Government should seek to supplement Federal appropriations from general revenues for the benefit of waterborne transportation by imposition of charges upon users of the facilities for which appropriations are made.

"(10) The extent of Federal assistance to the several modes of freight transportation, including all forms of such assistance such as tax advantages, direct grants, rate adjustments for improvement purposes, assumption of pension fund liabilities, loans, guarantees, capital participation, revenues from land grants as well as provision of right-of-way operation, maintenance and improvement, together with an evaluation and comparison of the public benefits resulting from such assistance to each of the several transportation modes, in terms of adequacy, efficiency and economy of service, safety, technological progress, and energy conservation.

"(11) The comparative levels of benefits received from Federal expenditures on waterways by (i) commercial users and (ii) other users, including but not limited to users for recreation, reclamation, water supply, low flow augmentation, fish and wildlife enhancement, hydroelectric power, flood control, and irrigation purposes.

"(12) The various forms of user charges that could be established and the comparative impacts of each on the interests specified in this section.

"(13) The administrative costs of waterway fuel taxes and of alternative user charges.

"(14) The need for assistance to persons and communities, agricultural and/or industrial interests adversely impacted by user charges.

"(15) The classes and categories of waterway users upon whom fuel taxes or other user charges should be imposed.

"(16) The waterways of the United States including specifically the Great Lakes, deep draft channels, and coastal ports which should be included in any system of fuel taxes or other forms of user charges, together with the economic impact and effect on such waterways and users of such mechanism.

"(17) The disposition and application of revenues derived from taxes and other charges imposed on waterway users including consideration of trust fund mechanism.

"(b) Not later than three years after the date of enactment of this Act, the Secretary of Transportation shall transmit to Congress a final report of the study authorized by this section, together with his findings and recommendations, including necessary legislation and those of the Secretary of Commerce, the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Energy, the Attorney General of the United States, the Secretary of the Army, the Chairman of the Water Resources Council, and the Director of the Office of Management and Budget.".

Mr. LONG. Mr. President, it will be necessary, if this amendment or that of the Senator from New Mexico is agreed to, to make technical corrections, and I ask unanimous consent that either Senator may perfect his amendment in the event it is agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. 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. DOMENICI. 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. 1829

(Purpose: To authorize locks and dam 26, a waterways fuel tax, percentage cost recovery, and a study of the future inland navigation program)

Mr. DOMENICI. Mr. President, I call up my amendment No. 1829, which I offer as a substitute for the Long amendment.

I ask unanimous consent that the names of Senator CULVER, Senator WALLOP, and Senator ZORINSKY be added as original cosponsors of the amendment.

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

The amendment will be stated. The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself, Mr. STEVENSON, and others, proposes an amendment numbered 1829 as a substitute for amendment number 1846.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 2, beginning on line 6, delete all through line 5 on page 17 and insert in lieu thereof the following:

(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to replace, at Federal expense as a part of project costs authorized in subsection (a) terrestrial wildlife habitat inundated as a result of the construction of the project on an acre-for-acre basis in the respective States of Missouri and Illinois and to manage such lands as are thus acquired by the Secretary for wildlife mitigation purposes. The Secretary is further authorized to provide project-related recreation development on or in the vicinity of Ellis Island, Missouri, that requires no separable project lands and includes facilities such as roads, parking lots, walks, picnic areas, a boat launching ramp, and a beach, at an estimated cost of $4,000,000 to be cost shared with the State of Missouri and administered in accordance with the provisions of the Federal Water Project Recreation Act (Public Law 89-72) and undertaken independently of the navigation features of the project.

(c) The channel above Cairo, Illinois, on the Mississippi River shall not exceed nine feet, and neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; the Mississippi River north of Cairo, Illinois; the Kaskaskia River, Illinois; and the Illinois River and Waterway, Illinois, unless specifically authorized by a future Act of Congress.

(d) There are authorized to be appropriated to the Secretary of the Army such sums as are necessary to carry out the provisions of subsections (a) and (b) of this section for fiscal year 1978 and succeeding fiscal years. Any funds which have been allocated to a replacement project for locks and dam 26, prior to enactment of this Act, shall be available for the project authorized in this section and shall remain available until expended.

SEC. 103. (a) There is hereby created an Upper Mississippi River System Council (hereinafter referred to as "Council") consisting of the Secretary of Transportation, the Secretary of Agriculture, the Secretary of the Army, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chairman of the President's Council on Environmental Quality, and the Governors of the States of Wisconsin, Minnesota, Iowa, Missouri, and Illinois. The Secretary of the Interior shall serve as Chairman of the Council.

(b) The Congress hereby authorizes and directs the Council to prepare a comprehensive master plan for the management of the Upper Mississippi River System in cooperation with the appropriate Federal, State, and local officials. A preliminary plan shall be prepared by July 1, 1981, and take into account any appropriate recommendations in the report authorized by section 301 of this Act. The plan shall be subject to public hearings in each affected State. The Council shall review all comments presented as such hearings and submitted in writing to the Council and shall make any appropriate revisions in the preliminary plan, and shall, by July 1, 1982, submit to the Congress for approval a final master plan. Public participation in the development, revision, and enforcement of said plan shall be provided for, encouraged, and assisted by the Council. The Council shall, within one hundred and fifty days of enactment of this Act, publish final regulations in the Federal Register specifying minimum guidelines for public participation in such processes. Approval of the final master plan shall be granted only by enactment of the Congress. Changes to the master plan proposed by the Council shall require enactment by the Congress to become effective. All related activities inconsistent with the master plan or guidelines shall be deemed unlawful.

(c) The master plan authorized under subsection (b) of this section shall identify the various economic, recreational, and environmental objectives of the upper Mississippi River System, recommend guidelines to achieve such objectives, and propose methods to assure compliance with such guidelines and coordination of future management decisions affecting the Upper Mississippi River System, and include any legislative proposals which may be necessary to carry out such recommendations and objectives.

(d) For the purposes of developing the comprehensive master plan, the Council is authorized and directed to conduct such studies as it deems necessary to carry out its responsibilities under this section, with provision that it utilize to the fullest extent possible, the resources and results of the Upper Mississippi River resources management (GREAT) study conducted pursuant to section 117 of the Water Resources Development Act of 1976 (Public Law 94-587) and of other ongoing or past studies. The Council shall request appropriate Federal, State, or local agencies to prepare such studies, and any Federal agency so requested is authorized to conduct any such study for the purpose of this section. Studies conducted pursuant to this section shall include, but not be limited to the following:

(1) Secretary of the Interior shall undertake a study to determine the long- and short-term systemic ecological impacts of: (A) present and any projected expansion of navigation capacity on the fish and wildlife, water quality, wilderness, and public recreational opportunities of said rivers, (B) present operation and maintenance programs, (C) the means and measures that should be adopted to prevent or minimize loss of or damage to fish and wildlife, and (D) a specific analysis of the immediate and systemic environmental effects of any second lock at Alton, Illinois, and provide for the

mitigation and enhancement of such resources and shall submit his report containing his conclusions and recommendations to the Congress and the Secretary of the Army.

(2) The Council, acting through the Secretary of Transportation, is directed to immediately initiate a specific evaluation of the need for a second lock at Alton, Illinois, and the direct and indirect systemic effects and needs for such a second lock at Alton, Illinois.

(3) Studies and demonstration programs, including a demonstration program to evaluate the benefits and costs of disposing of dredge spoil material in contained areas located out of the floodplain. Said program shall include, but shall not be limited to, the evaluation of possible uses in the marketplace for the dredge spoil studies and demonstration programs to minimize the environmental effects of channel operation and maintenance activities.

(4) Development for the Upper Mississippi River System of a computerized analytical inventory and system analysis to facilitate evaluation of the comparative environmental effects of alternative management proposals.

(e) Guidelines developed pursuant to this section shall include, but not be limited to, guidelines for channel maintenance, minimization of dredging volumes, alternate uses of dredged material, barge fleeting, protection of water quality, fish and wildlife protection and enhancement, wilderness preservation, and management of the wildlife and fish refuges within and contiguous to the Upper Mississippi River System.

(f) To carry out the provisions of this section, there are authorized to be appropriated to the Council $20,000,000. The Council is authorized to transfer funds to such Federal, State, or local government agencies as it deems necessary to carry out the studies and analysis authorized in this section.

(g) The Upper Mississippi River System consists of those river reaches containing commercial navigation channels on the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; Black River, Wisconsin; and the Saint Croix River, Minnesota and Wisconsin.

(h) Except for the provisions of section 102 of this Act, and necessary operation and maintenance activities, no replacement, construction, or rehabilitation that expands the navigation capacity of locks, dams, and channels shall be undertaken by the Secretary of the Army to increase the navigation capacity of the Upper Mississippi River System, until the master plan prepared pursuant to this section has been approved by the Congress.

(i) The lock and dam authorized pursuant to section 102 of this Act shall be designed and constructed to provide for possible future expansion. All other construction activities initiated by the Secretary of the Army on the Upper Mississippi River System shall be initiated only in accordance with the guidelines set forth in the master plan.

TITLE II—TAX ON FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS

SEC. 201. IMPOSITION OF TAX.

(a) Chapter 31 of the Internal Revenue Code of 1954 (relating to special fuels) is amended by adding at the end thereof the following new section:

"SEC. 4042. TAX ON FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.

"(a) IN GENERAL.—Notwithstanding any other provision of law, there is hereby imposed a tax upon any liquid used during any calendar quarter by any person as a fuel in a vessel in commercial water transportation.

(b) AMOUNT OF TAX.—The tax imposed by subsection (a) shall be—

"(1) in the case of a use after September 30, 1979, and before October 1, 1981, 4 cents a gallon, or

"(2) in the case of a use after September 30, 1981, and before October 1, 1982, 6 cents a gallon, or

"(3) in the case of a use after September 30, 1982, and before October 1, 1983, 8 cents a gallon, or

"(4) in the case of a use after September 30, 1983. and before October 1, 1984, 10 cents a gallon; or

"(5) in the case of a use after September 30, 1984, 12 cents a gallon.

"(c) EXEMPTIONS.—

"(1) DEEP-DRAFT OCEANGOING VESSELS.—The tax imposed by subsection (a) shall not apply with respect to any vessel designed primarily for use on the high seas which has a draft of more than 12 feet.

"(2) PASSENGER VESSELS.—The tax imposed by subsection (a) shall not apply with respect to any vessel used primarily for the transportation of paying passengers.

"(3) USE BY STATE OR LOCAL GOVERNMENT IN TRANSPORTING PROPERTY IN A STATE OR LOCAL BUSINESS.—Subparagraph (B) of subsection (d)(1) shall not apply with respect to use by a State of political subdivision thereof.

"(d) DEFINITIONS.—For purposes of this section—

"(1) COMMERCIAL WATER TRANSPORTATION.—The term 'commercial water transportation' means any use of a vessel on any inland or intracoastal waterway of the United States—

"(A) in the business of transporting property for compensation or hire, or

"(B) in transporting property in the business of the owner, lessee, or operator of the vessel (other than fish or other aquatic animal life caught on the voyage).

"(2) INLAND OR INTRACOASTAL WATERWAY OF THE UNITED STATES.—The term 'inland or intracoastal waterway of the United States' means any improved inland waterway of the United States, as defined by section 305 of the Inland Waterway Improvement and Cost Recovery Act of 1978.

"(3) PERSON.—The term 'person' includes but is not limited to the United States, a State, a political subdivision of a State, or any agency or instrumentality of any of the foregoing.

"(e) DATE FOR FILING RETURN.—The date for filing the return of the tax imposed by this section for any calendar quarter shall be the last day of the first month following such quarter.".

(b) Section 4293 of such Code (relating to exemption for United States and possessions) is amended by striking out "chapters 31 and 32" and inserting in lieu thereof "section 4041, chapter 32,".

(c) The table of sections for chapter 31 of such Code is amended by adding at the end thereof the following new item:

"Sec. 4042. Tax on fuel used in commercial transportation on inland waterways.".

(d) The amendments made by this section shall take effect on October 1, 1979, and shall remain in effect unless superseded by a system of waterway user charges enacted as a result of the recommendations of section 301 of the Inland Waterway Improvement and Cost Recovery Act of 1978. The first proposed regulations under section 4042 of the Internal Revenue Code of 1954 shall be published in the Federal Register not later than the day which is 9 months after the date of the enactment of this Act.

TITLE III—INLAND WATERWAYS STUDY AND COST RECOVERY

SEC. 301. (a) The Secretary of Transportation (hereinafter referred to as the "Secretary"), in consultation with the Secretary of the Army, shall study—

(1) a comprehensive national program for the cost-effective management of the navigation system of the inland waterways of the United States, and

(2) establishment, maintenance, and collection of a reasonable system of user charges (using either a fuel tax, or an increase or decrease thereof, any other charge, or any combination thereof), to be paid by the commercial users of the inland waterways of the United States.

In making his study, the Secretary is authorized and directed to insure the effective coordination of and the necessary consistency between the waterways study authorized by section 158 of Public Law 94-587 and any other related executive branch studies and to take all relevant findings therefrom in making his findings and recommendations. In addition, he shall conduct public hearings, review comments presented at such hearings and those submitted in writing, and shall, no later than January 15, 1981, submit to the Congress policy recommendations for a comprehensive national program for the cost-effective management of the inland waterways of the United States and the recovery from commercial users of that percentage of the costs of such program that is considered to be reasonable. Together with his report, the Secretary shall submit proposed legislation to implement his recommendations.

(b) The study authorized by subsection (a) of this section shall include, but not be limited to, a consideration of the following:

(1) the effects of future inland waterway projects, with cost recovery, and the effects of any expansion of navigational capacity on the inland waterways of the United States on the establishment of a more balanced national transportation system;

(2) the expected level of traffic growth on the inland waterways of the United States and on competing modes of transportation, without navigational cost recovery, with the level of cost recovery provided for in this legislation, and with cost recovery over and above the levels provided for in this legislation;

(3) sites on the inland waterways of the United States where cost-effective improvements are likely to be needed by the year 2000;

(4) the economic impacts of any major navigation investments through the year 2000 on (i) carriers and shippers using the inland waterways of the United States, (ii) alternate modes that compete with carriers using the inland waterways of the United States, and the shippers using such competing modes, and (iii) the ultimate consumers of products, whether shipped on the inland waterways of the United States or not;

(5) the cost impact of user charges on businesses and farmers dependent on water transportation;

(6) factors and standards that should be considered in determining the advisability to proceed with construction of any project on the inland waterways of the United States subsequent to enactment of this Act; and

(7) the possible impact of federally financed navigational projects in requiring offsetting subsidies to competing modes.

(c) The recommendation authorized by subsection (a) of this section shall identify—

(1) those segments on the inland waterways of the United States, together with their costs, that will require major rehabilitation or expansion by the year 2000;

(2) those improvements, together with their costs, for new segments that should be added to the inland waterways of the United States by the year 2000;

(3) a cost recovery system that will provide for balance in national transportation policy and will, either on a systemwide, re-

gionwide, or project-by-project basis, provide a realistic market test of the need for projects listed in paragraphs (1) and (2) of this subsection, and which can be reasonably paid by the prospective commercial users of projects on the inland waterways of the United States; and

(4) benefit and cost factors that should be utilized hereafter in evaluating projects on the inland waterways of the United States.

(d) To carry out the provisions of this section, $8,000,000 is authorized to be appropriated to the Secretary and to remain available until expended.

SEC. 302. Except for projects under construction at the time of enactment of this Act, including the project authorized by section 102 of this Act, and necessary operation and maintenance activities, no project for replacement, construction, or rehabilitation increasing the capacity of the locks and channels on the inland waterways of the United States or to be added to the inland waterways of the United States that primarily benefits commercial navigation shall be initiated, nor shall funds be so expended, by the Secretary of the Army until the Secretary has, by regulations, established a system of user charges, including but not necessarily limited to license fees or tolls, sufficient to recover 10 per centum of the capital cost of such project, including interest, over the initial ten years of the project's operation. Notwithstanding any other provision of law, the Secretary shall initiate collection of such charges when the Secretary of the Army commences the operation of the project, and he shall deposit such charges in the general fund of the Treasury. Such charges may be established at the project or over a broader portion of the inland waterways of the United States, and, to the extent equitable and practicable, shall be distributed among users in such a manner as not to cause serious economic disruption on any segment of the inland waterways of the United States. The Secretary of the Army shall prohibit the use of such project by any commercial vessel that fails to pay such charge. This section is repealed upon enactment of any statute that either authorizes the recommendations of the Secretary required by section 301 of this title, or that rejects or modifies such recommendations.

SEC. 303. No later than January 15, 1981, and each year thereafter, the Secretary of the Treasury shall report to the Congress on the moneys received under title II of this Act during the preceding fiscal year, identifying the percentage that such moneys represent out of all moneys expended during such fiscal year by the United States for operations, maintenance, and construction on the inland waterways of the United States

SEC. 304. The Secretary of the Army, acting through the Chief of Engineers and in consultation with the Secretary of Transportation, shall within one hundred and eighty days of the date of enactment of this Act, promulgate regulations in the Federal Register to minimize congestion on the inland waterways of the United States and thereby extend the useful economic life of locking facilities on such waterways. Such regulations shall include, but not be limited to, requirements covering barge configurations, lockage priorities, traffic scheduling, and lockage aids, such as switchboats.

SEC. 305. As used in this title, the term—

(a) "inland waterway of the United States" means any improved waterway operated and maintained by the United States, the improvement to which are primarily for the use of commercial vessels other than ocean-going vessels, and does not include the Great Lakes, their interconnecting channels, and the Saint Lawrence Seaway, and

(b) "commercial users" means common, contract, or other carriers for hire and owners or operators of private shallow-draft cargo vessels.

SEC. 306. This title may be cited as the "Inland Waterway Improvement and Cost Recovery Act of 1978".

Mr. DOMENICI. Mr. President, at various points in the bill there should have been quotation marks. So that the substitute would be properly incorporated in the bill——

The PRESIDING OFFICER. Will the Senator suspend for a moment, for an inquiry from the Chair of the Senator from New Mexico and the Senator from Louisiana, in order to make the RECORD clear?

What is the understanding of the Senators as it relates to a time agreement?

Mr. DOMENICI. My understanding is that we have not actually changed the parliamentary situation. There are 3 hours, equally divided, on my amendment and 3 hours, equally divided, on the amendment of the Senator from Louisiana, with 3 hours for the junior Senator from Missouri (Mr. DANFORTH).

The PRESIDING OFFICER. Is that the understanding of the Senator from Louisiana?

Mr. LONG. It is my understanding that the Domenici amendment, which is a substitute for the Long amendment, is now pending, and the time is equally divided. I believe it should be equally divided between the Senator from New Mexico and the Senator from Louisiana, and I ask unanimous consent that that be so. That is 3 hours on this amendment.

The PRESIDING OFFICER. That is the understanding.

Mr. LONG. It was also requested and agreed, as I understand it, that during the course of this matter, the Senator from Missouri (Mr. DANFORTH) will be recognized to discuss an amendment he has pending which is relevant to these amendments, but which will not be offered until the amendments have been voted upon.

The PRESIDING OFFICER. It is, then, the understanding of the Senators that there is a total of 9 hours that could be used before any vote takes place?

Mr. DOMENICI. That is my understanding.

Mr. LONG. It is conceivable, but we are going to accommodate the Senate and reduce the time. It is generally agreed between us that a vote on the first amendment will determine a number of things which will shorten the debate thereafter.

The PRESIDING OFFICER. The Chair thanks the Senators.

Mr. DOMENICI. Mr. President, it is important that the Parliamentarian understand that if the junior Senator from Missouri desires to enter this debate and to discuss his amendment, which is not pending, the time will come from his 3 hours.

The PRESIDING OFFICER. And not from the time of the Senator from New Mexico or the time of the Senator from Louisiana.

The Senator may proceed.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally against the time on the bill.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. 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. DOMENICI. I yield myself 15 minutes.

Mr. President, I say to my good friend the Senator from Louisiana (Mr. LONG) that while we have a genuine difference of opinion with respect to the issue at hand, the way we have been able to work out a number of our differences and bring them to the floor of the Senate, with as little disparity between the two views as possible, is, in my opinion, a credit to the Senate as an institution.

Eighteen months ago or so, there was no real thought that we were going to impose on the inland commercial barges of America any significant tax, be it cost recovery or a tax in the nature of a fuel tax assessment.

I shall briefly explain what the bill that Senator STEVENSON from Illinois and I introduced does and then hope that Senator STEVENSON, who has worked with me diligently on this, will have some remarks of his own.

I do not want to overemphasize the fact that there have been substantial concessions made, but basically what Senator STEVENSON and I have brought before the Senate meets with the approval of the President of the United States, on the one hand, and from this Senator's standpoint begins to right a significant inequity in the American transportation system. I hope no one thinks that I had any motive other than that.

When I first got involved in this issue, I found that we had a transportation system in this country basically built around highways and freeways that the trucks of America used in terms of commerce, and we have since tried to estimate whether or not they are paying their fair share of the cost to the taxpayer of constructing those roadways. We come up with a conclusion that across America the average fuel tax on commercial trucks that use the roads, paid for out of the tax coffers of America, is somewhere around 20 cents a gallon. When you take into account the Federal, State, and other kinds of taxes, it is about 20 cents a gallon. We then know that the railroads, one of the other very important ingredients of this system, of America are in substantial financial trouble. They have been overregulated, but whatever that is that is kind of history. We took a look to see how much are they subsidized by the Federal Government.

A great to-do was made about the fact that in the West they were given land at one point in time, and we have tried to explain as best we can what the American people got in exchange for that. And it seems to us that the American taxpayer, by way of a 50-percent

freight reduction that ran right on through the Second World War and for a few years beyond that, got back more than he ever gave. So we look to today, and the best information we can find is that maybe the railroads are subsidized about 3 percent.

Then we took a look at the anomalous situation that the only transportation system in this country that was growing at an inordinate rate was the commercial inland waterway system, and we have on many occasions, and I will not burden and bore the Senate with it, put information in the RECORD as to the enormous growth that is occurring in this one mode while right alongside it in many parts of the country the alternate mode needed by many, because the inland waterways cannot serve everyone, right alongside of the inland waterways, which are growing by leaps and bounds, we found railroads that are unable to continue in operation, in our opinion, because of the position they are put in competitively when they are competing with an inland commercial system that not I, but the Secretary of Transportation, the Congressional Budget Office, and independent economists say are being subsidized to the extent of 40 percent—40 percent. Then one asks how.

We have some that take the floor of the Senate and say the inland rivers of America are there to be used and no one should interfere; they should be free.

My response to them is, indeed, that is right; indeed, the Supreme Court said that. But if you read the decision, you will find that they did not mean that if the taxpayers of America had to build locks, dams, spend hundreds of millions of tax dollars each year to dredge them and maintain them, they were to get that forever free. Therein the issue lies.

We now have before us today an authorization bill which will permit the construction of a major facility, that will cost over a half billion dollars, locks and dam No. 26, and I for one understand the significance of that facility. In fact, for anyone who doubts that it is needed and doubts its economic value, let me just give you one rather glaring commercial fact. We argued on the floor of the Senate for well over 2 months on the Panama Canal and its lock system. This particular facility that we are talking about in inland America will carry more transport to and from the American marketplace than the Panama Canal.

So today this particular amendment the Senator from Illinois and I offer says unequivocally that we authorize the construction of a new facility there. The one that is in place is old, outmoded. We say let us build a new one. But we also say that the time has come to impose on that mode of transportation, called the commercial inland transportation system, a reasonable assessment for the gratuity that has been theirs. I say reasonable. I will explain that in some detail shortly.

There will be some who say that we are charging too much, and there are others who are saying we are charging too little. Historically, to put this in perspective, the Senate by a substantial margin last year made a policy decision. The policy decision was that this gratuity and imbalance in the transportation system had to end, and we adopted a proposal here on the floor of the Senate that said 18 months from and after that bill over a period of 10 years we would begin to collect from the commercial barges of this country 100 percent of the operation and maintenance dollars that come from the general tax fund and that we would begin to collect in an orderly manner 50 percent of the general tax dollars that go into new construction to make up this system.

The rest is kind of history. The House of Representatives refused to consider that bill and passed their own. They sent to us the bill, which is now pending, to which we offer this amendment today.

In a nutshell, that particular proposal by the House of Representatives said over a period of time we will charge 6 cents a gallon for the fuel used by the commercial barges that travel these subsidized waterways. And, Mr. President, without in any way impinging or infringing upon the independence of the other body, I am pleased to say today that my bill will not do that, and I am also pleased to say that the amendment that the Senator from Louisiana put in today will not do that because both of them recognize that that is almost an insult to a system which has been subsidized the way they have and that both provide for a 12-cent fuel tax, although admittedly the propsal that I submitted would bring that 12 cents into effect quicker, and with absolute certainty and all commercial barges would begin to pay it in addition. I am pleased to say, and I believe my good friend from Illinois will confirm, that the President of the United States, who has been an advocate not only since he became President but even before that, found that this inland transportation system, this gratuity, this ever-growing construction burden on the American people, had to find some kind of user fee attached to stop its gargantuan appetite for growth in facilities.

So that any bill that only contains the 6 cents that the House provides, every Senator should know, will not be signed by the President of the United States.

Then I would add there is one other major difference between our approach and the approach of the distinguished senior Senator from Louisiana. While both of these proposals recognize that an equitable way to reimburse the taxpayers of America is to put a fuel tax on, and while both will ultimately get to the 12 cents, there is one significant thing left out of Senator LONG's proposal. That is that there is absolutely no check on new construction in the future in terms of those who use it by paying part of its costs. That means that in the future no one will take a look at the next $0.5 billion or $1 billion or $1.5 billion, or the next time we have to go back up one of these systems and rebuild the whole system, no one will take a look at how much it is going to cost the barge owner that uses it, so there will be absolutely no economic test that will be looked at.

What we have done in our proposal is to say, "OK to the past, OK to projects that are under construction." I, for one, do that with reluctance. "OK for locks and dam 26, go ahead and put the taxpayers' dollars in it."

But then, on the next issue we say that any new construction, other than that which I have just described, the first 10 percent after that kind of facility is built, the U.S. Treasury will collect back from the users of that facility or the system 10 percent of the capital cost to the American taxpayer. But that 10 percent will be collected back in the first 10 years it is operational. That means something like at least 1 percent of the cost of construction per year for each of the first 10 years.

I would remind my colleagues that that, too, on my part is a substantial concession, on the one hand, because this institution, the U.S. Senate, said that we ought to collect back 50 percent, and while we left that up to future regulatory bodies to determine that 50 percent, in this particular bill we made no doubt about it, it will be 10 percent to be collected back in the first 10 years of operation of any new projects, so that those good Senators who want locks and dam 26 built will not misunderstand, and we do not collect back any of the capital costs for that facility. We authorize its construction.

I want to talk about the fuel tax that is in our proposal: 4 cents a gallon in the years 1980 and 1981; 6 cents a gallon in 1982; 8 cents a gallon in 1983; 10 cents a gallon in 1984; and 12 cents a gallon thereafter.

Title III of the amendment has two components: section 301 authorizes a study by the Department of Transportation, in consultation with the Corps of Engineers, an authorization of a 3-year study of a comprehensive user charge system as well as the scope anticipated for the inland waterway development between now and the year 2000.

This report, with recommendations, is due back to Congress January 15, 1981.

Section 302 of our amendment imposes the capital cost recovery on new construction, and it will remain in effect—and I want my fellow Senators to understand this—until Congress enacts the study recommendations that I have just referred to or specifically rejects those recommendations by statutory enactment.

Section 303 requires an annual report from the Treasury on the funds received under title II.

Section 304 is basically a component of the Nelson amendment, mentioned earlier that directs the corps to work on ways to improve the operations of the inland waterway system.

Section 305 is a definition section.

Section 306 is the short title.

I note that the debate is whether or not there will be any linkage of costs and recovery on capital spending. There are those who might like to make the linkage exclusively locks and dam 26.

It just so happens that that is the vehicle we have used to bring to the attention of the institution and the American people the issue that was first

raised by President Franklin Roosevelt and every President thereafter, when they sent a message to Congress asking that some kind of user fees be put on to reimburse the American taxpayers for the expenditures being made on the inland waterway system.

So the linkage is the linkage of costs and recovery of capital spending. It is not explicitly a linkage of locks and dam 26.

I am sure there are those who would like to make it only that. While I have made it clear that this bill will authorize locks and dam 26, it also has as an integral part of it the user fees I have described, both by way of capital recoupment and the fuel tax.

We all know that 10 percent ultimately may be inadequate, but I do not believe anyone can now come before us and say we do not know enough about the system as to whether it can afford the 10 percent. It appears to me that any argument that we cannot expect the commercial barges to pay 10 percent of the capital costs in the future just does not make sense.

If it is not worth that much to them, then why are we building it?

The PRESIDING OFFICER. The Senator's 5 minutes have expired. The Senator is recognized for an additional 5 minutes.

Mr. DOMENICI. I would just draw an analogy in terms of the cost, this 10-percent figure, just to convince everyone that it is certainly something that we ought to put in this bill if we intend to get a bill. The President insists on it. Let me give you an example.

If lock and dam 26 costs $430 million, and it is not covered—I repeat, I am using this only as an example, just in the event that 5 years down the line we have a comparable project.

Let us assume it cost $430 million, 10 percent cost recovery, $43 million, to be recovered in the first 10 years of operation; and let us assume that we ask that every commercial barge that used it, and only those, paid for it, and we did not spread it out over any region; the annual payment, at 6⅝ percent, would be $6,016,000 for each of the 10 years after the project opened.

On just the projected traffic alone, that adds 7½ cents alone to the cost of a ton of traffic. The annual barge rate savings and delay reduction as a result of the construction of lock and dam 26 is $73,681,000—a real savings and delay reduction of 92 cents per ton. There is not any way to figure it other than that the taxpayer, even under these recoupment circumstances, is providing 84½ cents net per ton benefit to the barge owners if and when we have another one like locks and dam 26, that we pay for, and if we have the 10-percent recoupment supplied.

We view this as a reasonable compromise on the issue of waterway user charges, one that we hope our colleagues will support.

While this amendment may fail to achieve the comprehensive user charges approach the Senate approved last June 22, and which the House sought to ignore, I believe it provides a rational, easy to administer, and responsible program for solving the issue of waterway user charges.

What does this amendment say? It says we are going eventually to charge the big barge companies about the same fuel tax that the family motorist now pays in dedicated highway taxes. And it says that when the barge companies decide they want a big new waterway project in the future, the Federal taxpayer will, in effect, pay for 90 percent of it, but the barge industry will have to pay 10 percent of the cost, although not until the project is in use. The Federal Government is not so generous as that to a family buying a house or to a small businessman or any other segment of society.

First, a tax on barge fuel would be gradually phased in, eventually reaching 12 cents a gallon in 1984. To put that in perspective, the trucking industry now pays at least 20 cents a gallon in State and Federal fuel and allocated excise taxes, all of which go directly into the Nation's highway program.

This tax would follow the House bill through fiscal year 1981, then rise gradually to a point 6 cents a gallon above the House bill. And this tax would be all that users would contribute toward the existing system, to the operations and maintenance costs of the entire inland system, to the construction cost of projects now under way, and the in-kind rehabilitation of existing projects.

The second aspect of this proposal involves a delayed recovery program to cover certain new capital costs on the inland waterways. There would be no capital recovery on projects now under way, such as the Tennessee-Tombigbee Waterway, the Red River Waterway to Shreveport, and so forth. Nor would there be any capital recovery on locks and dam 26. But on projects not yet under construction, whether authorized or not, there would be a provision for 10-percent cost recovery—but again over 10 years and after the project is opened for business.

I believe that this approach establishes a realistic policy on new waterway projects, requiring cost recovery similar to what now applies to corps water supply or hydropower projects. And I believe—which is most important—that this approach provides an incentive to the barge industry and the corps to work together to hold down costs on new projects to the most cost effective levels.

Now, what does this mean in real, dollar terms?

Assuming current interest rates, the barge industry would have to raise about $2,800,000 a year for each of 10 years after a project is agreed to repay its capital share of a $200,000,000 project. That would be a minor fraction of the cash-in-the-pockets savings provided to the barge companies by the project. If the new facility cuts the delay time for a towboat by a single hour, that savings in costs is likely to more than offset the full user charge for that use.

I am confident we may hear the argument that the barge industry cannot even afford this paltry sum. Well, if that is the argument, I would respond that it is one of two things—either it is false, or it is an admission that the project in question will not produce any real transportation benefits for the economy.

Waterways have a God-given advantage. But much of the growth in waterway traffic—unlike that provided to other modes—is due to subsidies out of the taxpayers of the Nation. Taxpayers have spent some $10 to $15 billion so far on inland waterway improvements, and were spending at the rate of close to $500,000,000 each year for new Corps of Engineers inland navigation projects, plus operations and maintenance dredging. And that does not take into account the barge-purchase program of the Maritime Administration, the administrative work of the Corps of Engineers, projects of TVA, and so on.

Not a single penny of this cost is recovered in any lock charge or other use fee.

In days when the barge industry was a small, struggling industry, this free ride may have been sound policy. But when barge subsidies are driving railroads into bankruptcy, and when the barge industry is merely offshoots of such corporations as Exxon, U.S. Steel, Cargill, Mobil, and Ashland Oil, such a free-ride policy no longer serves the national interest.

What will the users receive from this proposal? They will get a spanking new project at Alton, Ill., with the likelihood of little responsible opposition to other new projects. They will get perpetual care by the taxpayers on operations and maintenance. And they will get later rehabilitation at that capacity, if necessary.

Let me outline briefly the Domenici-Stevenson amendment.

The language of title I needs no full discussion, as it is familiar to the Members of this body. It is language that adopts the basic components of the so-called Nelson amendment for a full environmental study of the upper Mississippi River system.

Title II is the fuel tax provision, as follows:

4 cents a gallon in F.Y. 1980 and 1981; 6 cents a gallon in F.Y. 1982; 8 cents a gallon in F.Y. 1983; 10 cents a gallon in F.Y. 1984; 12 cents a gallon thereafter;

Title III of the amendment has two components. Section 301 authorizes a study by DOT, in consultation with the Corps of Engineers, on authorization of a 3-year Department of Transportation study of comprehensive user charges, as well as the scope of anticipated inland waterway development between now and the year 2000.

That report is due back to the Congress on January 15, 1981.

Section 302 imposes capital cost recovery on new construction projects at 10 percent over the initial 10 years of the operation of a project, to remain in effect until Congress enacts the study recommendations or specifically rejects them.

Section 303 requires an annual report from the Treasury Department on funds received under title II.

Section 304 is basically a component of the Nelson amendment mentioned

earlier that directs the corps to work on ways to improve the operations of the inland waterway system.

Section 305 is a definition section.

Section 306 is the title's short title.

I would note that the real issue in this debate is whether or not there will be any linkage of costs and recovery on capital spending.

The Senate last June approved a proposal to recover 50 percent of capital costs, in effect up front.

Now, we have come down so far, to a paltry 10 percent, and we still hear that it is—unfair—too much—outrageous. In fact, I was accused in the Washington Post this morning of wanting "even more," and not being "reasonable." Is not an 80-percent reduction from the Senate's June action on capital costs "reasonable?" And that does not count the reduction in operations and maintenance costs.

Yesterday, the distinguished chairman of the Committee on Appropriations argued persuasively for construction of a half billion dollar construction project, pointing out that the costs would be fully repaid by the beneficiaries. We are suggesting a mere 10-percent cost recovery, and we are told it is outrageous.

There seems to me to be an Alice in Wonderland quality to such arguments.

Mr. President, I move the adoption of our amendment.

Mr. President, I ask the distinguished Senator from Illinois if he would like to speak at this time, and I will yield to him as much time as he desires.

Mr. STEVENSON. Mr. President, I thank the Senator from New Mexico for yielding. I ask if he will be good enough to yield me 15 minutes.

Mr. DOMENICI. I yield 15 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 15 minutes, and he may proceed.

Mr. STEVENSON. Mr. President, this controversy over user fees began, I believe, with my effort some years ago to obtain authorization of a replacement for locks and dam 26 at Alton, Ill. In the ensuing controversy over user fees, the origin of the controversy has been lost sight of. So I would first like to say a few words about the other issue that is at stake here; namely, replacement of the most critical navigation facility in the United States, and then a few words about my cooperation with my good and able friend from New Mexico, Senator DOMENICI, for the joint purpose of obtaining those locks and dam and instituting for the first time a system of user fees on the inland waterways.

Locks and dam 26 at Alton was constructed on a site that has proved unstable. The pilings are sunk into a sand foundation. There is constant shifting and periodic cracking in this dam. It is located just south of the confluence of the Mississippi and the Illinois Rivers, and the heavy waterload has pushed the dam downstream by as much as 1 inch. The lock walls have shifted vertically toward the river up to 1 foot in some places. It takes about $10 million a year just to keep this facility operating.

Theoretically, Mr. President, the existing facility can handle 73 million tons of cargo a year. Actually, the capacity is lower than that. Last year more than 60 million tons of cargo transited the facility, and it is approaching full utilization.

Traffic is projected at 85 million tons in 10 years, and even if the existing facility were in good repair and could be counted on to operate efficiently and safely, it could not handle the demand 10 years from now, at least that is not a safe assumption.

This is probably the most critical navigation facility in the United States—critical to the welfare of the region, which is the most highly developed in the United States both agriculturally and industrially, and critical to the welfare of everyone who inhabits the Middle West. A replacement is essential.

A single 1,200-foot lock, which is what would be authorized by our amendment, would have a capacity of only 86 million tons, an increase that would barely handle 1985 traffic. It is the minimum that is required, and consequently this amendment authorizes construction of a lock and dam configured in a way that will accommodate a second lock should it, as I expect, become necessary in the near future.

Mr. President, this will be the last chance we will have in this Congress to act on this proposal. For each day that we delay, the cost of replacing this anti quated, obsolescent, and increasingly dangerous and outmoded facility increases by some $10 thousand. No good purpose is served by delay, and in fact we are taking serious risks with the welfare of the Midwest, and with each day an additional increase in the cost of replacement.

The amendment which Senator DOMENICI and I have offered is a compromise. I have worked, Mr. President, with both Senator DOMENICI and Senator LONG on this matter, first with Senator LONG in the Commerce Committee and more recently with Senator DOMENICI.

The differences between our positions have narrowed to a point, now, where there is very little difference between the two, and in fact both propose, over a period of time, a fuel tax of 12 cents.

The principal difference is the inclusion within the Domenici-Stevenson amendment of a cost recovery formula. I support its inclusion because it is essential to the administration. The administration has made it clear on repeated occasions—at least twice yesterday by the Secretary of Transportation and once more today, and also by representatives of the White House—that anything else, including the House-passed bill or the proposal which I understand is to be introduced by Senator LONG, which does not include a cost recovery formula, would be vetoed.

The cost recovery formula which we have in our amendment provides only for the recovery of 10 percent of the capital cost, the construction cost, of future construction on the inland waterway system, not including locks and dam 26.

This formula would not apply to that most expensive and important facility.

Since, Mr. President, it only applies to future construction, and, takes effect after actual operation, the Senate and the House will have an opportunity to reconsider this formula before it produces any revenues. It would collect only 10 percent of new construction costs and only after actual operation of those facilities. Since the facilities ordinarily require authorization and appropriation and then construction, this formula, if it ever takes effect, will not produce revenues for some time to come. In the meantime the amendment proposes a 3-year study, and, therefore, the Congress will have an opportunity to act on this question with the benefit of a study before the formula takes effect and actually produces revenues.

The differences are narrow but they are also important. That principle of capital cost recovery is essential to the administration. Since its effectiveness is subject to reconsideration by the Congress after a study in the future it is not a principle that I find very difficult to rise above.

Mr. President, this amendment reflects concessions on all sides, and is an effort to break the impasse that threatens to prevent replacement of the locks and dam 26, and also to end the long impasse which originated in the Northwest Ordinance over the collection of user fees from the principal beneficiaries of improvements on the inland waterway system.

Under this amendment the barge industry will be required, for the first time, to contribute a portion of what the Federal Government spends to build, operate, and maintain the inland navigation system. That step is long overdue. It is a step which I have always supported.

Mr. President, I want to pay my respects to Senator DOMENICI. He has, with vision, with stubbornness, with, I think, great courage, fought asd fought for a long time now to serve the public interest—and against powerful opposition—by obtaining a system of user fees.

The amendment authorizes the new locks and dam with a single 1,200-foot lock. It also authorizes studies for the planned development and environmental protection of the upper Mississippi River.

The amendment prohibits a 12-foot channel on the upper Mississippi and its tributaries, and construction of any new navigation projects, pending the outcome of the study.

As Senator DOMENICI has mentioned, it imposes a gasoline fuel tax starting with 4 cents in 1980, in fiscal 1981, confined to commercial users of the system. That tax increases to 12 cents in fiscal 1985 and thereafter. In addition, it authorizes a 3-year study of user fees, a study to be led by the Department of Transportation, for the purpose of developing a comprehensive system of user charges for the inland waterway system.

In addition, it requires the recovery of 10 percent of the cost of new construction with, as I mentioned before, the exception of locks and dam 26.

Mr. President, that formula for recovery of the 10 percent of construction costs in the future must be imposed in

such a way as to spread these costs over the entire inland waterway system during the first 10 years the new facility is in operation so that they will not be borne unfairly or inequitably by any user or segment of the system, or any particular industry.

This compromise is sound, it is workable, and it meets the minimum requirements of the administration with respect to recovery of operating and capital expenditures for the inland wateway system. In that connection, Mr. President, I ask unanimous consent that there be printed in the RECORD at this point a copy of a letter to me from Secretary Adams, dated April 29, 1978, in which he states emphatically that this is the minimum that the administration will accept, and goes on to give the administration's reasons for its strong position.

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

SECRETARY OF TRANSPORTATION,
Washington, D.C., April 29, 1978.

Hon. ADLAI E. STEVENSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENSON: I am writing to advise you of the Administration's views on legislation now pending before the Senate concerning Lock and Dam 26 and waterway user charges.

When I last wrote you on the issue of waterway user charges, it was to inform you of the President's intention to veto the House bill, H.R. 8309. We remain convinced that the 4¢/6¢ tax recommended by the House is inadequate.

The Administration would still prefer legislation recovering 100 percent of the costs of operation and maintenance, and 50 percent of the cost of new construction of the inland waterway system. This year those costs are approaching the half-billion dollar level.

In order to expedite this matter, however, we will accept the compromise substitute for H.R. 8309 that has been offered by Senators Stevenson and Domenici. This substitute offers the minimum acceptable basis from which to develop an adequate House-Senate Conference bill.

In our view, the most important elements of the Stevenson-Domenici proposal are:

(1) An adequate level of taxation implemented by a date certain. We support the Stevenson-Domenici proposal for a gradually phased-in fuel tax beginning no later than FY 1980, and reaching 12¢ per gallon by the end of FY 1984. This tax will still be proportionally much less, for example, than the dedicated highway taxes paid by the trucking industry. Based on extensive studies, we believe that this tax would impose no serious hardship for barge companies or their shippers.

(2) The principle of cost recovery. Both this Administration and the Senate have supported full recovery of operation and maintenance costs and 50 percent recovery of the cost of new construction on the inland waterway system. While we remain convinced of the correctness of our position, we are willing to postpone implementation of this level of recovery pending the outcome of a comprehensive study to be carried out by the Department of Transportation and other agencies.

In the meantime, the fuel tax discussed above should be implemented. For any projects initiated prior to the enactment or rejection of the recommendations of the DOT study, a minimum of 10 percent of capital costs should be recovered, as proposed in the Stevenson-Domenici substitute.

(3) Comprehensive planning for the inland waterway system. As the costs of the current waterway system have escalated, the need for a comprehensive review of waterway development policy has grown. The commercial waterway industry, according to a recent CBO study, receives the equivalent of 40 percent of its annual revenues in Federal subsidies in the form of free Federal waterway operation and construction; the equivalent Federal subsidy of other modes is 3 percent or less. The Stevenson-Domenici study proposal offers an opportunity to develop a coordinated approach to waterway costs within the context of a national transportation system.

This Administration very much wants to establish a fair system of waterway user charges along with the waterway improvements that are needed. However, the President has asked me to emphasize that our desire to establish this system does not mean that we will accept legislation involving insubstantial taxes which are indefinitely delayed. He has asked me to advise you that he will not sign legislation authorizing a new lock and dam at Alton, Illinois unless it establishes a *firm* time-table with an early commencement date for the implementation of a fuel tax which would recover a substantial portion of operating costs. Moreover, acceptable legislation would provide for some capital cost recovery on new waterway construction, pending Congressional enactment or rejection of the recommendations of the DOT study. The Stevenson-Domenici proposal meets these criteria as compared with other proposals that have been circulated recently in the Senate which do not, and would not be signed.

In addition the President has asked me to convey his hope that this bill will not be used as a vehicle for additional costly or extraneous amendments that could jeopardize final enactment of this needed legislation.

I hope that you will be able to support the Stevenson-Domenici substitute, and that we can finally resolve this difficult issue.

Sincerely,

BROCK ADAMS.

Mr. STEVENSON. Mr. President, the fuel tax of 12 cents in fiscal 1985 is modest. That figure was determined by reference to the average State-Federal fuel taxes now paid by the trucking industry in this region. It is the average which the trucking industry pays in State and Federal fuel taxes. The barge companies are at present exempt. By the time these barge companies are paying 12 cents they will probably still be in a cost advantage position. By then it is probable, to say the least, that their competitors, the trucks, will be paying higher taxes than that for their diesel fuel.

In addition, this 12-cent figure does not take into account the Federal excise taxes on tires, batteries, and other products which are paid by the trucking industry.

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. DOMENICI. Mr. President, I yield an additional 5 minutes to the Senator.

Mr. NELSON. Will the Senator yield for a unanimous-consent request?

Mr. STEVENSON. I yield.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Jeffery Nedelman, of my staff, be granted the privileges of the floor during the debate on the pending legislation and the rollcalls thereon.

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

Mr. LONG. Will the Senator yield again for the same purpose?

Mr. STEVENSON. I yield.

Mr. LONG. I ask unanimous consent that Bernard Shapiro, Larry Brown, and Dick Ruge of the Joint Tax Committee, and Doug Svendson, of the Commerce Committee staff, be granted the privileges of the floor.

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

Mr. STEVENSON. Mr. President, the 12 cents, which will not be reached until 1985, is little enough. It would recover only about 50 percent of the Federal Government's annual expenditures for operation and maintenance of the inland waterways.

Mr. President, the Senate earlier approved a provision, supported by the distinguished Senator from New Mexico and also the administration, which would have required the barge industry to pay all the operating and maintenance costs for the inland waterway system, and, in addition, half of the capital cost of new construction.

This, as I say, brings down the percentage of expenditures for operation and maintenance to 50 percent, and that will not take effect until 1985, and the cost recovery formula, which is subject to reconsideration by the Congress, will not bring in more than 10 percent when it takes effect.

So we have all made concessions—the administration, the Senator from New Mexico, and myself—in the interest of rising above our differences for the sake of establishing user fees long overdue and authorizing the replacement of this most critical navigation facility. If we fail, then it is certain that legislation will be vetoed and many other projects will suffer, Mr. President. Also, transportation in this region will suffer.

The Senator from New Mexico mentioned the plight of the railroads. If they continue to be placed at a cost disadvantage, they will continue to suffer from the Federal subsidies for a competing mode of transportation and continue to go out of business. Already, there are, in this region, two railroads not only threatened, but two railroads already in bankruptcy. I refer to the Milwaukee Railroad and the Rock Island.

In conclusion, Mr. President, this amendment would assure midwestern farmers of transportation for their products at a reasonable transportation cost. In fact, it is minimal when considered in relation to the bushels of wheat, corn, and beans that are transported by this system. It would assure city dwellers a means of receiving coal and other fuels at reasonable cost for transportation. It offers equity to the American taxpayer, and it begins the process of balancing competing modes of transportation so that the waterway users no longer enjoy an advantage which threatens the viability of other vital transportation modes.

This issue has been debated for 3 years. It is our last chance in this Congress to authorize replacement of locks and dam 26. It is our last chance this year to enact user fees. It is a compromise that has the backing of the administration. It will

be signed. It should be approved by the U.S. Senate.

I thank my distinguished colleagues for yielding time.

Mr. DOMENICI. Mr. President, I yield myself an additional 5 minutes.

I would be remiss if I did not, for the record, thank and pay tribute to the Secretary of Transportation, Mr. Brock Adams, for his diligent work in analyzing the situation as it exists, the dilemma that he finds in the Midwest with reference to the railroads, and this cooperation in an effort to reach the compromise which is before us today.

I also want to comment that my good friend from Illinois mentioned the powerful opposition that exists against this user fee approach. I certainly do not want any misunderstanding of that from my standpoint. I am in no way demeaning the opposition that comes from distinguished Senators such as the Senator from Missouri (Mr. DANFORTH) and Senator LONG, because, obviously, they have constituents and interests in their State. But I think it is fair to say that the commercial barge owners have traversed this country talking about themselves as if they were little tiny business operations and that any kind of tax on them is certainly going to put them out of business. They left the impression that they were the last cause of the independent small business people of this country. I need not burden the RECORD again with the nature of the ownership.

I am not one who usually talks about bigness in business or smallness. I do not know whether big is beautiful or little is bad, but I certainly think that when you find that the major American corporations are the ones that own most of the barges, they at least should present their case from the standpoint that they are not the ma's and pa's and the one- and two-barge operators that they are trying to let the American people think they are.

Mr. HEINZ. Will the Senator yield?

Mr. DOMENICI. I have just a couple of thoughts and I shall be happy to yield. Did the Senator have a question?

Mr. HEINZ. It was a minor point. The Senator mentioned the Senator from Louisiana and the Senator from Missouri as being strongly opposed. I felt left out. I wonder if the Senator would add me to that list.

Mr. DOMENICI. I am glad to add the Senator, and also to add whatever adjectives he would like to describe the admirable way in which he has fought the battle, last time losing it, nonetheless. This time, we shall see in a few hours. I apologize for not including the Senator.

Let me say to the barge owners of this country why I think they ought to be complimented by this amendment that we have offered. What we are saying here is that if you are involved when we start planning the next Tennessee-Tombigbee, which ends up how many million dollars over the original estimate? About $1.5 billion over the early estimates—what we are saying to the commercial barge owners is:

We would not be doing that if you were part of this game, because if you were in there looking at what the Corps of Engineers is going to spend, if you were looking at the fancy plans and the excessive costs, just from the standpoint that you have to pay 10 percent of it in 10 years, we have so much confidence in your ability as entrepreneurs that we think you will cut down the waste immeasurably.

Obviously, it would appear to me as an original proponent that your ability to cut down on that kind of waste and cause us to stop building projects that we do not need would probably be more directly proportionate to an increase. Maybe it would be even better; you would be more vigilant and diligent if it were 50.

The reason I agreed to 10, so you will all know and there will be no misunderstanding about it, is not that I think it is fair, because I think 90 percent being paid by the taxpayer is still too much. But I believe we are going to have far fewer boondoggles built and far less excessive facilities built, far fewer overruns, if the barge owners that have to pay 10 percent of it are in there looking at it from the beginning. That is what impressed me about the 10 percent.

I never was worried about whether it was 10, 50, or 100. What I am concerned about is the imbalance in the transportation system, when one mode is free and subsidized to the extent that I have described on a number of occasions here, and the other modes pay their own way. I have been equally concerned that we can come up with any kind of economic study, with the so-called cost-benefit ratios that we use around here, to justify any one of these projects on the system and the taxpayer is going to pay for it. That is what I think makes the 10 percent important.

That is why I believe that the President of the United States, who wanted a recovery system built into this system, and the Secretary of Transportation, who worked diligently, accepted 10 percent. Because not only will they collect the 10 percent, but I predict it will offer a tremendous evaluation of these projects in the future as to whether or not we are going to build them just for the sake of building them, or whether they are really needed and justified.

I also want to thank a couple of other people. Then I shall reserve the remainder of my time.

The distinguished Senator from Wisconsin (Mr. NELSON) from the very beginning of this involvement of the locks and dam 26, and the whole idea of just how far we are going in using the river systems for transportation, has been out in front of everyone.

It was just my good or bad fortune to have this particular one dropped in the committee that I served on, locks and dam 26, but I certainly have no right to claim to be even among the first to be worried about this excessive growth of that gratis system, what it might do to that entire waterway system, and certainly what it is doing to the imbalance in the modes of transportation.

For his leadership on that score, I am indebted and I thank him for his appearances before the committee and the support he has given to this point.

Mr. President, the statutes of the United States contain a variety of prohibitions imposed over the years against tolls on various waterways. The legislation we have adopted today, of course, overrides the effect of those statutes.

Recently, I asked the Army Corps of Engineers to compile a list of those statutes. I ask unanimous consent that this list, which may not be inclusive of all such now-outdated prohibitions, be printed at this point in the RECORD.

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

COMPILATION OF FEDERAL STATUTES PROHIBITING WATERWAY USE TOLLS

This country's first prohibition of waterway changes was adopted in Article IV of the Northwest Ordinance of 1787, which guaranteed rights of free navigation to residents of Ohio, Michigan, Indiana, Wisconsin, Minnesota (east of the Mississippi), and that part of Pennsylvania included in the Erie Purchase. By the Act of August 7, 1789, Congress adopted the Northwest Ordinance as U.S. law, without change. By the Act of May 26, 1790, Congress extended to the inhabitants of the Southwest Territory the "privileges, benefits, and advantages" of the Northwest Ordinance. Thus Article IV's guarantee of free navigation was granted to Kentucky, Tennessee and Alabama.

To ensure further the free waterways policy of the Northwest Ordinance, the language of Article IV was incorporated in the constitutions of many states admitted to the Union after ratification of the Federal Constitution, and Congress included that language in many enabling acts admitting new States to the Union. Those States whose constitutions incorporated the language of Article IV of the Compact of the Ordinance of 1787 are: Alabama, 1:24; Alaska, VIII:13; California, IX:2; Minnesota, II:2; Mississippi, IV:81; Missouri, 1:1; Tennessee, 1:29; and Wisconsin, IX:1. The Congressional enabling acts of admission for the following States reaffirmed the language of Article IV: Alabama, Enabling Act, March 2, 1819 (3 Stat. 492 Sec. 6); California, Act of Admission, September 9, 1850 (9 Stat. 452 Sec. 3); Illinois, Enabling Act, April 18, 1818 (3 Stat. 428–431); Indiana, Enabling Act, April 19, 1816 (3 Stat. 289–291); Iowa, Act of Admission, March 3, 1845 (5 Stat. 743 Sec. 3); Louisiana, Enabling Act, February 20, 1811 (2 Stat. 642 Sec. 3) and Act of Admission, April 8, 1812 (2 Stat. 703 Sec. 1); Minnesota, Enabling Act, February 26, 1857 (11 Stat. 166 Sec. 2); Mississippi, Enabling Act, March 1, 1817 (3 Stat. 349 Sec. 4); Missouri, Enabling Act, March 6, 1820 (3 Stat. 546 Sec. 2); Ohio, Enabling Act, April 30, 1802 (2 Stat. 174 Sec. 5); Oregon, Act of Admission, February 14, 1859 (11 Stat. 383 Sec. 2); and Wisconsin, Enabling Act, August 6, 1846 (9 Stat. 57 Sec. 3).

By the Act of March 3, 1803, Congress enacted a policy that all U.S. navigable rivers south of the State of Tennessee would remain public highways (2 Stat. at 229, 235).

In the following years, Congress frequently reaffirmed the policy that U.S. waterways should be free of tolls. For example, Congress often terminated the collection of tolls upon the transfer of non-Federal navigation facility to Federal control. The Federal Government followed this policy of immediate abolition of tolls when it took over the St. Mary's Falls Canal (21 Stat. 189, 190); privately owned improvements on the lower Monongahela River (29 Stat. 219); Cape Fear River from Wilmington to Fayetteville, North Carolina (21 Stat. at L. 475); Upper Monongahela River, Pennsylvania and West Virginia (24 Stat. at L. 318); Black River, North Carolina (24 Stat. at L. 320); Mouth of Brazos River, Texas (30 Stat. at L. 1141; Puget Sound-Lake Washington Canal, Washington (34 Stat. at L. 1108). The United States in many instances specifically prohibited tolls

on facilities that were Federal from the outset: Michigan City Harbor, Indiana (14 Stat. 73, 421–62); Des Moines Rapids Canal, Mississippi River, Iowa (14 Stat. 420); Meekers Island Lock and Dam, Mississippi River, Minnesota (15 Stat. 169, 17 Stat. 562); Galena Harbor and River, Illinois (26 Stat. 448–9); specifically prohibited tolls on non-Federal facilities improved with Federal funds but remaining under non-Federal ownership; Aransas Pass and Bay, Texas (20 Stat. 371–72, 26 Stat. 105–6, 28 Stat. 26–27, 30 Stat. 1128); Little Kanawha River, West Virginia (21 Stat. 475, 22 Stat. 199, 23 Stat. 139, 24 Stat. 319, 25 Stat. 410, 26 Stat. 440); Galveston Bay, Texas (23 Stat. 135, 26 Stat. 135, 26 Stat. 456); St. Lawrence River, New York (32 Stat. 456); and specifically prohibited tolls on non-Federal facilities to which the United States did not contribute: Mississippi River at Grand Rapids, Minnesota (23 Stat. 154); Corpus Christi and Padre Island Harbor, Texas (26 Stat. 740–1, 27 Stat. 422, 30 Stat. 1128, 32 Stat. 341); Canal from St. Lawrence River to Massena, New York (30 Stat. 904); Channels along the New Jersey Coast (34 Stat. 800); and many others. Present law forbids tolls on all improvements by non-Federal interests. See 33 USCA, Section 565.

There appear to be only two exceptions (of short duration) to this general policy. After officially taking over the Louisville and Portland Canals in 1874, the Federal Government collected $400,000 in tolls for the operation and maintenance of the canals before the Act of May 18, 1880 (21 Stat. at p. 141) provided that these canals be toll-free with operation and maintenance costs to be paid by the Treasury. Also, after purchasing the Fox and Wisconsin Rivers improvement in 1870, the United States collected tolls for its use until the Rivers and Harbors Act of 1882 (22 Stat. at p. 209) which, with its provision for a general prohibition of tolls for all navigation improvements owned by the United States, ended the collection of tolls for the use of this improvement.

The Rivers and Harbors Act of 1882 (22 Stat. 209; 33 U.S.C. (Section 5) adopted the first nation-wide prohibition of tolls and operating charges for all federally-sponsored navigation improvements. The same prohibition was adopted again in the Rivers and Harbors Appropriation Act of 1884.

Congress again enacted prohibitions of tolls and operating charges in the Rivers and Harbors Act of July 5, 1884 (23 Stat. 147) and the Act of March 3, 1909 (35 Stat. 818).

Mr. DOMENICI. Mr. President, on several occasions in the past, I have noted the excessive number of ambiguities contained in the House-passed version of the waterway user charge bill, H.R. 8309. I noted that a number of waterways and ports such as New Orleans are excluded from the tax. I noted that the House bill covers exactly 10,755.8 miles of waterways—only 40 percent of the Nation's 25,000 miles of inland waterways.

Thus, under the House bill, vast stretches of privileged inland waterways are entirely free of tax, while other areas are forced to pay. The illusion that it requires "full" recovery from the barge industry is simply that, an illusion. And it is an unfair illusion. Why should barges plying the Yazoo River go free of tax, while those on the Ohio River pay?

Barges are already using the Yellow Creek Channel of the Tennessee-Tombigbee Waterway from the Tennessee River south of highway 25. Yet the entire Tennessee-Tombigbee Waterway—all $1.8 billion worth of it—will be free of tax under the House bill. The Savannah River in Georgia would be exempt, even though the taxpayers are spending $1,300,000 this fiscal year to dredge that river for barge traffic.

I also have pointed out what I feared was the bill's ambiguity on collecting the tax, possibly creating a situation where towboats might bypass major Mississippi River ports so they can load tax-free fuel in tax-free New Orleans.

Let me give you an example. There are many 5,600-horsepower towboats on the Mississippi River. Such a towboat can push from 20 to 25 barges—carrying 28,000 to 37,500 tons of commodities—all the way from St. Louis to New Orleans and back again as far as Vicksburg, Miss., without refueling. That is a distance of 1,406 miles. If my fear had turned out to be correct, it would prove very easy for barge owners to avoid fueling in ports such as Memphis or Cairo, Ill., or Vicksburg in favor of loading tax-free fuel in New Orleans. This would also hold true on the Columbia River system, where barges could ignore fueling at other river ports in favor of tax-free fuel in Portland, Oreg.

What would this mean for other river ports? The port of Memphis sells and barge operators purchase between 7,000,000 and 10,000,000 gallons of fuel monthly for use in towboats on the Mississippi. That's about 100,000,000 gallons annually, carrying a value of $35,000,000 to $40,000,000.

As I indicated, that fortunately does not appear to be the case. But it would be mooted by adoption of the Domenici-Stevenson amendment, which includes barge traffic at New Orleans and on the Savannah River and the Yazoo in the definition of inland waterways. I ask unanimous consent that a letter to me from the Department of the Treasury on this point be printed at this point in the RECORD.

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

DEPARTMENT OF THE TREASURY,
Washington, D.C., December 7, 1977.

Hon. PETE V. DOMENICI,
U.S. Senate, Washington, D.C.

DEAR SENATOR DOMENICI: The tax imposing section of H.R. 8309 as passed by the House of Representatives is drafted so as to prevent the type of tax avoidance which you outlined in your letter of November 4 to Secretary Blumenthal. Proposed section 4042 of the Internal Revenue Code would impose a tax "upon any liquid used during any calendar quarter by any person as a fuel in a vessel in commercial water transportation." This terminology levies the tax on the "use" of the fuel in designated areas without regard to where or when it was obtained by the vessel operator. Those who operate their vessels during a calendar quarter only on the sections of the waterways designated in the bill would pay tax on all fuel used. Those who operated on both designated and nondesignated portions of the waterways would have to determine usage on the different portions to compute tax due.

A tax which requires taxpayers to separate taxable and nontaxable uses of a product is not as easy to administer or comply with as a tax imposed on a product irrespective of how it is used. But if it is decided as a matter of public policy that tax should accrue only when a product is used in a certain way or for a certain purpose, it then becomes necessary to accept any additional work resulting therefrom as the cost of achieving the larger objective. The proposed tax on fuel used on the waterways would not be unique in this respect. Existing fuel taxes have provisions which require users to separate their fuel usage into taxable and nontaxable categories. For instance, an operator of an airplane engaged in charter work and also operated as a commuter plane may have to pay the aviation fuel tax on fuel used for charter work but not for the fuel used to run the commuter operation. (In the latter case, the tax on amounts paid for transportation of persons by air is applicable.) The shift from taxable to nontaxable use of a fuel may take place during the day and as part of a given load of fuel. A similar separation of fuel usage is required of motor truck operators who wish to obtain the advantage of the exemption or lower tax rate on fuel used to operate special equipment on their trucks when a single tank is used to fuel both the motor of the vehicle and a separate motor on the vehicle for operating the special equipment.

While we have not as yet prepared any draft regulations for the proposed tax on fuel used on the inland waterways, it is possible that they would be fairly general in form as in the case of the ones relating to the dual use of fuel from the tank of a motor vehicle. A copy of these regulations is enclosed.

Sincerely,

LAURENCE N. WOODWORTH,
Assistant Secretary.

REGULATIONS

[¶309] § 48.4041–6. Dual use of taxable liquid.—Tax applies to all taxable liquid sold for use or used as a fuel in the motor which is used to propel a diesel-powered highway vehicle or in the motor used to propel a motor vehicle, motorboat, or airplane, even though the motor is also used for a purpose other than the propulsion of the vehicle. Thus, where the motor of a diesel-powered highway vehicle or of a motor vehicle, motorboat, or airplane operates special equipment by means of a power take-off or power transfer, tax applies to all taxable liquid sold for such use or so used, whether or not the special equipment is mounted on the vehicle. For example, tax applies to diesel fuel sold to operate the mixing unit on a concrete mixer truck if the mixing unit is operated by means of a power take-off from the motor of the vehicle. Similarly, tax applies to all taxable liquid sold for use or used in a motor propelling a fuel oil truck even though the same motor is used to operate the pump (whether or not mounted on the truck) for discharging the fuel into customers' storage tanks. However, tax does not apply to liquid sold for use or used in a separate motor to operate special equipment (whether or not the equipment is mounted on the vehicle). If the taxable liquid used in a separate motor is drawn from the same tank as the one which supplies fuel for the propulsion of the vehicle, a reasonable determination of the quantity of taxable liquid used in such separate motor will be acceptable for purposes of application of the tax. Such determination must be based, however, on the operating experience of the person using the taxable liquid and the taxpayer must maintain records which will support the allocation used. Devices to measure the number of miles the vehicle has traveled, such as hubometers, may be used in making a preliminary determination of the number of gallons of fuel used to propel the vehicle. In order to make a final determination of the number of gallons of fuel used to propel the vehicle, there must be added to this preliminary determination the amount of fuel consumed while

idling or warming up the motor preparatory to propelling the vehicle. [Reg. § 48.4041-6.]

.10 Historical comment: Adopted by T. D. 6505. Amended by T. D. 6881, 4/6/66. Amended by T. D. 7461, 1/12/77, to apply uniformly the definition of "highway vehicle".

Mr. DOMENICI. Mr. President, I ask unanimous consent to have printed in the RECORD the list of corps projects under construction, as well as those not under construction. This is the list the corps will use when considering the effect of section 302 of my amendment. Projects not under construction are those where actual heavy construction has not taken place. The mere acquisition of land is not to be considered "construction."

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

Corps of Engineers inland navigation projects under construction

(Total estimated Federal cost ($000) October 1977 price levels)

Project:	
Bayou La Fourche and La Fourche Jump Waterway	8,530
Mississippi River Regulation Works between Ohio and Missouri Rivers [1]	154,600
Missouri River, Sioux City to Mouth [2]	438,000
Smithland Locks and Dam, Ohio River	251,000
Temporary Lock 53, Ohio River	37,200
Felsenthal Lock and Dam, Ouachita/Black Rivers	64,000
Calion Locks and Dam, Ouachita/Black Rivers	49,500
Red River Waterway, Shreveport to Mississippi River	995,000
Tennessee-Tombigbee Waterway	1,410,000
Wallisville Lake, Trinity River	28,800

Corps of Engineers inland navigation projects authorized for construction, work not initiated

(Total estimated Federal cost ($000) October 1977 price levels)

Project:	
Big and Little Sallisaw Creek Navigation, Arkansas River Basin	1,600
Coosa River Channel, Montgomery to Gadsden	520,000
Gulf Intracoastal Waterway, St. Marks to Tampa	199,000
Gulf Intracoastal Waterway, St. Petit Anse, Tigre and Carlin Bayous	3,000
Gulf Intracoastal Waterway, Rigolets Lock	14,235
Gulf Intracoastal Waterway, Seabrook Lock	22,890
Gulf Intracoastal Waterway, Vermilon Lock	22,300
Illinois Waterway Duplicate Locks	838,000
Kansas River Navigation	5 400
Mound City Locks and Dam, Ohio River [3]	297,000
Red River Waterway, Shreveport to Daingerfield, Texas	364,000
Trinity River	2,311,000
Yazoo River	140,000

[1] Training works improvements.
[2] Project essentially complete.
[3] Undergoing reevaluation.

Mr. DOMENICI. Mr. President, a major buttress to the ability of the Corps of Engineers to continue to pour hundreds of millions into the expansion of the inland waterway system, without programmatic oversight, has been the so-called 1909 act. It was this act that was the source of the locks and dam 26 litigation. The 1909 act allows navigation construction to go forward without specific authorization on anything that can be called a "replacement" project. The language of Chairman RANDOLPH'S amendment earlier today, language I sponsored last year in committee, will alter that authority in line with the administration's request. It will require affirmative congressional authorization of such "replacements" if the project's location or capacity is altered.

Mr. President, I ask unanimous consent that two lists of 1909 act projects be printed at this point in the RECORD.

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

PROJECTS COMPLETED UNDER THE 1909 ACT

	Replaced	Capacity: Original	Capacity: Replacement	Cost of replacement
Coffeeville lock and dam, Alabama	Locks 1, 2, and 3	1—52 ft by 185 ft	1—110 ft by 600 ft	$21,597,264
Holt lock and dam, Alabama	Locks 13, 14, 15, and 16	1—52 ft by 285 ft	1—110 ft by 600 ft	28,100,000
Warrior lock and dam, Alabama	Locks 8 and 9	1—52 ft by 285 ft	1—110 ft by 600 ft	13,295,553
Lock and dam 52 (temporary lock) Ohio River, Ill		1—110 ft by 600 ft	1—110 ft by 1,200 ft[1]	10,154,518
Maryland locks and dam, Indiana, Ohio, Ky	Lock and dam Nos. 35, 36, 37, and 38	1—110 ft by 600 ft	1—110 ft by 600 ft 1—110 ft by 1,200 ft	62,623,121
Capt. Anthony Meldahl lock and dam, Ohio River, Ky	Lock and dam Nos. 31, 32, 33, and 34	1—110 ft by 600 ft	1—110 ft by 600 ft	74,153,051
Greenup locks and dam, Kentucky	Lock and dam Nos. 27, 28, 29, and 30	1—110 ft by 600 ft	1—110 ft by 600 ft	55,723,176
McAlpine locks and dam, Kentucky	Rebuilt dam—added 1 lock; utilized 1 lock	1—56 ft by 360 ft 1—100 ft by 600 ft—in use.	1—170 ft by 1,200 ft	45,564,231
Belleville locks and dam, Ohio	Lock and dam Nos. 18, 19, and 20	1—110 ft by 600 ft	1—110 ft by 600 ft	62,144,722
New Cumberland locks and dam, Ohio	Lock and dam Nos. 7 and 8	1—110 ft by 600 ft	1—100 ft by 600 ft 1—110 ft by 1,200 ft. 1—110 ft by 1,200 ft.	38,827,415
Pike Island locks and dam, Ohio	Lock and dam Nos. 9, 10, and 11	1—110 ft by 600 ft	1—110 ft by 600 ft 1—110 ft by 1,200 ft.	56,601,759
Racine locks and dam, Ohio	Lock and dam Nos. 21, 22, and 23	1—110 ft by 600 ft	1—110 ft by 600 ft 1—110 ft by 1,200 ft	63,977,804
Maxwell locks and dam, Monongahela River, Pa	Lock and dam Nos. 5 and 6	1—56 ft by 360 ft	2—84 ft by 720 ft	30,120,000
Monongahela River lock and dam No. 4, Pennsylvania	Reconstructed existing dam	1—56 ft by 360 ft 1—56 ft by 720 ft		15,200,000
Monongahela River lock and dam No. 2 (reconstructed), Pennsylvania	Replaced existing locks	1—56 ft by 362 ft	1—56 ft by 360 ft 1—110 ft by 720 ft	16,967,114
Monongahela River, Morgantown lock and dam, West Virginia.	Lock and dam Nos. 10 and 11	1—56 ft by 182 ft	1—84 ft by 600 ft	8,778,000

[1] Lock added to existing structure.

PROJECTS UNDERWAY

	Replaced	Original	Replacement	Appropriation through July 1974	Total cost
Locks and dam 26—Alton, Ill	Locks and dam 26	1—360 ft by 110 ft 1—600 ft by 110 ft	2—1,200 ft by 110 ft	$7,258,000	$383,270,000
Lock and dam 53 (temporary lock) Illinois and Kentucky.		1—110 ft by 600 ft	1—110 ft by 1,200 ft[1]	1,600,000	19,400,000
Smithland lock and dam, Illinois, Indiana, and Kentucky.	Lock and dam Nos. 50 and 51	1—110 ft by 600 ft	2—110 ft by 1,200 ft	78,188,000	192,197,000
Cannelton locks and dam, Indiana and Kentucky.	Locks and dam Nos. 43, 44, and 45	1—110 ft by 600 ft	1—100 ft by 600 ft 1—110 ft by 1,200 ft	95,465,000	99,040,000
Newburgh locks and dam, Indiana and Kentucky.	Lock and dam Nos. 46 and 47	1—110 ft by 600 ft	1—100 ft by 600 ft 1—110 ft by 1,200 ft	87,137,000	94,802,000
Uniontown locks and dam, Indiana and Kentucky.	Lock and dam Nos. 48 and 49	1—110 ft by 600 ft	1—110 ft by 600 ft 1—110 ft by 1,200 ft	81,210,000	95,806,000
Hannibal locks and dam, Ohio and West Virginia.	Lock and dam Nos. 12, 13, and 14	1—110 ft by 600 ft	1—110 ft by 600 ft 1—110 ft by 1,200 ft	74,184,000	88,825,000
Willow Island locks and dam, Ohio and West Virginia.	Locks and dam Nos. 15, 16, and 17	1—110 ft by 600 ft	1—110 ft by 600 ft 1—110 ft by 1,200 ft	58,739,000	75,815,000

[1] Lock added to existing structure.

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	Replaced	Original	Replacement	Planning funds allocated through July 1974	Total cost
Vermilion lock	Vermilion lock	1—1,182 ft by 56 ft	1—1,200 ft by 100 ft	$642,000	$10,111,800
Grays Landing lock and dam, Pennsylvania	Lock No. 7	56 ft by 360 ft	1—84 ft by 720 ft	100,000	45,800,000
Point Marion lock, Pennsylvania	Lock No. 8	56 ft by 360 ft	1—84 ft by 720 ft	75,000	29,800,000

Q. What specific projects in the budget are going forward under the 1909 Act authority? What is the total budget request for these projects? Which of these projects involve changes in location or size from the projects being replaced?

A. The projects in the FY 1979 budget, that are authorized under the 1909 River and Harbor Act are as follows:

	(1)	(2)	(3)
Smithland Locks & Dam, Ill. and Ky	$16,400	Yes	Yes
Cannelton Locks & Dam, Ind. and Ky	200	Yes	Yes
Newburgh Locks & Dam, Ind. and Ky	700	Yes	Yes
Uniontown Locks & Dam, Ind. and Ky	700	Yes	Yes
Total	18,000		

[1] Fiscal year 1979 budget.
[2] Increased size.
[3] Location change.

Mr. DOMENICI. Mr. President, on the Domenici amendment, how much time do I have remaining?

The PRESIDING OFFICER. The Chair advises the Senator that he has 12 minutes remaining.

Mr. DOMENICI. I reserve the remainder of my time.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, at this point, we have agreed that there will be charges on those who use the waterways for commercial purposes.

The proposed amount of tax that Mr. DOMENICI and Mr. STEVENSON recommend and the proposed amount of tax the Senator from Louisiana and his cosponsors recommend in terms of tax on fuel would be the same thing. It would be phased up to 12 cents a gallon. That is what the truckers are paying.

I do not believe anyone wants to stand here and proclaim self-righteousness, that he is suggesting one of these transportation industries has not enjoyed some kind of subsidy at some point or other. I know I do not.

I have a study here that I will have printed in the RECORD before this debate is over. I would invite anyone to read it. It points out all the different subsidies that have been provided for the railroads down through the years. They run into many billions of dollars, starting with the old land grants which created some of the biggest robber baron fortunes in America, and coming down to some of the tax breaks which we have given the railroads and the $300 million a year we are paying now to help pay costs of their pension program, and things of that sort.

We subsidized the airlines until they did not need it any longer. If they get to where they need it again, I am sure we will do it again.

I do not know of anyone who will really seriously argue on the Senate floor that what the truckers are paying, even as a tax on their fuel, or any other tax they are paying, even begins to take care of the enormous damage those trucks do, particularly those big heavy ones when they crack up these slabs, rolling up and down the highways, and using and crunching the asphalt, rolling on the asphalt roads.

So whether we are talking about the highways, the airlines, the railroads, the waterways, they have all been subsidized down through the years.

The studies by the Senator from Missouri (Mr. DANFORTH) come to the conclusion it is about even between the waterways and the railroads as to the subsidies that have been provided. We can argue about that is a fair standard. But they have all been subsidized. There is no use kidding about this. It is true.

I do not see why we should dispute that any more than we should dispute whether 12 cents is an appropriate amount of tax, since we both advocate we grant a tax, and at that level.

Now, that is a lot of tax. It works out to being twice as much as the net profit of the operators on the waterways. Twice what their net profit is, and I do not know of anyone who contends waterway operators are making any lush profits. It is an extremely competitive business. It is the kind of thing that does not require an enormous amount of investment to go into, with the result that the rates are very competitive, and we estimate that, based on revenue, they are making about 7 percent profit related to gross revenue.

That is about what the people who know something about the business inform me.

So the tax in full operation of 12 cents a gallon would run to $215 million a year, and that would be a great deal more than twice the net profit now.

How could they pay it? Well, there is only one way. They are going to have to raise their rates. They will have to increase the charge on that grain moving down the Mississippi, increases the charges on the oil they are hauling up into the Midwest, and the various other raw materials from the part of the Nation I have the honor to represent.

It will be a charge on the rates. That will mean the farmers will have more expense. So it will come out of the profit the farmer would make on his bushel of wheat, or his bushel of corn or soybeans if he is shipping it into the world market. Because, obviously, no one is going to give him more for his wheat or soybeans just because it got there by water. He will have to settle for whatever the world price is at the delivery point.

The railroads, of course, would like to see as much burden put on the waterways as they can.

It should be kept in mind, Mr. President, that we already have had a history in this country of the railroads, by monopolistic tactics and interlocking directorships and the great subsidies and favoritism that they were given in the previous century, putting the operators completely off the rivers. They just took the steamboats completely off the Mississippi, for example. We do not want to see that again. We want to see competition, but we do not want to see one competitor in an unfair advantage or imposing a burden on his opposition which completely puts the competition out of business. We want to keep it fair. We want it to be fair and even competition between them.

It is worth pointing out that there is an enormous energy saving at this time, when energy is in short supply, by moving these bulk cargoes on the waterways. In the interest of conserving our energy, we should move as much of it on the waterways as we can.

The 12-cent tax which would be phased in gradually would be twice as much as the administration was willing to settle for in the House of Representatives. The Secretary of Transportation and his people urged the House to vote for a tax bill of 4 cents as a starter and then to get it up to 6 cents and stop there. We are proposing to go twice that high.

The tax they were willing to settle for on the House side amounted to the entire net profit of the industry. We are proposing to go twice that high, and it can only be done by raising rates.

What is that going to do to the barge industry? We will have to see in time.

One of the witnesses testified in New Orleans, before a committee of which I am a member, a few days ago, about how they thought they could survive with the 6-cent tax. I did not care to give him the bad news at that point, as to whether he thought they could survive with a 12-cent tax. Obviously, they can, by raising the rates; but, when they do raise the rates, they are going to lose some of the business, and some of that will shift onto the railroads.

In addition, no matter whether it is the railroad or the barge line hauling the cargo that was previously going by barge, the farmer is going to have to pay more, and that means he will have less net return to show for it.

Insofar as one might argue about the administration's position, whether the President would veto or something of that sort, because one might take the approach that the Senator from Louisiana is offering, I point out that so far

as the date is concerned on which you start imposing the tax, that would be in conference, anyway. We can negotiate that.

The philosophy of the amendment I am offering relates to the fact that the administration has been holding locks and dam 26 hostage for this waterway user tax; and the thought is that, if we are not going to get the dam and the lock, we should not have to pay the tax until we do initiate construction of that lock and dam. It is a very vital link in the entire inland waterway system, and it will have to be replaced at some point.

The traffic is jamming up on both sides of that lock in both directions. It would be as though you had a bridge across the Mississippi River and you had traffic lines backed up a mile on both sides, and people had to wait for days to get across the bridge.

In this case, those of us who join me in this amendment feel that the tax should not go into effect until they commence construction of the lock. But since the administration wants a definite date, we would agree that if they have not been able to settle the environmental legislation by 1981 and cannot overcome the legal impediments by that time, the 4 cent tax would start on January 1, 1982. But the House bill has a date of 1979, as does the proposal of the Senator from New Mexico; so in either event, if the Senator from Louisiana and his cosponsors were successful, that would be in conference.

Now, what remains? Well, that gets us to the principal difference between the two.

Mr. DOMENICI and his cosponsors would propose that, in addition to paying a tax that exceeds the net profit of the industry by two to one, they would like to impose an additional charge on the new projects that would be undertaken. That tax is estimated by the Senator—assuming that you had about $600 million of construction—to be about $60 million a year.

I believe he indicates that at the $500 million level in construction, it would be $50 million. So he wants to put on a charge that would be about one-third in addition to what the Senator from Louisiana and his cosponsors are advocating.

Here is where I take issue with the Senator in terms of how you should raise revenue.

Mr. DOMENICI. Mr. President, will the Senator yield for a clarification?

Mr. LONG. I yield.

Mr. DOMENICI. The $50 million would be over 10 years. The Senator from Louisiana said 1 year, in his example. Ten percent collected over 10 years, not in 1 year. So a $500 million project would be subject to a taxpayer recoupment of 10 percent, but that would not be in 1 year.

Mr. LONG. I am estimating that the expenditures at this moment are running about $500 million a year. If you had the 10 percent recovery feature in effect now, it would amount to $50 million a year, in addition to the 12-cent tax.

Obviously, the Senator is talking about putting this tax on as the new locks and dams are undertaken. If he were putting this charge on locks and dam 26, there is no doubt that locks and dam 26 could carry. I do not have any doubt that that is one of the most crucial, vital crossroads on the entire inland waterway system and that locks and dam 26 could take that charge. I do not doubt that grain would still move through it, even if you put on the charge that the Senator has in mind.

When you start a new navigation project, the history has been that it does poorly in the early years. Even if it is a well-justified project, it takes somebody who is willing to shift his cargo from the railroads, where he has been doing business, over to the waterways. There is the aspect of good will in business. There is a tendency for a person to do business at the same old stand. People do not just change their way of doing business the day you build a waterway. Perhaps one business and then another business finds it can save money, and then one carrier and another tries to extend service into the area and tries to recruit some business, and over a period of time it builds up.

If you look at the payoff schedules envisaged by the Corps of Engineers, most of it happens in the years after you build up traffic. It does not occur in the early years.

The probability is that to proceed the way the Senator has in mind means, in effect, to deauthorize a lot of projects that are presently authorized by the economic benefits and the benefit-cost ratio which has been our way of doing business for many, many years.

If you are going to put a toll on a particular lock or a particular dam, the existing waterways, the Mississippi waterway and the locks that are there now, the Intracoastal Waterway and the locks that are there now, the Great Lakes and its traffic—those that are already there could much better stand the toll than could some new waterway to extend transportation into an area that had no transportation before.

For example, I see the Senator from Mississippi (Mr. STENNIS) in the Chamber. If we started out by putting this kind of charge on the Tombigbee in its infancy, it might never generate the traffic that would make it pay for itself. If you start levying the charge evenly upon all the waterways, you can raise the same $50 million, and most of the charges would come in the areas where the waterways are very well established, where they have a lot of traffic, and where they could bear the toll.

So that the approach proposed by the Senator, which suggests to me that he would be charging a toll on the new locks built, might mean that the new project would never succeed. So it would tend to have the effect of deauthorizing—taking away—the authority to build a desirable public works which had been authorized under the regular, established rules over a long period of time. That, I believe, would be a mistake.

It is the theory of the Senator from Louisiana that we are paying a great deal already. What we are proposing here amounts to about 25 percent—when in full operation—of both the maintenance and the construction cost on the waterways.

Some do not take into account that there is already a contribution being made. When you talk about cost recovery the same study of waterways, to which reference has been made that suggests a 10-percent recovery, in its own document indicated that there is already a 7-percent recovery because the States and local governments are putting up the right-of-ways and there are easements, and the contribution in kind that they are making is equal to about 7 percent of the cost of these locks and dams and channel improvements the way it stands now.

So we propose that there be a study, and it is expected that there will not be a major one of these very large multiple billion dollar, or even projects running into hundreds of millions of dollars that would be initiated during the next several years while the study is underway.

If the President wants to insist that those new projects authorized hereafter must be accompanied by some additional revenue measure, he can veto the bills and we can look at it at that point and think in terms of what the additional charge might be.

Why should we prejudice a study? Both resolutions call for a study. It is suggested that if it is an appropriate study, and both sides should have a chance to comment, as it goes along, we would have an opportunity in 1981 to look at a study, suggesting how additional revenue might be raised if indeed it should be appropriate. We could see a comparison of the various modes of transportation, particularly the railroads compared to the waterways, and suggest at that point how would be the best way to raise additional revenue if you must do it.

I submit that when you put navigation in a new area, any one of those that have been authorized but not undertaken, or some waterway to be authorized in the future, probably the worst way, in my judgment, would be to impose this kind of toll on a new waterway prior to the time it is able to generate traffic and, one might say, get off the ground and start moving.

Any new business tends to lose money its first year anyway. It usually takes several years for a business to get sufficient momentum, to be well enough organized, to attract enough customers that that business shows a profit. And the same is true, except in an even-greater degree, with regard to waterway projects.

That being the case, Mr. President, I hope that the Senate will not vote for this additional charge. The 12 percent that we both think is an appropirate tax on gasoline should be phased in and we should settle for that until the study that we both agree should be made is completed.

I reserve the remainder of my time.

Mr. STEVENSON. Mr. President, will

the Senator from New Mexico yield for a question?

Mr. DOMENICI. I am delighted to yield for a question.

Mr. STEVENSON. Mr. President, is it correct, that both of these amendments, the amendment that we are offering, and also the amendment that the distinguished Senator from Louisiana is offering, approve fuel taxes for inland waterway system users up to 12 cents over a period of years? That is the same in both, that is very close in both bills.

Mr. DOMENICI. That is correct.

Mr. STEVENSON. And both amendments also propose a study of user fees. That is correct, too; is it not?

Mr. DOMENICI. That is correct.

Mr. STEVENSON. And both have environmental studies, do they not? That is another similarity, is it not?

Mr. DOMENICI. That is correct.

Mr. STEVENSON. What remains to distinguish these two amendments? Ours has the so-called cost recovery formula, but that cost recovery formula is confined only to recovery of 10 percent of new construction costs over 10 years; is that not correct?

Mr. DOMENICI. That is correct, and that is after it is completed and open. Some of them take 7, 8, or 9 years to get built. When they are completed and open, you begin to collect 10 percent of the Federal Government's capital outlay, and I also say to the Senator that on page 15 of our amendment language is found which says the charges may be established at the project or over a broader portion of the waterways and to the extent equitable and practicable shall be distributed among the users in such a manner as not to cause serious economic disruption on any segment of the inland waterway system.

Mr. STEVENSON. Yes. And also, it is true, is it not, that this capital cost recovery formula would not apply to locks and dam 26?

Mr. DOMENICI. Absolutely. By definition it is exempt.

Mr. STEVENSON. The distinguished Senator from New Mexico serves on the Environment and Public Works Committee. Can he tell us to what projects in the future this 10-percent recovery formula will apply? If after the study Congress does not repeal it or change it—as the Senator has pointed out, it is way off in the future—there will be a study and Congress will have an opportunity to reconsider that formula with the benefit of a study. If the study indicates all the dire consequences for the barge industry, of course that would be taken into account when Congress reconsiders the formula. But let us consider what those consequences might be, just how expensive this formula is for the waterway users should in the distant future it come into effect. Can the Senator tell the Senate what the first projects are that it might apply to?

Mr. DOMENICI. Let me say to the Senator from Illinois I think his question is a good one and we will give him some examples before we are through, and we will put as complete a list as we can discern in the RECORD, but I think it is——

Mr. STEVENSON. Let me ask the Senator.

Mr. DOMENICI. Trinity River would be an example.

Mr. STEVENSON. Gallipolis in West Virginia?

Mr. DOMENICI. Yes. Vermilion.

Mr. STEVENSON. In Louisiana.

Gallipolis is estimated to cost $159 million; is that not correct?

Mr. DOMENICI. That is correct.

Mr. STEVENSON. And is not 10 percent of construction costs over 10 years the equivalent of 1 percent a year?

Mr. DOMENICI. That is correct.

Mr. STEVENSON. So Gallipolis, under this formula, if it is not repealed or otherwise changed by Congress, would cost the waterway users $1.59 million a year; is that correct?

Mr. DOMENICI. That is correct.

Mr. STEVENSON. The Senator mentioned Vermilion in Louisiana.

Mr. DOMENICI. Let us stay on Gallipolis for a moment, just to give the equity of our position. The annual barge rate savings and delay reductions as a result of that project amount to $43,700,000 a year. In other words, that is what we will be giving them when it is completed in savings and in delayed reductions for which the charge that the Senator has just described will be assessed to include them.

Mr. STEVENSON. In other words, 6, 7, or 8 years from now whenever it is completed and in operation, the entire inland waterway system will have to yield about $1.5 million per year to pay for Gallipolis?

Mr. DOMENICI. Or for a more limited area.

Mr. STEVENSON. And the estimated cost for Vermilion is $22.3 million; is that not correct?

Mr. DOMENICI. We are using a $20 million estimate, but we are close enough.

Mr. STEVENSON. Ten percent of $20 million is $2 million, so each year that will cost all of these waterway users about $200,000 a year; is that correct?

Mr. DOMENICI. That is correct.

Mr. STEVENSON. Well, Mr. President, the point of all this is to indicate that the distinguished Senator from Louisiana and the Senator from New Mexico basically are agreed on everything except the principle which is essential to this administration and that is the principle of what we call cost recovery. That means capital cost recovery, and the formula is for 10 percent of the future construction costs after the facilities are in operation over 10 years, which means 1 percent a year, and we are reduced to arguing over total additional costs to the barge interests of about $1.8 million a year in foreseeable costs, and all of this, of course, is subject to change when Congress has a study and has an opportunity to consider the effect of capital cost recovery and user fees in general on all of the competing modes of transportation, including the barge interests and the shippers and everybody else in the region that depend on the waterways.

It would be foolish for Congress to let this whole bill, with all the projects in it, including locks and dam 26, sink over $1.8 million, more or less, way off some 6 or 7 years from now when it might take effect, if after Congress considers the study it chooses to continue that formula.

I have a feeling that after this study Congress might conclude that that is not quite enough for the barges to pay, and that that may have something to do with the strenuous opposition we are encountering to this cost recovery formula, which would only produce 1 percent a year of new construction at some indeterminate time in the future after Congress had had the time to consider the effect on all the users of the inland waterways system.

Finally, Mr. President, I have taken some figures and made some calculations. I have taken these calculations from representatives of farm groups, and believe they are based on calculations of the waterway industry, on what this is going to cost farmers, because that is a matter of great concern to all of us who represent the Midwest and, in particular, to those I represent in Illinois, which is our largest farm-producing State.

I say this mindful that there is no difference, no significant difference, between Senator LONG and Senator DOMENICI on fuel taxes.

They both go up to 12 cents over a period of time. These figures estimate that the initial 4-cent fuel tax would cost about 0.4 cents per bushel, and that at its highest point in 1985 it would be 1.2 cents.

I think those figures are on the high side because of their sources, and also because I do not believe they take into account the absorption of part of these costs by the barge companies. If there was no absorption of these costs by the waterway interests I do not think they would be down here opposing this proposal as strenuously as they are.

Those figures are a small price to pay for the locks and dam, for the construction and operation and maintenance on the inland waterway system, and also for the continued viability of the railroads upon which not only the farmers but everybody else in our part of the country depend.

I might add that for the small amount we are talking about, the construction of just locks and dam 26, Vermilion, Gallipolis will cost about $613 million. This is not a large contribution for waterway users, for farmers, for consumers, for all of us to contribute to and, to the extent that we do, we, in the Middle West and all other taxpayers, will get money back.

I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Did the Senator from Oklahoma wish to speak?

Mr. BARTLETT. Yes.

Mr. LONG. I believe the Senator asked me for time, and I will yield to him. How much time does the Senator desire?

Mr. BARTLETT. About 12, 15 minutes.

Mr. LONG. I yield the Senator 15 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. DOMENICI. Did the Senator from Oklahoma have any questions of me? I was going to leave for a couple of min-

utes, or was the Senator going to speak on the issue?

Mr. BARTLETT. I was going to speak on the issue.

Mr. DOMENICI. I thank the Senator.

Mr. BARTLETT. Mr. President, this may be the last time that the Senate will look at the subject of fees for users of the Nation's waterways for a long time.

The Senate passed a proposal, during the first session of the 95th Congress, which would add a substantial tax to the goods that are carried on the waterway system, and the House passed a smaller proposal which we are now considering. It appears that the debate is no longer over the imposition of the fee, but the amount. I am a cosponsor of the Long amendment.

I have opposed the imposition of a user charge because of the detrimental impact on the flow of trade on the Nation's waterway system, and the ultimate increase in cost to the consumer.

Today, I would like to express my opposition based on a slightly different effect of the user fee. The user fee, once initiated, will adversely affect the farmer, and, as all of us have become increasingly aware over the past few weeks, the farmer absolutely cannot afford to sustain further losses.

The urban congressional delegations are now aware that the farmer is at the end of the line. Continuing low prices, accompanied by ever-increasing land, equipment, fuel, fertilizer and seed costs, have combined to wipe out many young farmers. If this process continues, larger and larger numbers of farmers will be forced into bankruptcy.

The agricultural commodity is unique in our economic system, in that the producer has almost no control over the price of the product. He has no way of passing on his increased costs of production, including transportation, to the consumer. Therefore, an increase in the transportation costs will have to be absorbed by the farmer in the already extremely depressed price of his commodity.

There are certain unique effects of the user tax on the farmer. In a study prepared by the National Waterways Conference, Inc., by Marvin J. Barloon, Case Western Reserve University, it is estimated that farm commodities will bear 23.5 percent of the total tax burden of all water-transported commodities. The study also notes an extreme differential in impact between areas of the country. The tax, by its very nature, logically discriminates against the farmer who lives further from the ultimate destination of his product.

The Barloon study also notes other ways in which the water user fee will impact on the price ultimately received by the farmer after shipping. The cost of operating the waterway system is relatively fixed, in that the usage is not a significant factor in the cost of maintenance. It therefore follows that increased usage would decrease the amount of tax per commodity unit necessary to defray the cost of operating the system. Conversely, a decrease in the units being shipped would increase the per unit impact of the tax.

If the waterway system becomes less attractive because of increased costs, the remaining shippers will be required to pay an ever-increasing tax to maintain the system. This increase in tax will in turn continue to deter the usage of the system, thereby creating an ever-repeating cycle of increased taxes and decreased usage.

There is a secondary impact, resulting from the increased shipping costs, which is equally pernicious to the farmer. The railroads have already stated that they will raise their rates with the increase in shipping costs on the waterway system.

I do not, by this statement, attack the railroads. They are absolutely necessary to the movement of farm commodities, and I have fought to keep them operating my own State. The railroads are necessary to insure a well-integrated transportation system. However, competition does play a factor in these two modes of transportation, and it is only good business sense for the railroads to take advantage of an increase in water shipping rates by raising immediately their rail rates.

Mr. President, although shipping rates are highly regulated, some free market competition still exists. With the construction of the McClellan-Kerr Waterway, competing railroads reduced their shipping rates on several agricultural and nonagricultural commodities. Obviously, with an increase in shipping rates on the waterway, the railways would act in reverse by raising their rates on these competitive commodities.

Four examples illustrate the free market reaction of the railroads to the completion of the canal. In 1967, the railroads reduced their rates by approximately 6 cents on grains being shipped from Oklahoma to the gulf. This amounted to approximately $2 per ton. The result of this reduction was to delay the construction of a $5 million grain elevator at the Port of Catoosa, but because of the ever-increasing demand for shipment of grains on the canal, construction of the elevators was initiated in 1971 and is nearing completion.

In 1969, the railroads reduced rates on iron and steel being shipped from Pittsburgh and Chicago to Fort Smith and Little Rock by 40 to 50 percent.

In 1977, the railroads initiated a series of reductions between elevators in northwestern Oklahoma and southern Kansas to gulf port facilities. The reductions amounted to 4 cents per bushel.

Also in 1977, the railroads reduced shipping rates for alfalfa pellets from Oklahoma to gulf ports. This reduction amounted to approximately 40 to 50 percent of the previous rates.

An old example illustrates the situation. Prior to the construction of the Kerr-McLellan Waterway, Oklahoma oilmen relied totally on the rail shipment of pipe. Because of the more competitive rates between the eastern suppliers and such points as Houston, it was traditionally cheaper to ship Oklahoma-bound pipe with Houston as its destination point rather than directly to Oklahoma. The practice used by some was to ask for an inspection of the pipe while it passed through Oklahoma on the way to Houston, and then unload the pipe on an Oklahoma siding. The empty car would then be on its way to Houston, with the user of the pipe netting a substantial savings on shipping rates as compared to a direct shipment to Oklahoma.

My good friend and respected colleague from New Mexico has been kind enough to provide me with certain information on the movement of grain in my own State of Oklahoma. The information was prepared by the Department of Transportation, and I assume was a conscientious attempt by the Department to reflect grain movements in my State. However, I find significant deficiencies in the computer printout.

There are omissions in the data that create a distorted picture as to how agriculture commodities are actually shipped. The omissions also reflect the well-known lack of coordination and data sharing among Federal agencies.

The Department of Transportation computer printouts, which are dated, show the following information for Oklahoma:

Farm to market movement of grains

(Units are in thousands of tons)

Modes:	
Rail	1,113
Water	0
Truck	0
Percentages:	
Rail	100
Water	0
Truck	0

According to the Corps of Engineers, 1,261,000 tons of all grains were shipped during 1977 from Oklahoma points on the Kerr-McLellan Waterway. The Department of Transportation information shows no grains being shipped by water, and 1,113,000 tons being shipped by rail. This is an extremely distorted picture and an excellent example of an agency's ineffectiveness.

The Department of Transportation data are part of those used by President Carter in developing his position in support of a user tax, and I think the data are typical of the misinformation used by this administration to make many of its important decisions.

Not only should the methods used by Department of Transportation to gather this data be reviewed, but the President should then carefully reanalyze his position on waterway user fees based on a complete and accurate package of information.

The obvious fact from the figures just noted is that Oklahoma is already moving an equal amount of grain by water and rail. This is significant because the Oklahoma portion of the Kerr-McLellan Waterway has only been completed for 7 years.

The Tulsa Port of Catoosa alone shipped 465,000 tons of all grains in 1977, and it is predicted to handle at least 1,000,000 tons of grain by 1979.

The other important factor to note in these figures is that the grain was not

simply from farmers immediately adjacent to the waterway. The largest portion of this grain comes from the western part of Oklahoma, which is, at a minimum, 100 miles from the waterway. There are also regular shipments of grain from Kansas, and, on occasion, from Nebraska.

With the improved handling facilities being developed on the Oklahoma section of the waterway, this trend should only increase, unless interrupted by a high tax.

Again, it takes no extended interpolation to determine what the farmer can expect with an increase in shipping costs. The reason for the increased usage of the Kerr-McLellan Waterway is the low cost of shipping.

As you will recall, farm commodities are unique in that the farmer must absorb any increases in cost.

The American Agricultural Movement members are demanding 100 percent of parity for their products. The user fee does nothing but exacerbate the plight of all farmers, and fuels the problems which have resulted in these demands.

Mr. President, I ask unanimous consent that the study done by Marvin J. Barloon of Case Western-Reserve University be printed at this point in the RECORD.

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

THE PROSPECTIVE IMPACT OF COST-RECOVERY WATERWAY USER CHARGES ON THE COST OF TRANSPORTATION OF GRAINS AND SOYBEANS FROM THE UPPER MIDDLE WEST AND RELATED WATERWAY COST-RECOVERY POLICY ISSUES.

In response to the request of the officers of the Conference, I submit herewith estimates of the prospective impact of a shallow-draft waterway fuel tax on the transportation cost of grains and soybeans from the upper Middle West. The estimates appear herewith as Exhibits I through VIII.

I have analyzed two fuel tax rates, one of 42 cents a gallon and the other of 60 cents. The 42-cent rate was chosen from the estimate of officials of the U.S. Department of Transportation as the equivalent of the cost-recovery user charge provisions of Senator Domenici's proposed Amendment No. 1460 to H.R. 8309, now before the U.S. Senate, providing for use taxes or charges on commercial shallow-draft waterway transportation sufficient to recover 100 percent of Federal outlays on operation and maintenance and 50 percent of those on new construction of navigation works. The 60-cent rate is that recommended by the Association of American Railroads for 100 percent recovery of all Federal outlays on shallow-draft waterways. For reasons explained subsequently, the DOT recommendation also implies an eventual rate of at least 60 cents a gallon, and the 60-cent rate thus appears the more realistic.

SOURCES AND COMPREHENSIVENESS OF DATA

The data reported herewith are derived directly from the origin-destination studies of the Army Corps of Engineers for 1975, the latest reported.[1] The tonnages have been carefully confined to shallow-draft barging, identified in the Corps reportings as "Internal". In conformity with the terms of Amendment No. 1460, shallow-draft movements in deep-draft waters have been excluded from the calculations. To avoid over-statement of the prospective impact, a conservative estimate of fuel consumption at three gallons per 1,000 ton-miles of cargo carried has been employed.[2] All movements of grains and soybeans from origins on the Mississippi River and its tributaries north of and including the Ohio River and tributaries have been included. These estimates, therefore, may be taken as authoritative, conservative, and comprehensive.

DIFFERENTIAL IMPACT AS BETWEEN COMMODITIES, REGIONS, AND LOCALITIES

Share of Upper Middle Western Farm Crops

The impact of the fuel tax would be highly selective in its concentration on particular commodity movements and regions. On 1975 tonnages, grains and soybeans originating in the upper Middle West for carriage on the Mississippi River and its tributaries would have borne 21.5 percent of the U.S. all-commodity total tax burden. As shown in Exhibit I herewith, shallow-draft waterborne ton-miles of all commodities carried nationwide represented fuel consumpton of approximately 541.2 million gallons, and, on this volume, the 42-cent tax would have yielded a nationwide revenue of $227.3 million. Exhibit VI shows the total which would have been collected on grains and soybeans moved on the upper Mississippi River and its tributaries at $48.9 million, or 21.5 percent of the U.S. total. On all shallow-draft waterborne shipments of grains and soybeans throughout the country, the share would have been 23.5 percent of the national total.[3]

DIFFERENTIAL IMPACTS AS BETWEEN ORIGINS AND DESTINATIONS

Within the single category of grains and soybeans shipped from the upper Middle West, the impact would likewise have been very uneven as between particular origin-destination movements. It may be noted in Exhibit VII that the impact would have varied from a low of 2.1 cents per bushel on movements from the Ohio River to Tennessee River destinations to a high of 8.4 cents a bushel from the St. Paul District (the Twin Cities area) to Corpus Christi, Texas. Tonnages are presented in Exhibit IV, and it will be seen that the largest single destination is the Baton Rouge-New Orleans area. Under a fuel tax of 42 cents a gallon, the tax to this destination would have varied from 3.9 cents a bushel from the Middle Mississippi River (St. Louis) up to 6.4 cents from the Twin Cities.

Taking into account both tonnages and differential tax charges per ton, Exhibit V presents aggregate taxes by origin-destination pairs. The biggest single burden would have been borne by shipments from the Illinois River at $17.4 million and, because of smaller tonnage, the smallest by shipments from the Missouri River (mainly from Kansas City) at $0.577 million, less than 1/30 as much.

It is clear that the impact of the proposed fuel tax cannot be assessed without careful attention to the effect on particular commodities and localities.

RECOVERY OF FIXED OPERATION AND MAINTENANCE COSTS FROM DECLINING TRAFFIC

Insufficiency of the 42-Cent Rate to Meet the Domenici Standards

As between the 42-cent and the 60-cent tax rates, under the Domenici standard (Amendment No. 1460), the 60-cent rate would appear the more realistic. The amendment would recover 100 percent of Federal operation and maintenance and 50 percent of new work outlays. The initial 42-cent imposition would obviously reduce the volume of traffic. As the volume declined to something less than the 1975 tonnage, and with fuel consumption correspondingly reduced, clearly the rate per gallon would have to be raised to achieve the undiminished cost-recovery target.

Fixed Character of Operation and Maintenance Costs

With regard to waterway operation and maintenance, the costs to be recovered are almost entirely fixed, that is, they do not decline with declining tonnages. Operation and maintenance of locks and dams are principally a function of time and weather rather than of cargoes transited. Similarly, channel work is governed mainly by currents, water levels, sedimentation, and other natural factors which are independent of vessel transits.

The Office of the Chief of Engineers, U.S. Army, after appraising the cost characteristics of waterway operation and maintenance, put the matter as follows:

"This leads us to conclude that the entire Federal share of the cost of inland waterway transportation may be considered as fixed, at least for any of the ordinary purposes for which a division of costs into fixed and variable components is needed." [4]

Thus, the Federal expenditures on waterway operation and maintenance would remain virtually unchanged, while, with reduced tonnage and fuel consumption, the tax collections at 42 cents a gallon would diminish. To meet the statutory standard of 100 percent cost recovery, therefore, the tax rate per gallon would have to be increased. We shall note later the potentials for saving money on new construction.

Impact of a 20 Percent Traffic Reduction on the Tax Rate

As we have stated previously, on the 1975 traffic volume, the 42-cent tax would have raised a total of $227.3 million on all commodity movements nationwide. (Exhibit I.) Later this report will demonstrate the likelihood that this tax would reduce the movements of upper Middle Western grains and soybeans by 20 percent or more. Assuming, for purposes of illustration, that this reduction were to apply to all waterborne commodity movements throughout the country, the tax rate to recover the undiminished $227.3 million would have to be raised from 42 cents a gallon to 52½ cents. This rate, of course, would reduce traffic still more, calling for a second rate increase, and the process would continue until at some high tax rate per gallon only that traffic would remain on the rivers which was highly unresponsive to the increased cost. This could consist, for the most part, of shorter-haul movements with good backhauls, paying a rate of probably some 60 cents a gallon or more.

Illustrative Shrinkage in the Movement of Grains and Soybeans

The amount of shrinkage in response to the initial 42-cent fuel tax cannot be effectively estimated because no study has been made of the competitive response to the tax by alternative routings, such, for example, as railroad rate increases. Such a study should also evaluate the movements of all major waterborne commodities throughout the country. This report, however, omits the evaluation of competitive response and is confined to grains and soybeans from the upper Middle West. Some indication of the probable shrinkage, however, can be obtained from the accompanying exhibits with regard to this limited portion of the traffic.

From Exhibits II and VII, it is evident that the burden of the tax would be distributed as shown in Table I, following.

Footnotes at end of article.

TABLE I.—TONNAGE DISTRIBUTION OF A 42-CENT FUEL TAX AT RESPECTIVE TAX RATES PER BUSHEL OF WATERBORNE GRAINS AND SOYBEANS ORIGINATING IN THE UPPER MIDDLE WEST, 1975

Fuel tax in cents per bushel (from exhibit VII)	Affected waterborne tonnage (from exhibit II)	Percent of total tonnage
6 and over	5,483,600	17.6
5 to 5.9	1,375,900	4.4
4.5 to 4.9	12,243,700	39.2
4 to 4.4	7,159,700	22.9
3.5 to 3.9	3,226,900	10.4
3 to 3.4	311,600	1.0
Under 3	1,409,100	4.5
Total	31,210,500	100.0

Prospective Diversion to the St. Lawrence Seaway

It will be noted in the above table that the tax cost per bushel would amount to over 6.0 cents on 17.6 percent of the total tonnage, and, combining this with the next bracket, to over 5.0 cents on 22.0 percent of the total. Practically all of this originates in the St. Paul District, Chicago, or on the Illinois River for export via the Gulf. Differentials exceeding 5.0 cents and ranging up to 8.4 cents per bushel, as shown in Exhibit VII, would divert almost the entirety of these higher-taxed shipments to the St. Lawrence Seaway.

This diversion is evident from comparison with present charges. The present charge for water carriage, in the absence of a fuel or other user tax, from the Twin Cities to Baton Rouge is about 18.6 cents per bushel.[3] From Exhibit VII, we note that the tax on this movement would amount to an additional 6.4 cents, an increase to 25.0 cents per bushel. At this rate, much of the Twin Cities originations would cease to be competitive with the Seaway outlet via Duluth-Superior. The cost of shipments of grain and soybeans from Chicago and the upper Illinois River to Baton Rouge, now about 15.0 cents per bushel, would rise to about 20.0 cents. Fronting on Lake Michigan, and with the Illinois River connecting with the interior, this shipping area has much better access to the Seaway than the St. Paul District. Much of this downbound movement, too, would clearly be diverted to the Seaway.

The geographical boundary between the area tributary to the Seaway and that to the Mississippi in the St. Paul area and Chicago is now determined by the comparative outbound transportation rates as between the two outlets. Large quantities of grain and soybeans are already being shipped from Chicago via the Seaway, and the southbound movements from this city and the upper Illinois River are largely induced by the slightly higher costs associated with Seaway seasonality. Clearly, an increase in the river charge to such levels as 20.0 and 25.0 cents a bushel would move the boundary line between the two outlets southward, diverting most or all of the Chicago and northern Illinois shipments, as well as much of the tonnage from the Twin Cities area.

EXHIBIT I.—PROPOSED SHALLOW-DRAFT WATERWAYS FUEL TAX AT 42 CENTS AND 60 CENTS PER GALLON NATIONWIDE MAGNITUDES—U.S.A.

I. DATA:

A. Fuel consumption 2.9 to 3.7 gallons per 1,000 ton-miles of cargo carried.[1] For conservative estimate of total magnitude, an average of 3.0 gallons per 1,000 ton-miles is assumed in this report.

B. Internal waterborne ton-miles of cargo carried, 1975: 180,399,193,000.[2]

II. MAGNITUDES:

A. Gallons of fuel consumed: 180.4 billion ton-miles at 3 gal./1,000=541,200,000 gallons.

B. Tax revenue on 541,200,000 gallons:

1. At 42 cents/gallon: $227,300,000.
2. At 60 cents/gallon: $324,700,000.

C. Tax rate per ton-mile on 180.4 billion ton-miles:

1. At 42 cents/gallon: 1.26 mills.
2. At 60 cents/gallon: 1.80 mills.

D. Average percentage increase in shallow-draft water carriage cost:

1. Revenue per ton-mile, 1975 (ICC-regulated water carriers on the Mississippi River and Tributaries)—5.18 mills.[3]
2. Average percentage increase:
a. At 42 cents/gallon: +24.3%.
b. At 60 cents/gallon: +34.7%.

[1] The National Waterways Conference, Washington, D.C., 1976. Survey of all ICC-regulated water carriers on the Mississippi River and Tributaries reported 2.9 gallons per 1,000 ton-miles in 1975. William E. Mooz, *Energy in the Transportation Sector*. The RAND Corporation, Santa Monica, Calif., March, 1973, reported 500 Btu. per ton-mile, equivalent to 3.7 gallons per 1,000 ton-miles.

[2] U.S. Dept. of the Army, Corps of Engineers, *Waterborne Commerce of the United States*, 1975, Part 5, Section 3, Vicksburg, Mississippi, 1977.

[3] Interstate Commerce Commission, *Revenue and Traffic of Class A and B Water Carriers*, Statement No. 650, Washington, D.C., 1976.

Footnotes at end of article.

EXHIBIT II

WATERBORNE GRAINS AND SOYBEANS—UPPER MISSISSIPPI BASIN ORIGINS TO RESPECTIVE DESTINATION AREAS 1975

[In thousands of tons]

To (areas of destination)	From: (areas of origin)							
	St. Paul District [1]	Upper Mississippi River (excluding St. Paul District) [2]	Middle Mississippi River [3]	Missouri River	Chicago	Illinois River	Ohio River and tributaries	Total
Baton Rouge-New Orleans	5,071.2	6,782.8	601.8	325.9	577.2	11,490.3	2,342.4	27,191.6
Warrior River	178.0	180.9	15.1	13.5	8.4	82.7	26.7	505.3
GIWW—East	106.8	189.6	23.4	71.5	130.2	106.3	73.1	700.9
Sabine-Neches	19.8	21.9	4.3	14.0	4.1	3.1	14.8	82.0
Galveston	29.0	63.7	1.3	None	None	13.3	38.6	145.9
Corpus Christi	26.9	7.7	None	None	4.3	8.5	37.9	85.3
Tennessee River	257.5	249.5	8.4	238.6	33.2	311.6	85.6	1,184.4
All other	255.3	247.7	32.4	164.2	91.0	414.4	110.1	1,315.1
Total	5,944.5	7,743.8	686.7	827.7	848.4	12,430.2	2,729.2	31,210.5

[1] St. Paul District includes Minnesota River and Mississippi River within Minnesota.

[2] Upper Mississippi River: Mississippi River between Minneapolis and the mouth of the Missouri River. Figures tabulated here exclude portion in the St. Paul District and are allotted to destinations on the same percentages as totals for the upper Mississippi River.

[3] Middle Mississippi River: Mississippi River between the mouth of the Missouri River and the mouth of the Ohio River.

Source: U.S. Department of the Army, Corps of Engineers, "Waterborne Commerce of the United States," 1975, Pt. 5, sec. 2, Vicksburg, Miss., 1977. Data here tabulated modified by reports of the Army Corps of Engineers, St. Paul District, St. Paul, Minnesota, 1976.

EXHIBIT III

MISSISSIPPI RIVER SYSTEM AND GULF INTRACOASTAL WATERWAY—APPROXIMATE ORIGIN-DESTINATION MILEAGES

[Waterway distances in miles]

Areas of destination	Areas of origin						
	St. Paul District [1]	Upper Mississippi River (excluding St. Paul District) [2]	Middle Mississippi River [3]	Missouri River [4]	Chicago	Illinois River [5]	Ohio River and tributaries [6]
Baton Rouge-New Orleans [7]	1,687	1,168	1,023	1,406	1,378	1,222	995
Warrior River	1,815	1,296	1,151	1,534	1,506	1,350	1,123
GIWW—East [8]	1,751	1,232	1,087	1,470	1,422	1,286	1,059
Sabine-Neches [8]	1,953	1,434	1,289	1,672	1,644	1,488	1,261

EXHIBIT III—Continued

MISSISSIPPI RIVER SYSTEM AND GULF INTRACOASTAL WATERWAY—APPROXIMATE ORIGIN-DESTINATION MILEAGES

[Waterway distances in miles]

Areas of destination	Areas of origin						
	St. Paul District [1]	Upper Mississippi River (excluding St. Paul District) [2]	Middle Mississippi River [3]	Missouri River [4]	Chicago	Illinois River [5]	Ohio River and tributaries [6]
Galveston [8]	2,039	1,520	1,375	1,758	1,730	1,574	1,347
Corpus Christi [8]	2,229	1,710	1,565	1,948	1,920	1,764	1,537
Tennessee River [9]	1,301	926	684	1,067	1,039	883	562
All other [10]	535	535	535	535	535	535	535

[1] From Minnesota River mouth.
[2] Origin assumed midway between mouth of Minnesota River and mouth of Missouri River.
[3] From St. Louis.
[4] From Kansas City.
[5] From Peoria.
[6] From Mount Vernon, Ind.
[7] Distances to Baton Rouge.
[8] These exclude distance between Baton Rouge and New Orleans.
[9] Tennessee River midway between Guntersville and Chattanooga.
[10] The 535-mile distance here assumed for the category, "All other," is the U.S. average haul of internal waterborne grains and soybeans excluding the tons and ton-miles otherwise tabulated in exhibits II and IV.

Source: "Inland Waterways Mileages," U.S. Department of the Army, Corps of Eng.neers respective district offices. Compiled and published by Canal Barge Co., Inc., New Orleans, La, 1976

EXHIBIT IV

WATERBORNE GRAINS AND SOYBEANS—UPPER MISSISSIPPI BASIN ORIGINS TO RESPECTIVE DESTINATION AREAS, 1975

[In millions of ton-miles]

Areas of destination	Areas of origin							
	St. Paul District [1]	Upper Mississippi River (excluding St. Paul District) [2]	Middle Mississippi River [3]	Missouri River	Chicago	Illinois River	Ohio River and tributaries	Total
Baton Rouge-New Orleans	8,555.1	7,922.3	615.6	458.2	975.4	14,041.1	2,330.7	34,718.4
Warrior River	323.1	234.4	17.4	20.7	12.7	111.6	30.0	749.9
GIWW—East	187.0	233.6	25.4	105.1	187.7	136.7	77.4	952.9
Sabine-Neches	38.7	31.4	5.5	23.4	6.7	4.6	18.7	129.0
Galveston	59.1	96.8	1.8	None	None	20.9	52.0	230.6
Corpus Christi	60.0	13.2	None	None	8.3	15.0	58.3	154.8
Tennessee River	335.0	231.0	5.7	254.6	34.5	275.1	48.1	1,184.0
All other	136.6	132.5	17.3	87.8	48.7	221.7	58.9	703.5
Total	9,694.6	8,895.2	688.7	949.8	1,094.0	14,826.7	2,674.1	38,823.1

[1] St. Paul District includes Minnesota River and Mississippi River within Minnesota.
[2] Upper Mississippi River: Mississippi River between Minneapolis and the mouth of the Missouri River.
[3] Middle Mississippi River: Mississippi River between the mouth of the Missouri River and the mouth of the Ohio River.

Source: Calculated from tonnages of exhibit II and mileage distances of exhibit III.

EXHIBIT V

AGGREGATE WATERWAY FUEL TAX COLLECTIONS FROM WATERBORNE MOVEMENTS OF GRAINS AND SOYBEANS—UPPER MISSISSIPPI BASIN ORIGINS TO RESPECTIVE DESTINATION AREAS

[At 42 cents per gallon (equivalent to 1.26 mills per ton-mile), on 1975 ton-miles carried (thousands of dollars)]

Areas of destination	Areas of origin							
	St. Paul District [1]	Upper Mississippi River (excluding St. Paul District) [2]	Middle Mississippi River [3]	Missouri River	Chicago	Illinois River	Ohio River and tributaries	Total
Baton Rouge-New Orleans	10,779.4	9,982.1	775.7	577.3	1,002.2	17,691.8	2,936.7	43,745.2
Warrior River	407.1	295.3	21.9	26.1	16.0	140.6	37.8	944.9
GIWW—East	235.6	294.3	32.0	132.4	236.5	172.2	97.5	1,200.7
Sabine-Neches	48.8	39.6	6.9	29.5	8.4	5.8	23.6	162.5
Galveston	74.5	122.0	2.3	(4)	(4)	26.3	65.5	290.6
Corpus Christi	75.6	16.6	(4)	(4)	10.5	18.9	73.5	195.0
Tennessee River	422.1	291.1	7.2	320.8	43.5	346.6	60.6	1,491.8
All other	172.1	167.0	21.8	110.6	61.4	279.3	74.2	886.4
Total	12,215.2	11,208.0	867.8	1,196.7	1,378.5	18,681.5	3,369.4	48,917.1

[1] St. Paul District includes Minnesota River and Mississippi River within Minnesota.
[2] Upper Mississippi River: Mississippi River between Minneapolis and the mouth of the Missouri River.
[3] Middle Mississippi River: Mississippi River between the mouth of the Missouri River and the mouth of the Ohio River.
[4] None.

Source: Calculated from the ton-miles tabulated in exhibit IV at 1.26 mills per ton-mile.

EXHIBIT VI

AGGREGATE WATERWAY FUEL TAX COLLECTIONS FROM WATERBORNE MOVEMENTS OF GRAINS AND SOYBEANS—UPPER MISSISSIPPI BASIN ORIGINS TO RESPECTIVE DESTINATION AREAS

[At 60 cents per gallon (equivalent to 1.80 mills per ton-mile), on 1975 ton-miles carried (thousands of dollars)]

Areas of destination	Areas of origin							
	St. Paul District[1]	Upper Mississippi River (excluding St. Paul District)[2]	Middle Mississippi River[3]	Missouri River	Chicago	Illinois River	Ohio River and tributaries	Total
Baton Rouge-New Orleans	15,399.2	14,260.1	1,108.1	824.8	1,431.7	23,274 0	4,195.3	62,493.2
Warrior River	581.6	421.9	31.3	37.3	22.9	200.9	54.0	1,349.9
GIWW—East	336.6	420.5	45.7	189.2	337.9	246.1	139.3	1,715.3
Sabine-Neches	69.7	56.5	9.9	42.1	12.1	8.3	33.7	232.3
Galveston	106.4	174.2	3.2	None	None	37.6	93.6	415.0
Corpus Christi	108.0	23.8	None	None	14.9	27.0	104.9	278.6
Tennesse River	603.0	415.8	10.3	458.3	62.1	495.2	86.6	2,131.3
All other	245.9	238.5	31.1	158.0	87.7	399.1	106.0	1,266.3
Total	17,450.4	16,011.3	1,239.6	1,709.7	1,969.3	26,688.2	4,813.4	69,881.9

[1] St. Paul District includes Minnesota River and Mississippi River within Minnesota.
[2] Upper Mississippi River: Mississippi River between Minneapolis and the mouth of the Missouri River.
[3] Middle Mississippi River: Mississippi River between the mouth of the Missouri River and the mouth of the Ohio River.

Source: Calculated from the ton-miles tabulated in exhibit IV at 1.80 mills per ton-mile.

EXHIBIT VII

WATERWAY FUEL TAX AT 42-CENT-PER-GALLON COST PER BUSHEL OF GRAIN AND SOYBEANS (AT 33.33 BUSHELS PER TON)—UPPER MISSISSIPPI BASIN ORGINS TO RESPECTIVE DESTINATION AREAS

[In cents per bushel]

Areas of destination	Areas of origin						
	St. Pau[1] district	Upper Mississippi River[2] (except St. Paul district)	Middle[3] Mississippi River	Missouri River	Chicago	Illinois River	Ohio River and tributaries
Baton Rouge New Orleans	6.4	4.4	3.9	5.3	5.2	4.6	3.8
Warrior River	6.9	4.9	4.4	5.8	5.7	5.1	4.
GIWW—East	6.6	4.7	4.1	5.6	5.5	4.9	4.
Sabine-Neches	7.4	5.4	4.9	6.3	6.2	5.6	4.
Galveston	7.7	5.7	5.2			6.0	5.
Corpus Christi	8.4	6.5			7.3	6.7	5.
Tennessee River	4.9	3.5	2.6	4.0	3.9	3.3	2.

[1] St. Paul district includes Minnesota River and Mississippi River within Minnesota.
[2] Upper Mississippi River: Mississippi River between Minneapolis and the mouth of the Missouri River.
[3] Middle Mississippi River: Mississippi River between the mouth of the Missouri River and the mouth of the Ohio River.

Source: Calculated from the tonnages of exhibit II and the aggregate tax collections of exhibit V.

EXHIBIT VIII

WATERWAY FUEL TAX AT 60-CENTS-PER-GALLON COST PER BUSHEL OF GRAIN AND SOYBEANS (AT 33.33 BUSHELS PER TON)—UPPER MISSISSIPPI BASIN ORIGINS TO RESPECTIVE DESTINATION AREAS

[In cents per bushel]

Areas of destination	Areas of origin						
	St. Paul[1] district	Upper Mississippi River[2] (except St. Paul district	Middle[3] Mississippi River	Missouri River	Chicago	Illinois River	Ohio River and tributaries
Baton Rouge-New Orleans	9.1	6.3	5.5	7.6	7.4	6.6	5.4
Warrior River	9.8	7.0	6.2	8.3	8.1	7.3	6.1
GIWW—East	9.5	6.7	5.9	7.9	7.8	6.9	5.7
Sabine-Neches	10.5	7.7	7.0	9.0	8.9	8.0	6.8
Galveston	11.0	8.2	7.4			8.5	7.3
Corpus Christi	12.0	9.2			10.4	9.5	8.3
Tennessee River	7.0	5.0	3.7	5.8	5.6	4.5	3.0

[1] St. Paul district includes Minnesota River and Mississippi River within Minnesota.
[2] Upper Mississippi River: Mississippi River between Minneapolis and the mouth of the Missouri River.
[3] Middle Mississippi River: Mississippi River between the mouth of the Missouri River and the mouth of the Ohio River.

Source: Calculated from the tonnages of exhibit II and the aggregate tax collections of exhibit VI.

The Unsettled Question of Competitive Railroad Rates

The tabulated shipments of Exhibit VII from other origins (the upper and middle Mississippi, the Missouri, and the Ohio) are more largely rail-competitive, both to the Gulf and via east-west railroad lines to the Atlantic. Some increases in railroad rates could be expected in consequence of the fuel tax, somewhat restraining the water-to-rail diversion. On the other hand, barging charges on some movements are now too low to attract railroad competition, and the higher waterway charges consequent on the tax might well make it attractive for the railroads to capture some of this traffic with reduced rates. The probable railroad response to the waterway fuel tax has not been evaluated, and, until it is, no adequate estimate of the prospective tax-induced shrinkage can be made.

The Prospect for Rising Tax Rates on Declining Waterway Traffic

It would appear clear from the above analysis that, including both Seaway and rail diversion, the fuel tax of 42 cents a gallon would induce a shrinkage of at least 20 percent in the waterborne tonnage of grains and soybeans from the upper Middle West. Similar reductions in other commodity movements, such as coal, gasoline, fuel oil, and fertilizers, should be expected. If an all-commodity 20 percent reduction were to occur, obviously, to recover the targeted dollar amount of Federal costs would require an increase in the fuel tax rate from 42 cents to 52½ cents a gallon.

At 52½ cents, further reduction would appear inevitable, and the rate would have to be raised again. There is no way at present to determine the ultimate rate at which fuel tax revenues would catch up with Federal outlays. As a limited indication, in Exhibits VI and VIII we present impacts at 60 cents a gallon. It will be noted that, at 60 cents, the tax would range from 3.0 to 12.0 cents per bushel.

CLOSURE OF SELECTED RIVER SEGMENTS AS A MEANS OF COST RECOVERY

Waterway use taxes or user charges at the levels advocated by Senator Domenici present the Congress with the inherent linkage between cost-recovery waterway user charges and the national program of waterway maintenance and improvement. Pursuit of the cost recovery goal inescapably implies curtailment of waterway expenditures.

Let us note why this is true. The dilemma we have described of rising tax rates on declining traffic can be resolved most effectively by closing selected segments of the waterway system to commercial navigation. We have said that the Federal costs of waterway operation and maintenance are fixed. But, this is true only if all existing waterway segments are kept in operation. Federal costs of operation and maintenance can, in fact, be substantially reduced by closing selected tributary rivers and other segments to navigation. The probability is high that this would prove to be the only feasible way in which 100 percent of these costs could be collected.

The closure of higher-cost rivers carrying lighter traffic would reduce Federal outlays more than it would tax collections. Closure would thus bring Federal costs down to amounts greater than the decline in tax collections and achieve the targeted Federal cost recovery at a tax rate which, while substantially higher than 42 cents a gallon, would remain less high than if all waterways were to be kept in operation.

Illustrative River Segments Vulnerable to Closure

Should Congress enact the 42-cent tax, therefore, it would be an entirely logical accompanying step to incorporate into the legislation a statement of standards for termination of navigation on particular rivers, or, possibly, a statement of particular rivers in line for priority for closure. Promising candidates for this classification would include the Missouri, the Arkansas, the Cumberland, the Allegheny, and some reaches of the Tennessee and the upper Mississippi. A careful analysis of the responsiveness of traffic to fuel tax imposition on each of these rivers should, of course, precede such determination.

The Missouri River may be a suitable illustration. In 1975, this river carried 1.1 billion ton-miles of commercial cargo.[6] Federal outlays for operation and maintenance amounted to about $9.7 million.[7] At the U.S. average rate of fuel consumption, the tax of 42 cents a gallon on the Missouri would have yielded on the 1975 ton-mileage a revenue of only about $1.4 million. Admittedly, fuel consumption per ton-mile runs somewhat higher on this river than the U.S. average, but it is clear that Federal revenues under the 42-cent tax would fall far short of outlays for operation and maintenance.

Thus, if the Missouri were to be closed to navigation, Federal costs of operation and maintenance would be reduced substantially more than tax collections. The same action on other rivers such as those named in the preceding paragraph could bring the cost-recovery goal within sight. Cost-recovery user charges and segment abandonment are thus Siamese twins and very probably inseparable.

COST-RECOVERY AS A NONSTRUCTURAL ALTERNATIVE TO WATERWAY IMPROVEMENTS

Observations similar to those preceding apply also to new work, that is to projects for replacement and modernization of locks and dams and to waterway extensions. Recovery of 50 percent of construction outlays could be achieved only by the abandonment of the more costly projects. Such abandonment would reduce the magnitude of costs to be recovered, as in the case of operation and maintenance and bring the cost-recovery goal down to a level which could be financed by the tax collections.

Cost-Recovery as a Formula for Adverse Benefits-Cost Ratios

But, the impact would be given more direct. Taking, for example, such projects as the replacement of Locks and Dam No. 26 on the Mississippi River, the twinning of the locks on the Illinois, and the completion of the Tennessee-Tombigbee connection, the Congressional authorization and funding of such undertakings rests directly upon a favorable ratio of prospective benefits to costs.

With respect to each project, the estimated benefits consist primarily of projected tonnages of traffic over the 50-year service life (now to the year 2035 or 2040) multiplied by the transportation savings per ton. Both of these would be sharply reduced by the proposed 42-cent fuel tax, or by any user charge at this level of cost recovery, and the presently favorable economic evaluations radically impaired or reversed.

It must be emphasized that this impairment would occur even in the absence of the prospective traffic reductions we have previously considered probable. The U.S. Secretary of Transportation has recently expressed the opinion that, under a fuel tax of 42 cents a gallon, waterway traffic would continue to grow, but at a reduced rate. Let us assume for the moment that the Secretary is right.

The present economic justification of each waterway project, such as that at Gallipolis, Ohio, Locks and Dam No. 26, the Illinois River, and the Tenn-Tom, rests directly upon a projection of traffic growth over the coming 50 years in the absence of any waterway use tax or user charge. Even on the optimistic assumption that the 42-cent tax would permit some continued growth, such growth would obviously be at a much lower rate than that now projected, and, for any future year, the tonnage would be projected at a substantially lower level than that on which present economic evaluation rests. And, to this reduced tonnage projection, a lower savings per ton would be applied.

Suspension of Authorization and Funding for Reevaluation

The impact would be accentuated by still another factor. Obviously, the present benefits-cost ratios on which existing authorizations and funding programs rest would become obsolete and irrelevant. Congress could authorize new projects and fund those now ongoing only on the basis of new evaluations. Because, in its application to new construction outlays, the tax would vary considerably from year to year and because the tax rates would be rising during the phase-in period, existing shipper surveys and statistical procedures would have to be substantially revised before new evaluations could be undertaken. Adding to the time required for such revisions the evaluation period itself, unless the Congress were willing to act without meaningful evaluation, all progress toward authorization and funding of construction projects would be arrested for probably some three years or more. During this period the construction costs and interest charges against each project, to be balanced against the reduced benefits, would be substantially increased, further impairing the present economic justifications.

Cost-Recovery as a Non-Structural Relief of Lock Congestion

Finally, the effect on lock congestion merits attention. This is a critical consideration at Gallipolis, Locks No. 26, and on the Illinois River. We have noted previously the prospective diversion of grains and soybeans from the St. Paul District, Chicago, and the Illinois River to the St. Lawrence Seaway. Downbound movements from all these origins now transit Locks No. 26, and those from Chicago and the Illinois River transit the Illinois River locks as well.

Altogether, in 1975, these movements accounted for 10.5 million tons of the 54.5 million-ton total transited at Locks No. 26. If we were to add similar diversions of such commodities as coal, petroleum products, fertilizers, chemicals, and steel, there is a very real prospect that the present congestion would be eliminated as the tax rate went up, and that congestion as a justification for new work would disappear. In a very fundamental sense, the cost-recovery taxes, whether in the form of a fuel tax or otherwise, at Senator Domenici's standards is a direct alternative to expansion of lockage capacity. Under the tax, the expanded capacity would be less needed, if needed at all.

In sum, we have previously noted, with respect to recovery of operation and maintenance outlays, the dilemma of rising tax rates on diminishing traffic. The dilemma would be less critical, however, with respect to recovery of 50 percent of construction outlays. The dilemma resolves itself by the very probable disallowance, under existing benefits-cost standards, of most of the major and more costly projects now on the drawing boards. Under present standards, new work outlays to be recovered would automatically be reduced to a much lower and more easily-attained level.

CRITICAL QUESTIONS REMAINING

The Response of Alternative Modes and Routings

In conclusion, it must be emphasized that this report does not constitute an impact study. It is to be hoped that it does provide basic data from which an impact study might proceed. But, it would appear critical that some assessment be made of the competitive

response of alternative routings, in particular that of competitive railroad rates, alternative railroad routings, diversions of important commodity movements, not to railroads, but to pipelines and trucking, and, finally, of the alternative of the St. Lawrence Seaway and the probable effect on the level of Seaway tolls.

Unless such an analysis is made, the prospective impact of the proposed user charge on the volume of shallow-draft water carriage cannot be estimated. The U.S. Department of Transportation has recently advanced purported estimates as to prospective diversion. Only if the Department has identified alternative routings and estimated consequent rate changes by alternative modes can these estimates be taken as anything but preliminary and superficial.

Effect on Particular Economic Activities and Regions

It would appear reasonable that an adequate impact study would weigh the effects on certain areas of national policy. Farm income, for example, would be adversely affected by lower realized prices for farm crops and by higher costs of fertilizer and energy forms. Energy policy would be involved in higher-cost distribution of coal, gasoline, and fuel oil. Regional development is involved in such water-based economies as that of the Appalachian Region and the Ozarks. The impact on the balance of payments should be examined, particularly in the effect on the export of farm products and the competitive position of waterborne steel from the Pittsburgh and Chicago Districts confronted by foreign competition on the Gulf Coast and in the lower Mississippi Valley.

The Question of Benefit to Railroads

It would seem very important that the impact within the transportation system, itself, should be evaluated. Railroad competition has been a central consideration with regard to use taxes on the waterways. We have seen that the proposed use taxes would be very selective both regionally and as to commodities affected. Which waterborne commodities are clearly rail-competitive, and what railroads and railroad routings are involved? How much would the proposed use taxes aid these railroads and routings? What would be the adverse effect of waterway use taxes on cross-river railroads now deriving substantial revenue from rail-water and water-rail movements? In short, viewing waterway use taxes as a possible aid to the nation's railroads, how much would it help the railroads, which ones would it help, and which ones would it injure?

Transportation Charges and Rising Commodity Costs and Prices

The effect on costs and prices of commodities is clearly of concern. From 1974 to 1976, the revenue per ton-mile of the nation's Class I railroads went up by 18.4 percent.[8] That of the ICC-regulated water carriers on the Mississippi River and its tributaries increased by only 3.5 percent.[9]

It may be, of course, that railroad rates on water-adapted commodities went up less than 18.4 percent. We really do not know. Considering that water-adapted commodities are principally natural resource products (raw materials and fuels) underlying the entire superstructure of the economy, is the cost-recovery user charge a suitable mechanism for dealing with rising delivered costs of this class of goods?

At least tentative answers to these questions would appear essential to any informed decision as to cost-recovery waterway user charges or use taxes. As of the present, it would appear that, for the most part, these questions have not been systematically addressed. Until they are, no informed resolution of the question can be reached.

FOOTNOTES

[1] U.S. Dept. of the Army, Corps of Engineers, *Waterborne Commerce of the United States*, Calendar year, 1975, Part 5, "National Summaries", Section 2, Vicksburg, Mississippi, 1977.

[2] See for example: William E. Mooz, *Energy in the Transportation Sector*, The RAND Corporation, Santa Monica, California, March, 1973, estimating water carrier fuel consumption at 500 Btu. per ton-mile, equivalent at U.S. Bureau of Mines conversion factors to 3.7 gallons per 1,000 ton-miles.

The three-gallon estimate employed in this report was derived from a survey I conducted in 1975 of all ICC-regulated shallow-draft water carriers on the Mississippi River and its tributaries. Response was 100%. Consumption in 1975 was at the rate of 2.9 gallons per 1,000 ton-miles carried.

[3] For ton-miles of farm crops carried nationwide, in 1975, see: U.S. Dept. of the Army, Corps of Engineers, *Op. Cit.*, Section 3, page 96.

[4] Letter from the Office of the Chief of Engineers to The Ohio Valley Improvement Association, Inc., Cincinnati, Ohio, March 17, 1961.

[5] Clinton B. Odell, Vice President, Cargo Carriers, Inc., "Benefits from Extension of the Navigation Season", Proceedings of the Joint Conference of the Lake Carriers' Association and the Dominion Marine Association, Lake Carriers' Association, Cleveland, Ohio, February 8, 1977. The reported present charge for barging grain from Minneapolis to Baton Rouge of $6.19 per ton, or 18.6 cents per bushel, amounts to 3.67 mills per ton-mile of river distance.

[6] U.S. Dept. of the Army, Corps of Engineers, *Waterborne Commerce of the United States*, 1975, Part 2, Vicksburg, Mississippi, 1976, page 9.

[7] U.S. Dept. of the Army, *Annual Report of the Chief of Engineers on Civil Works Activities*, Vol. II, Washington, D.C., 1977, page 20–22.

[8] Association of American Railroads, *Yearbook of Railroad Facts*, 1977 Edition, Washington, D.C., 1977, page 33.

[9] Interstate Commerce Commission, *Revenue and Traffic of Class A and B Water Carriers*, Statement No. 650, Washington, D.C., respective years.

The ICC-regulated carriers on the Mississippi River and tributaries carried 40.6 percent of the total shallow-draft ton-miles moved on the Mississippi River system in 1975. From 1975 to the first six months of 1977, their revenue per ton-mile declined from 5.3 to 5.1 mills.

Mr. BARTLETT. Mr. President, there is one additional item which I would like to refer to which further reinforces the point which I am making. In 1976, the Corps of Engineers completed an analysis of rate adjustments of railroads competing with the McClellan-Kerr Waterway. This analysis clearly shows that the waterway has been beneficial to both shippers and consumers in holding down-rail shipping rates. I draw my colleagues attention to the conclusions of the report, found on page 16, which note reductions in rates or at least much lower rate increases when compared to railroads not in competition with the McClellan-Kerr Waterway.

Obviously, as the shipping rate on the waterway began to increase, the railroad shipping rates will correspondingly increase with a double impact upon all shippers and consumers.

Mr. President, I ask unanimous consent that the McClellan-Kerr Arkansas River System Rate Adjustment Analysis be printed at this point in the RECORD.

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

McCLELLAN-KERR ARKANSAS RIVER SYSTEM RATE ADJUSTMENT ANALYSIS

Who is benefited when a new navigation channel is constructed? This has been the question of growing concern which characterizes most discussions on inland navigation. In an effort to establish recipients of transportation savings or reduced freight rates, the U.S. Army Corps of Engineers initiated a rate adjustment analysis for traffic utilizing the McClellan-Kerr Arkansas River Navigation System. The analysis will involve commercial commodity movements into and out of the study area.

The study area is located along the main stem of the Arkansas River and encompasses the large trade centers of Little Rock and Fort Smith, Arkansas and Tulsa, Oklahoma. The study area covers 40 counties in Arkansas and 23 counties in Oklahoma.

The origin and destination of commercial commodity movements indicate that unfabricated iron and steel products originate primarily from major steel producing states, predominately Ohio, Illinois, Pennsylvania, and West Virginia. Fabricated metal products originating in the study area were shipped world wide. The remaining commodities were transported to and from the study area originated in or destinated to 50 states and 48 foreign nations. Imports and exports for commerce in the study area drew heavily from the European common market and the expanding Japanese market.

Data for major commodity movements in the study area were generated by a field survey of firms located or operating in the area for calendar year 1971. Approximately 100 firms were canvassed to collect commodity data which included the commodity, origin, destination, volume, and rate if known, and other information made available for commodity evaluation. An examination of the raw data indicated that 590 individual commodity movements were collected. These cargo movements and commodity types were considered readily adaptable for bulk barge movement. The major commodity movements utilized in making this evaluation are presented in the following table.

COMMODITY MOVEMENTS

Cadmium.
Magnesium Ingots.
Aluminum Cable.
Aluminum Castings.
Aluminum Extrusions.
Aluminum Ingots.
Zinc Concentrate.
Zinc Residue, Furnace.
Zinc Scrap.
Zinc Slab.
Acids.
Agricultural Products and By-Products.
Aluminum Scrap.
Aluminum Shapes, Unfinished.
Aluminum Sheets.
Brass Anodes & Cathodes.
Brass Ingots.
Iron or Steel Grain Bins, K.D.
Iron or Steel Cans.
Iron or Steel Castings.
Iron or Steel Cylinders, Compressed Gas.
Iron or Steel Pig.
Iron or Steel Pipe & Fittings.
Iron or Steel Plate.
Iron or Steel Posts.
Iron or Steel Rebars.
Iron or Steel Scrap.
Iron or Steel Shapes, Unfinished.
Iron or Steel Sheet.

Iron or Steel Structural, Angles, Bars, Beams & Rods.
Iron or Steel Valves, Pressure.
Chemicals.
Fertilizers.
Plastics.
Fiberglass Articles.
Forest Products.
Coal.
Coke.
Clays.
Ore, bauxite.
Phosphate Rock.
Stone.
Boxes, Corrugated K.D.F.
Boxes, Other than corrugated K.D.F.
Newsprint.
Pulpboard, Corrugated.
Pulpboard, Other than corrugated.
Petroleum & Petroleum Products.
Rubber & Rubber Articles.
Iron or Steel Sucker Rods.
Iron or Steel Towers, K. D.

Based on the above commodity movement the US Army Corps of Engineers contracted with North Texas Traffic Bureau, Dallas, Texas, to obtain historic rail rates from 1 January 1967 to 1 February 1974. The contract was prepared in two volumes and is presented as an appendix to this evaluation. After duplicate movements and special one-time shipments were removed from the analysis, the commodity movements were reduced to 536. The specific data requirements and format requested from the contractor are presented in the following example:

EXAMPLE—COMMODITY: BEAMS. STRUCTURAL STEEL FROM HOUSTON, TEX., TO TULSA, OKLA.

Rate	Minimum weight	Date	Traffic authority or reason for change
61½¢	80M#	Jan. 1, 1967	I-2750-C, SWL 301-D.
63½		Aug. 19, 1967	X-256.
65		June 24, 1968	X-259-A.
67		Nov. 28, 1968	X-259-B.
71		Nov. 18, 1969	X-262.
75		June 9, 1970	X-265-A.
75		Nov. 20, 1970	X-265-B.
81		do	X-267-A.
84		Apr. 12, 1971	X-267-B.
70	120M#	Dec. 9, 1971	RN-A-24-1487-E, F reduced to meet truck-barge competition.
70		Feb. 5, 1972	X-281 2½ percent S.C.
70		Oct. 23, 1972	X-281-B cancels S.C.
72		Aug. 19, 1973	X-295-A.
73		Oct. 1, 1973	X-299.
74		Jan. 1, 1974	X-299.
74		Jan. 31, 1974	X-301 2.1 percent S.C.

Legends: ¢—Cents per 100 pounds; N.T.—Cents per ton of 2,000 pounds; G.T.—Cents per ton of 2,240 pounds; S.C.—Surcharge; (1)—Rate on minimum weight; (2)—Rate on excess of minimum weight; MCofC—Marked capacity of car; TC—Tank car; R-35—Rule 35 of uniform freight classification—Minimum weight on shipments in tank cars; R-35-__M—Rule 35 but not less than __ pounds.

The 536 commodity movements were utilized for this analysis. The following tabulation presents the number of specific commodity movements for each category of commodity.

NUMBER OF COMMODITY MOVEMENTS

Commodity:	Number of movements
Cadmium	1
Magnesium	
Ingots	1
Aluminum	
Cable	4
Castings	2
Extrusions	7
Ingots	12
Scrap	2
Shapes, unfinished	1
Sheets	5
Brass	
Anodes & Cathodes	3
Ingots	4
Iron or Steel	
Grain Bins, K. D	6
Cans	5
Castings	17
Cylinders, compressed gas	2
Pig	10
Pipe & Fittings	10
Plate	14
Posts	3
Rebars	5
Scrap	14
Shapes, unfinished	2
Sheet	29
Strapping	3
Structural, Angles, bars, beams & rods	29
Sucker rods	5
Towers, K. D	4
Valves, Pressure	5
Zinc	
Concentrate	5
Residue, Furnace	1
Scrap	2
Slab	32
Acids	32
Agricultural Products & By-Products	12
Chemicals	11
Fertilizers	10
Fiberglass Articles	12
Forest Products	9
Mine Products	
Coal	23
Coke	9
Clays	12
Ore, bauxite	1
Phosphate Rock	8
Stone	5
Paper & Paper Articles	
Boxes, Corrugated K.D.E	6
Boxes, other than Corrugated K.D.F.	5
Newsprint	7
Pulpboard, Corrugated	7
Pulpboard, other than Corrugated	54
Petroleum & Petroleum products	11
Plastics	9
Rubber & Rubber articles	13
Miscellaneous commodities	35

During the calendar year of 1971 an estimated 50 million tons of commercial cargo was transported to and from the study area. Railroad traffic accounted for 18.9 million tons of cargo, Highway and truck traffic accounted for 25.3 million tons of commercial cargo, waterway traffic amounted to 4.3 million tons of cargo and commercial and general aviation accounted for 1.5 million tons of commercial cargo. Of the total commercial tonnage, 5 percent or 2.5 million tons of cargo represents the survey sample and were analyzed in this study.

Evaluation of the raw data developed by the contractor, indicates that of the 536 commodity movements sampled, 29 percent or 158 individual commodity movements reflected regulated rate adjustments during the period of analysis. All the commodities which reflect rate adjustments were from the iron and steel category. Iron and steel products with long line-hauls were the primary source of rail rate adjustments.

Rate adjustments to meet highway competition were reflected in 132 specific individual commodity movements. These commodities were of the iron and steel category and amount to about 25 percent of the total sample. The rate adjustments represent approximately a 10 percent across the board decrease for these commodities. In most cases the rail rate adjustments were placed into effect in June and December 1972. The effective rate adjustments corresponds to the first complete year of operation for the navigation system. Rate adjustment proposals were filed with I.C.C. about the time that construction on the navigation system was being completed. Since iron and steel products account for approximately 22 percent of the study area's commercial cargo, the transportation savings to the national account, as a result of rail rate adjustment, could be enormous.

Twenty-six (26) individual iron and steel movements, or about 5 percent of the total sample, reflected rail rate adjustments. The shipments were extra long line-haul commodities used primarily for product fabrication. The reason presented by the railroad industry in their rate adjustment proposal to the I.C.C. was to meet waterway competition. The industries proposal was filed about the time construction was being completed on the navigation system, however, the effective dates of rail rate adjustments were during the first two years after project completion or late 1971 and early 1972. The iron and steel commodities used in this sample represents approximately 5 percent of the total tonnage for the study area. Rail rate adjustments to meet barge competition were reduced by about half of the preproject rail rate, i.e., $21.00 per net ton to $11.77 per net ton.

The following tabulations on pages 9–13 present the commodity movements which reflect rail rate adjustment to meet highway and barge competition

Further evaluation of the remaining 378 commodity movements indicates that the general rate of traffic increases for the eastern section of the United States were generally higher than for those rail rates in the study area. The table on page 14 presents general rail rate increases.

RAIL RATE ADJUSTMENT

Survey No.	Commodity	Volume Page No.	No.	Origin	Destination	Date of change	Rate before	Rate after	Reason for change
3-10	Steel grain bins	43	1	Tulsa, Okla	Kansas City, Mo	Dec. 2, 1972	0.52 cwt	0.45 cwt	Meet hwy. compt.
4-10	do	44	1	do	Kansas City, Kans	do	0.52 cwt	0.45 cwt	Do.
16-12	Storage tanks	47	1	Muskogee, Okla	New Orleans, La	June 9, 1972	1.00 cwt	0.83 cwt	Do.
17-12	do	48	1	do	Amarillo, Tex	do	0.73 cwt	0.64 cwt	Do.
10-13	Steel counter wts	50	1	Little Rock, Ark	Cleveland, Ohio	do	1.76 cwt	1.13 cwt	Do.
10-13	do	50	1	do	do	Dec. 9, 1972	1.20 cwt	1.11 cwt	Do.
25-14	Steel bailer	51	1	Sand Springs, Okla	North Little Rock, Ark	June 9, 1972	0.57 cwt	0.48 cwt	Do.
14-19	Walkway, grating	53	1	Tulsa, Okla	Houston, Tex	do	0.84 cwt	0.72 cwt	Do.
10-5	Steel casting	54	1	Dewey, Okla	do	do	0.91 cwt	0.78 cwt	Do.
17-7	do	55	1	Fort Smith, Ark	Colfay, Iowa	Sept. 9, 1972	0.90 cwt	0.85 cwt	Do.
18-7	do	56	1	do	St. Louis, Mo	do	0.71 cwt	0.66 cwt	Do.
4-12	do	58	1	Muskogee, Okla	Houston, Tex	June 9, 1972	0.78 cwt	0.68 cwt	Do.
5-12	do	59	1	do	Midland, Tex	do	0.91 cwt	0.78 cwt	Do.
11-13	do	60	1	Little Rock, Ark	Chicago, Ill	Sept. 9, 1972	0.97 cwt	0.93 cwt	Do.
7-16	do	61	1	Tonkawa, Okla	do	Dec. 2, 1972	1.08 cwt	1.03 cwr	Do.

RAIL RATE ADJUSTMENT—Continued

Survey No.	Commodity	Volume Page No.	No.	Origin	Destination	Date of change	Rate before	Rate after	Reason for change
16-17	Iron casting	63	1	Sand Springs, Okla	Dallas, Tex	June 9, 1972	0.57 cwt	0.48 cwt	Do.
17-17	do	64	1	do	Chicago, Ill	Aug. 9, 1972	1.05 cwt	1.01 cwt	Do.
18-17	do	65	1	do	Cincinnati, Ohio	June 9, 1972	1.21 cwt	1.10 cwt	Do.
18-17	do	65	1	do	do	Dec. 9, 1972	1.13 cwt	1.08 cwt	Do.
21-17	do	68	1	do	Houston, Tex	June 9, 1972	0.84 cwt	0.72 cwt	Do.
22-17	do	69	1	do	New York, N.Y	do	1.89 cwt	1.61 cwt	Do.
22-17	do	69	1	do	do	Dec. 9, 1972	1.66 cwt	1.60 cwt	Do.
3-18	do	70	1	Wheeling, W. Va	Tulsa, Okla	June 9, 1972	1.39 cwt	1.18 cwt	Do.
3-18	do	70	1	do	do	Dec. 9, 1972	1.22 cwt	1.15 cwt	Do.
2-1	Steel plates	93	1	do	Little Rock, Ark	June 9, 1972	1.25 cwt	1.05 cwt	Do.
2-1	do	93	1	do	do	Dec. 9, 1972	1.08 cwt	1.03 cwt	Do.
11-7	do	94	1	Fairfield, Ala	Fort Smith, Ark	June 9, 1972	0.90 cwt	0.74 cwt	Do.
11-7	do	94	1	do	do	Dec. 9, 1972	0.74 cwt	0.72 cwt	Do.
28-7	do	95	1	New Orleans, La	do	June 9, 1972	0.91 cwt	0.78 cwt	Do.
28-7	do	95	1	do	do	Dec. 9, 1972	0.78 cwt	0.74 cwt	Do.
25-10	do	96	1	Chicago, Ill	Muskogee, Okla	Feb. 14, 1972	21.00 nt	11.77 nt	Meet barge compt.
29-14	do	97	1	Elk Grove, Ill	Jacksonville, Ark	June 9, 1972	0.97 cwt	0.81 cwt	Meet hwy. compt.
29-14	do	97	1	do	do	Dec. 9, 1972	0.81 cwt	0.77 cwt	Do.
25-18	do	98	1	Chicago, Ill	Tulsa, Okla	Feb. 13, 1972	1.05 cwt	0.77 cwt	Meet barge compt.
26-18	do	99	1	Birmingham, Ala	do	June 9, 1972	1.04 cwt	0.87 cwt	Meet hwy. compt.
26-18	do	99	1	do	do	Dec. 9, 1972	0.87 cwt	0.83 cwt	Do.
27-18	do	100	1	Houston, Tex	do	Dec. 9, 1971	0.84 cwt	0.70 cwt	Meet barge compt.
28-18	do	101	1	Memphis, Tenn	do	June 9, 1972	0.71 cwt	0.62 cwt	Meet hwy. compt.
28-18	do	101	1	do	do	Dec. 9, 1972	0.62 cwt	0.59 cwt	Do.
31-18	do	102	1	Houston, Tex	Muskogee, Okla	Dec. 9, 1971	0.78 cwt	0.60 cwt	Meet barge compt.
32-18	do	103	1	Burns Harbor, Ind	do	Feb. 13, 1972	21.00 nt	11.77 nt	Do.
1-19	do	104	1	Granite City, Ill	Tulsa, Okla	Feb. 8, 1971	0.70 cwt	0.60 cwt	Do.
2-19	do	105	1	Indian Harbor, Ill	do	Feb. 13, 1972	1.05 cwt	0.70 cwt	Do.
3-19	do	106	1	Crescentville, Pa	do	June 9, 1972	1.81 cwt	1.56 cwt	Meet hwy. compt.
3-19	do	106	1	do	do	Dec. 9, 1972	1.01 cwt	1.52 cwt	Do.
1-2	Steel posts	107	1	Sand Springs, Okla	Chicago, Ill	Aug. 9, 1972	1.05 cwt	1.01 cwt	Do.
2-2	do	108	1	do	Houston, Tex	June 9, 1972	0.84 cwt	0.72 cwt	Do.
5-2	Steel—Rebar	111	1	do	Dallas, Tex	do	0.57 cwt	0.48 cwt	Do.
5-2	do	111	1	do	do	Dec. 9, 1972	0.48 cwt	0.45 cwt	Do.
6-2	do	112	1	do	New Orleans, La	Feb. 8, 1972	0.68 cwt	0.61 cwt	Meet barge compt.
8-2	do	114	1	do	New York, N.Y	June 9, 1972	1.89 cwt	1.61 cwt	Meet hwy. compt.
8-2	do	114	1	do	do	Dec. 9, 1972	1.66 cwt	1.60 cwt	Do.
12-1	do	129	1	Lone Star, Tex	North Little Rock, Ark	June 9, 1972	0.48 cwt	0.42 cwt	Do.
12-1	do	129	1	do	do	Dec. 9, 1972	0.42 cwt	0.40 cwt	Do.
14-10	do	130	1	Chicago, Ill	Tulsa, Okla	Feb. 16, 1972	1.05 cwt	0.70 cwt	Meet barge compt.
1-1	Sheet steel coils	131	1	Milwaukee, Wis	Little Rock, Ark	June 9, 1972	1.05 cwt	0.89 cwt	Meet hwy. compt.
1-1	do	131	1	do	do	Dec. 9, 1972	0.89 cwt	0.85 cwt	Do.
12-7	Sheet steel	133	1	Gary, Ind	Fort Smith, Ark	June 9, 1972	1.05 cwt	0.89 cwt	Do.
12-7	do	133	1	do	do	Dec. 9, 1972	0.89 cwt	0.85 cwt	Do.
13-7	do	134	1	Burns Harbor, Ill	do	June 9, 1972	1.05 cwt	0.89 cwt	Do.
13-7	do	134	1	do	do	do	0.89 cwt	0.85 cwt	Do.
15-7	do	135	1	Birmingham, Ala	do	June 9, 1972	0.90 cwt	0.74 cwt	Do.
15-7	do	135	1	do	do	Dec. 9, 1972	0.74 cwt	0.72 cwt	Do.
21-7	do	136	1	Memphis, Tenn	do	June 9, 1972	0.52 cwt	0.48 cwt	Do.
21-7	do	136	1	do	do	Dec. 9, 1972	0.48 cwt	0.45 cwt	Do.
22-7	Sheet steel coils	137	1	Kansas City, Mo	do	June 9, 1972	0.58 cwt	0.50 cwt	Do.
22-7	do	137	1	do	do	Dec. 9, 1972	0.50 cwt	0.47 cwt	Do.
23-7	do	138	1	Pittsburgh, Pa	do	June 9, 1972	1.41 cwt	1.21 cwt	Do.
23-7	do	138	1	do	do	Dec. 9, 1972	1.25 cwt	1.18 cwt	Do.
29-7	do	139	1	Gary, Ind	do	June 9, 1972	1.05 cwt	0.89 cwt	Do.
29-7	do	139	1	do	do	Dec. 9, 1972	0.89 cwt	0.85 cwt	Do.
30-7	do	140	1	Dallas, Tex	do	June 9, 1972	0.57 cwt	0.48 cwt	Do.
30-7	do	140	1	do	do	Dec. 9, 1972	0.48 cwt	0.45 cwt	Do.
12-8	do	141	1	Birmingham, Ala	do	June 9, 1972	0.90 cwt	0.74 cwt	Do.
12-8	do	141	1	do	do	Dec. 9, 1972	0.74 cwt	0.72 cwt	Do.
15-9	Steel sheets	142	1	St. Louis, Mo	Muskogee, Okla	June 9, 1972	0.73 cwt	0.64 cwt	Do.
15-9	do	142	1	do	do	July 8, 1972	0.64 cwt	0.58 cwt	Meet Barge compt.
27-9	Sheet steel	143	1	Chicago, Ill	Fort Smith, Ark	June 9, 1972	1.05 cwt	0.89 cwt	Meet hwy. compt.
27-9	do	143	1	do	do	Dec. 9, 1972	0.89 cwt	0.85 cwt	Do.
1-10	Steel sheets coils	144	1	Houston, Tex	Tulsa, Okla	do	0.84 cwt	0.70 cwt	Meet barge compt.
2-10	do	145	1	Vicksburg, Miss	do	June 9, 1972	0.82 cwt	0.70 cwt	Meet hwy. compt.
2-10	do	145	1	do	do	Dec. 9, 1972	0.70 cwt	0.67 cwt	Do.
12-10	do	146	1	Pittsburgh, Pa	do	June 9, 1972	1.43 cwt	1.23 cwt	Do.
12-10	do	146	1	do	do	Dec. 9, 1972	1.27 cwt	1.21 cwt	Do.
13-10	Sheet steel	147	1	Cleveland, Ohio	do	June 9, 1972	1.33 cwt	1.13 cwt	Do.
13-10	do	147	1	do	do	Dec. 9, 1972	1.16 cwt	1.10 cwt	Do.
23-13	Sheet steel coiled	148	1	Chicago, Ill	Fort Smith, Ark	June 9, 1972	1.05 cwt	0.89 cwt	Do.
23-13	do	148	1	do	do	Dec. 9, 1972	0.89 cwt	0.85 cwt	Do.
17-14	Sheet steel	149	1	do	Little Rock, Ark	Sept. 11, 1971	19.40 nt	9.25 nt	Meet barge compt.
19-14	Flat coils	150	1	do	do	do	19.40 nt	9.25 nt	Do.
20-14	Sheet steel	151	1	Birmingham, Ala	do	June 9, 1972	0.67 cwt	0.60 cwt	Meet hwy. compt.
20-14	do	151	1	do	do	Dec. 9, 1972	0.60 cwt	0.57 cwt	Do.
22-14	do	152	1	do	do	June 9, 1972	0.67 cwt	0.60 cwt	Do.
22-14	do	152	1	do	do	Dec. 9, 1972	0.60 cwt	0.57 cwt	Do.
26-14	do	153	1	Jackson, Miss	North Little Rock, Ark	June 9, 1972	0.52 cwt	0.44 cwt	Do.
26-14	do	153	1	do	do	Dec. 9, 1972	0.44 cwt	0.42 cwt	Do.
27-14	Coiled, rolled steel	154	1	Alton, Ill	do	Sept. 11, 1971	12.60 nt	7.68 nt	Meet barge compt.
32-14	Sheet steel	155	1	Shreveport, La	Little Rock, Ark	June 9, 1972	0.46 cwt	0.39 cwt	Meet hwy. compt.
32-14	do	155	1	do	do	Dec. 9, 1972	0.39 cwt	0.37 cwt	Do.
4-19	Hot rolled sheets	156	1	Burns Harbor, Ind	Tulsa, Okla	Feb. 13, 1972	1.05 cwt	0.70 cwt	Meet barge compt.
5-19	do	157	1	Granite City, Ill	do	Feb. 8, 1971	0.70 cwt	0.60 cwt	Meet hwy. compt.
6-19	Steel sheets	158	1	Allenport, Pa	do	June 9, 1972	1.43 cwt	1.23 cwt	Do.
6-19	do	158	1	do	do	Dec. 9, 1972	1.27 cwt	1.21 cwt	Do.
7-19	Hot rolled sheets	159	1	Youngstown, Oh	do	June 9, 1972	1.41 cwt	1.21 cwt	Do.
7-19	do	159	1	do	do	Dec. 9, 1972	1.25 cwt	1.18 cwt	Do.
27-17	Steel straping	160	1	Dallas, Tex	do	June 9, 1972	0.57 cwt	0.48 cwt	Do.
28-17	do	161	1	Memphis, Tenn	do	do	0.71 cwt	0.62 cwt	Do.
28-17	do	161	1	do	do	Dec. 9, 1972	0.62 cwt	0.59 cwt	Do.
29-17	do	162	1	Kansas City, Mo	do	Feb. 8, 1971	0.50 cwt	0.38 cwt	Do.
4-1	Steel straping beams	163	1	Alton, Ill	Little Rock, Ark	June 9, 1972	0.63 cwt	0.55 cwt	Do.
4-1	do	163	1	do	do	July 26, 1972	11.00 nt	7.68 nt	Meet barge compt.
4-8	Iron bars	164	1	Memphis, Tenn	Fort Smith, Ark	June 9, 1972	0.52 cwt	0.48 cwt	Meet hwy. comp.
4-8	do	164	1	do	do	Dec. 9, 1972	0.48 cwt	0.45 cwt	Do.
20-8	Steel beams	165	1	Minnequa, Colo	do	June 9, 1972	1.08 cwt	0.91 cwt	Do.
21-8	do	166	1	Kansas City, Kans	do	do	0.58 cwt	0.50 cwt	Do.
22-8	do	167	1	Birmingham, Ala	do	do	0.90 cwt	0.76 cwt	Do.
23-8	do	168	1	Beth, Pa	do	do	1.79 cwt	1.53 cwt	Do.
24-8	do	169	1	Houston, Tex	do	do	0.82 cwt	0.70 cwt	Do.
10-10	do	170	1	New Orleans, La	Muskogee, Ark	do	1.00 cwt	0.83 cwt	Do.
26-10	do	171	1	Houston, Tex	Muskogee, Okla	Dec. 9, 1971	0.78 cwt	0.60 cwt	Meet barge compt.
30-10	Steel angles	172	1	do	do	Feb. 13, 1972	0.78 cwt	0.60 cwt	Do.
12-12	Steel structural	173	1	Sterling, Ill	do	do	19.40 nt	11.77 nt	Do.
13-12	do	174	1	Chicago, Ill	do	do	21.00 nt	11.77 nt	Do.
14-12	Steel angles	175	1	Minnequa, Colo	do	June 9, 1972	1.00 cwt	0.83 cwt	Meet hwy. compt.
22-13	Iron rods	176	1	Birmingham, Ala	Fort Smith, Ark	do	0.90 cwt	0.74 cwt	Do.

RAIL RATE ADJUSTMENT—Continued

Survey No.	Commodity	Volume Page No.	No.	Origin	Destination	Date of change	Rate before	Rate after	Reason for change
22-13	do	176	1	do	do	Dec. 9, 1972	0.74 cwt	0.72 cwt	Do.
18-14	Steel beams	177	1	Chicago, Ill	Little Rock, Ark	June 9, 1972	0.97 cwt	0.81 cwt	Do.
18-14	do	177	1	do	do	July 26, 1972	16.20 nt	9.25 nt	Meet barge compt.
21-14	do	178	1	Birmingham, Ala	do	June 9, 1972	0.67 cwt	0.60 cwt	Meet hwy. compt.
2-16	Steel angles	179	1	do	Tulsa, Okla	do	1.04 cwt	0.87 cwt	Do.
3-16	do	180	1	Houston, Tex	do	Dec. 9, 1971	0.84 cwt	0.70 cwt	Meet barge compt.
1-18	Steel bars	181	1	Chicago, Ill	do	Feb. 13, 1972	1.05 cwt	0.70 cwt	Do.
9-19	do	182	1	Birmingham, Ala	do	June 9, 1972	1.04 cwt	0.87 cwt	Meet hwy. compt.
9-19	do	182	1	do	do	Dec. 7, 1972	0.87 cwt	0.83 cwt	Do.
10-19	Angles and bars	183	1	Kansas City, Mo	do	Feb. 8, 1971	0.50 cwt	0.38 cwt	Do.
11-19	Str steel beams	184	1	Houston, Tex	do	Dec. 9, 1971	0.84 cwt	0.70 cwt	Meet barge compt.
12-19	do	185	1	Sterling, Ill	do	Feb. 13, 1972	0.97 cwt	0.70 cwt	Do.
13-19	do	186	1	South Chicago, Ill	do	do	1.05 cwt	0.70 cwt	Do.
1-16	Steel angles	187	1	Pittsburgh, Pa	do	June 9, 1972	1.43 cwt	1.23 cwt	Meet hwy. compt.
9-18	Steel rods	188	1	Minnequa, Colo	do	do	0.95 cwt	0.80 cwt	Do.
9-18	do	188	1	do	do	Dec. 9, 1972	0.80 cwt	0.76 cwt	Do.
29-18	do	189	1	Atlanta, Ga	do	June 9, 1972	1.23 cwt	1.03 cwt	Do.
29-18	do	189	1	do	do	Dec. 9, 1972	1.03 cwt	0.98 cwt	Do.
30-18	Steel bars	190	1	Minnequa, Colo	do	June 9, 1972	0.95 cwt	0.80 cwt	Do.
30-18	do	190	1	do	do	Dec. 9, 1972	0.80 cwt	0.76 cwt	Do.
4-18	Steel sucker rods	192	1	Tulsa, Okla	New Orleans, La	June 9, 1972	1.05 cwt	0.89 cwt	Do.
4-18	do	192	1	do	do	Dec. 9, 1972	0.89 cwt	0.85 cwt	Do.
5-18	do	193	1	do	Houston, Tex	June 9, 1972	0.84 cwt	0.72 cwt	Do.
5-18	do	193	1	do	do	Dec. 9, 1972	0.72 cwt	0.68 cwt	Do.
6-18	do	194	1	do	Baton Rouge, La	June 9, 1972	0.97 cwt	0.81 cwt	Do.
6-18	do	194	1	do	do	Dec. 9, 1972	0.81 cwt	0.77 cwt	Do.
7-18	do	195	1	do	Chicago, Ill	Sept. 9, 1972	1.05 cwt	1.01 cwt	Do.
8-18	do	196	1	do	Freeport, Tex	June 9, 1972	0.90 cwt	0.76 cwt	Do.
8-18	do	196	1	do	do	Dec. 9, 1972	0.76 cwt	0.72 cwt	Do.
27-10	Steel towers, K.D	197	1	Muskogee, Okla	Shreveport, La	June 9, 1972	0.60 cwt	0.52 cwt	Do.
28-10	do	198	1	do	Fort Smith, Ark	do	0.28 cwt	0.24 cwt	Do.
31-10	do	199	1	do	Oklahoma City, Okla	Aug. 13, 1973	0.39 cwt	0.33 cwt	Do.
32-10	do	200	1	do	Topeka, Kans	Dec. 2, 1972	0.55 cwt	0.47 cwt	Do.

GENERAL RAIL INCREASES

Date effective	Ex parte increase No.	General increase	Cancels ex parte tariff
Aug. 19, 1967	X-256	Rates published in cents per 100 lbs	
		Rates not exceeding 10¢—½¢	
		Rates over 10¢, but not exceeding 30¢—1¢	
		Rates over 30¢, but not exceeding 80¢—2¢	
		Rates over 80¢—3¢	
June 24, 1968	X-259-A	3 percent	
Nov. 28, 1968	X-259-B	5 percent	X-259-A.
Nov. 18, 1969	X-262	6 percent	
June 9, 1970	X-265-A	5 percent	
Nov. 20, 1970	X-265-B	6 percent	X-265-A.
Do	X-267-A	8 percent except from or to points in Southern territory 6 percent.	
Apr. 12, 1971	X-267-B	12 percent	X-267-A.
Feb. 5, 1972	X-281	2½ percent S.C	
Oct. 23, 1972	X-281-B	5 percent between points on and west of the Mississippi River and the Illinois-Indiana State line.	
		6 percent interterritorially	X-281.
Aug. 19, 1973	X-295-A	3 percent	
Oct. 1, 1973	X-299	1.9 percent	
Jan. 1, 1974	X-299	2.6 percent	1.9 percent.
Nov. 31, 1974	X-301	2.1 percent S.C	
Jan. 31, 1974	X-301	2.1 percent S.C	
Mar. 9, 1974	X-301-A	2.3 percent S.C	2.1 percent S.C.
Do	X-303-A	4 percent	
Mar. 16, 1974	X-299-A	2.8 percent	2.6 percent.
Apr. 1, 1974	X-301-B	2.8 percent S.C	2.5 percent S.C.
May 1, 1974	X-301-C	3 percent S.C	2.8 percent S.C.
June 1, 1974	X-301-D	3.3 percent S.C	3 percent S.C.
June 5, 1974	X-301-D	0.3 percent S.C	3.3 percent S.C.
Do	X-305	3 percent	
June 20, 1974	X-305-A	3.3 and 10 percent	0.3 percent S.C. X-301-D, and 3 percent X-305.
Apr. 27, 1975	X-310-A	7 percent	
June 20, 1975	X-313	5 percent	
Oct. 11, 1975	X-313	2½ percent	
Mar. 21, 1976	X-318	7 percent	

Rail rate for extruded aluminum transported in the study area increased about 11 percent during the 1967–1968 time frame. The same commodity increased about 13 percent for the general rate increases. During the 1971–1972 time frame the general rate increases for this commodity in the nonstudy area amounts to 14 percent, while rate increases in the study area increased only 3 percent. Not only were the rate increases less in pre-construction time elements, but future increases were less than general rate increases. Another example of rate adjustment was reflected in the transportation bill for zinc concentrate. During 1967 and 1968, rail rates for this commodity in the study area increased about 9 percent. However, general rate increases for this commodity amount to 16 percent during the same time element. Rate adjustments for zinc concentrate during 1971 and 1972 in the study area amounted to about 6 percent, while general rate increases for the commodity amounted to about 18 percent. These are only two examples of the study sample which reflects rail rate adjustments for regulated commodities in the study area.

The twenty-six (26) observations that reflect rail rate adjustments amount to about 193,000 short tons, with 48 specific origins and destinations. The total transportation savings generated from these observations amount to approximately $413,000. In addition to those movements previously identified as reflecting positive transportation savings, another 172,000 short tons of commodities evaluated reflect regional or implied transportation savings amounting to approximately $926,000.00. This tonnage is composed of newsprint and several nonferrous metal movements.

This group of commodities and tonnage represents only .0073 or less than one percent of the total estimated tonnage utilized or produced in the study area.

The research and study efforts were not designed to generate total study area transportation savings, but are only an attempt to determine commodities and commodity movements which respond immediately to water resource development, i.e., navigation channel.

CONCLUSIONS

1. Rail rates for specific commodities and commodity movements in the study area are lower than rail rates for the same commodities in other parts of the country for comparable distances. Data indicates that rail rate adjustments for the study area during pre-construction and post-construction time frames of the McClellan-Kerr Arkansas River Navigation System were less than for general rail rate adjustments.

2. The dramatic rail rate adjustments for iron and steel products transported to and from the study area to meet highway and barge competition reduced the transportation bill for commerce in the study area, and thereby the potential reduction in cost of goods and services in the region, the nation, and consuming foreign countries.

3. Iron and steel products are more sensitive to rail rate adjustments than other classes of commodities studied.

4. The double benefit of water transportation . . . low water rates and low water-compelled rail rates.

Mr. BARTLETT. Mr. President, I wish to stress the point that a major increase in the costs, such as the fee, or if there is to be a repayment of costs of future waterways, is going to act against the total waterway system, particularly being harmful to the new parts of our inland waterway system, making it more difficult for them to develop properly and be an important part of the transportation system of our country.

Mr. President, I reserve for the chairman the remainder of our time.

Mr. DANFORTH. Mr. President, I wonder if the Senator from New Mexico would entertain a question or two about the capital cost recovery part of his amendment.

The PRESIDING OFFICER. The Chair would inquire of the Senator from Missouri, does he wish to use time that is reserved for him?

Mr. DANFORTH. I will be happy to charge this time against the time that has been allotted to my amendments, although the question does not have anything to do with them.

The PRESIDING OFFICER. The Senator, then, will be recognized on his own time, and he may proceed.

Mr. DANFORTH. Could the Senator point out to me where the references in his amendment to the 10-percent capital cost recovery are?

Mr. DOMENICI. I will say to my good friend from Missouri that it is found on page 15 of the amendment, starting about line 10:

sufficient to recover 10 percentum of the capital cost of such project, including interest, over the initial 10 years of the project's operation.

Mr. DANFORTH. If the Senator will allow me to get a copy of his amendment, I would like to ask a question or two about it.

This is on page 15, lines 10 and 11. That provides that the capital cost of recovery will be 10 percent of the capital cost of such projects, including interest, over the initial 10 years of the project's operation.

That means that the period of recovery of this amount is 10 years?

Mr. DOMENICI. That is correct.

Mr. DANFORTH. The 10 years refers to the period of recovery, is that right?

Mr. DOMENICI. That is correct.

Mr. DANFORTH. I direct the Senator's attention to the phrase "including interest." Will the Senator explain to me on what is that interest?

Mr. DOMENICI. That is just like amortizing a loan.

Mr. DANFORTH. So it would be interest on what amount? Let us assume that a project costs $100 million. What would be the interest on that?

Mr. DOMENICI. It would be on the declining balance.

Mr. DANFORTH. Will the Senator explain that to me?

Mr. DOMENICI. The $10 million would be the amount recoverable and that $10 million would be recovered over a 10-year period.

Mr. DANFORTH. And the interest would be on what, the total value of the project, or the total amount that would be recovered?

Mr. DOMENICI. No, not at all. It would be on the $10 million.

Mr. DANFORTH. It would be on the $10 million recovered.

Mr. DOMENICI. That is correct. The equity, the formula, and how it is assessed is detailed on that first page. For example, on the first year, if $1 million would be left, $9 million would be paid over the next 10 years.

Mr. DANFORTH. At what interest rate would it be paid?

Mr. DOMENICI. That is at the Federal borrowing rate. We have inserted in the RECORD examples of what this be over a 10-year period for various percentages—4 percent, $123,000; 5 percent, $129,504; 6 percent, $135,868.

Mr. DANFORTH. Let us take that 6 percent. I do not know what the numbers mean which the Senator has mentioned.

Mr. DOMENICI. Well, that is the annual payment.

Mr. DANFORTH. That is the annual interest payment the first year?

Mr. DOMENICI. That is the total payment to amortize the 10-year $10 million debt.

Mr. DANFORTH. That would be the total principal and interest payment, is that correct?

Mr. DOMENICI. And there would be multiples of that.

Mr. DANFORTH. Let us take a project where the cost is $100 million. Will the Senator tell me after the 10 years is up how much in total would be paid? It would not be $10 million, but what would it be?

Mr. DOMENICI. If we assume 6⅝ percent, it would be $139,919 times 10. If the Senator is talking about 10 times, just make it a multiple of 10. This would be multiples which would not change. This figure is for $1 million, so if we take $100 million, in 10 years the recoupment would be $13,919,000.

Mr. DANFORTH. Would that be a combination of the principal and interest?

Mr. DOMENICI. Yes.

Mr. DANFORTH. It would be $13 million. So it would be about a 13 percent payback, is that correct, in total?

Mr. DOMENICI. Well, the Senator can say it that way. We say it our way.

Mr. DANFORTH. I just wanted to clarify what was meant by interest just for the sake of making sure we have some history on that.

Mr. DOMENICI. That is correct.

Mr. DANFORTH. Mr. President, being charged with my own time I would like to make some comments, if that would be in order.

The PRESIDING OFFICER (Mr. SASSER). The Senator may proceed.

Mr. DANFORTH. First, Mr. President, I would like to say a word about Senator DOMENICI.

Long before I came to the Senate I saw an article in the Wall Street Journal which had been written by Senator DOMENICI. The article caught my eye because it was so sound. It had to do with Federal-State relations. It was so persuasively written that I clipped that article and I gave it a great deal of thought. When I was fortunate enough to be elected to the Senate, one of the first people I wanted to meet was Senator DOMENICI.

Indeed, when I did meet him and when I got to know him, the anticipated response that I had to him was exceeded by the reality. He is indeed one of the finest Members of this body, I believe. PETE DOMENICI is bright, he is principled, he is decent, he is very able, and he is an extraordinarily tough competitor.

I think what we are going to do today, whatever the result is going to be, is a tribute to the ability and the drive of the senior Senator from New Mexico. And when we consider that he accomplished this in his first term, what a remarkable future he has. What a tremendous job he has done on so many subjects.

On the whole question of user fees, it has been a true tour de force.

The principle of free inland waterways has been a principle which has been part of our history now for some 200 years. It has been a principle which has been recognized de facto by the tradition of our country. It has been a principle which has been recognized as a matter of law by the Congress of the United States since 1884 when the Rivers and Harbors Act was passed and when Congress mandated at that time that the inland waterways would be forever free.

That principle has been in existence since the birth of this country and it is about to come to an end.

There is no doubt at all that it is about to come to an end. Whatever we think about the principle, it has been one that I have fought as hard as I can. The principle that Senator DOMENICI has established of user fees has been one that I know he believes in very deeply. He has accomplished his objective by force of his own personality and force of his own ability and his own drive.

I congratulate him for it.

From the standpoint of those of us who oppose fees on the inland waterways, this is the day of defeat; from the standpoint of Senator DOMENICI, it is a day of victory. I say that regardless of who prevails, whether the Long amendment or the Domenici amendment prevails.

Both of them impose a 12-cent-a-gallon tax on fuels used by commercial vehicles on the inland waterways.

Indeed, as Senator STEVENSON pointed out, the differences between the two approaches that are before us are very minor differences. The differences are two in number, that is all. One has to do with the timing when the fees are imposed—whether or not the fuel tax is imposed in 1979 or, at the latest, in 1982. That seems, on its face, as though it is a small difference. To my State, it happens to be a very important difference, because it has to do with the construction of locks and dam 26.

The other distinction has to do with the principal cost recovery about which considerable has already been said today. I should like to address my attention for a few minutes to these two what seem to be very minor differences and point out what one of them, at least, means to my State and why it is of more than passing interest to me.

Under the Domenici-Stevenson amendment, the fuel tax would be imposed beginning October 1, 1979. Under the Long amendment, the fuel tax would be imposed beginning January 1, 1982, or when construction has commenced on locks and dam 26, whichever comes earlier. It sounds as though it is just a minor difference in timing, since we are building toward a 12-cent-a-gallon fuel tax under both proposals. But it has great significance from the standpoint of locks and dam 26 for one simple reason. That is that locks and dam 26 is now a matter that is in litigation.

Locks and dam 26, whether or not it will ever be constructed, is a matter that is now in litigation. It is now in court. A lawsuit has been filed by the railroads and by a council of environmental groups to enjoin the construction of locks and dam 26. It is possible, I suppose, that under those lawsuits locks and dam 26 will never be built. But even assuming that this project is going to be constructed, which is an assumption I do make, even under the assumption that locks and dam 26 will be constructed, litigation is going to drag on, in all probability, not for a matter of weeks or a matter of months, but, instead, for a matter of years.

Mr. DOMENICI. Will the Senator yield?

Mr. DANFORTH. Certainly.

Mr. DOMENICI. I want to be present and listen to the Senator's argument. I have to leave the floor for 2 or 3 minutes. I wanted to explain that I have an urgent call and that accounts for my absence; otherwise, I would be here.

Mr. DANFORTH. I thank the Senator. I shall be happy to fill him in on what I said at a later time.

Locks and dam 26, as I said, is now involved in litigation. That is a very crucial point in the consideration before us. Under the Domenici amendment, the fuel tax would begin being imposed on October 1, 1979. That means, almost as a matter of certainty, that the fuel tax would be imposed before construction commences on locks and dam 26 during the pendency of litigation.

On the other hand, under the Long approach, the commencement of imposition of the fuel tax would be either on January 1, 1982, or when construction begins on locks and dam 26, whichever comes earlier.

Why the date, January 1, 1982? To satisfy the ultimatum received from President Carter. He demanded that there be a date certain and we wanted to put in a date certain. But the issue is, as a matter of necessity, will this tax be imposed during the pendency of litigation?

If it is imposed during the pendency of litigation, there will be a strong incentive for the plaintiffs in that lawsuit to drag their feet. There will be a strong incentive for the plaintiffs in that lawsuit to do everything they can to prolong litigation, because the plaintiffs in that lawsuit, particularly the railroad plaintiffs in that lawsuit, would have everything they could dream of. They would have, first of all, the imposition of the tax. Second, they would be able to thwart construction of a structure on the Mississippi River which is very beneficial to their competitors, the barges.

By contrast, if the imposition of the fuel tax begins after construction is underway, there would be an incentive for the railroad plaintiffs either to dismiss the case, maybe, or, at the very least, not resist early consideration of the case by the courts; because the sooner construction is underway, the sooner the lawsuit is wrapped up, the sooner taxes would be imposed on the competition. That is a very crucial point.

How long are we talking about in litigation? It happens that the lawyer who is actually handling the litigation was a classmate of mine in college. I asked him that question and he said it would be somewhere between 3 and 5 years before the litigation is wound up.

According to Mr. Ramsay Potts, who is the senior partner in the law firm that is handling the litigation, he projects it will be somewhere between 2 and 4½ years. Whether or not there is linkage between the imposition of the tax, as is suggested by Senator LONG's approach, or whether the tax is imposed regardless of whether construction occurs is very important from the standpoint of hastening the termination of the lawsuit. I should like to read to the Senate a couple of paragraphs from a letter that I received from Mr. Potts yesterday, in which he said the following:

> The possible result of the Court's ruling and the possible courses of action that might be taken by parties thereafter lead to the conclusion that resolution of the court case might and probably will take anywhere from two years to four and one-half years from the date of this letter, and this assumes that there will be no appeal to the Supreme Court of any U.S. Court of Appeals decision.
>
> The prospect of this delay in the litigation reinforces the need to link the effective start-up date of any tax to be imposed on the inland waterways system with the beginning of construction on Locks and Dam 26. If the Bill passed by Congress contains such linkage, then there will be pressure on the Plaintiff parties to the suit and on the Executive Department to resolve the litigation quickly so that the effective date of the tax can begin to run. Absent such linkage, there would not appear to be any pressure on the Plaintiffs in the law suit (railroads and environmental groups) to settle the litigation. Indeed, without the linkage, the opportunity to continue to delay the start-up of construction on Lock and Dam 26 would appear to be appealing since the effective starting date of the tax would be firm.

That is the No. 1 issue insofar as those of us are concerned who are interested in locks and dam 26. The point is that in the matter that is before the Senate today, locks and dam 26 has been used as the hostage for the imposition of user fees on the inland waterways.

Under the proposal of the Senator from New Mexico and the Senator from Illinois, the ransom would be paid in the form of substantial user fees without any assurance that the hostage would ever be released and with the certain knowledge that release of the hostage would be several years down the road.

That is point No. 1 that I would like to make.

Mr. DOMENICI. Will the Senator yield, just for an observation?

Mr. DANFORTH. Certainly.

Mr. DOMENICI. The Senator and I have talked about this problem a number of times. I do want to make one point with the Senator, not that it is all inclusive in terms of the litigation, but I believe I am correct that a substantial portion of the litigation involves itself around the 1909 act and the scope of its authorization in terms of replacement which, as the Senator knows, historically, the Corps, in this Senator's opinion, made a drastic mistake in thinking that because there was a lock and dam in that area, they could, without authorizing a new project, start a new one because they were just replacing one.

Obviously, just for the Senator's information, they have now committed to both bodies that they no longer construe their authority to be that broad. But, more specifically, by the authorization of this locks and dam 26 project, it appears to this Senator that that portion of the litigation is rendered rather moot.

That is not to say that the Senator's hostage theory is rendered moot. But I just wanted the Senator to know we are concerned about it. I do believe the specific authorization in this bill does, to some extent, alleviate the problem.

I also say to the Senator that if we do what he suggests, at least what I think he is suggesting, it would appear to me that there is no pressure on anyone.

The Senator mentioned two aspects, no pressure on the railroads or the environmentalists. On the other hand, if it is open ended and enough to go on, there is no pressure on the large companies, if they want, just by the rehabilitation of the existing facilities versus paying the fee for the entire inland system, which inland system is supposed to be reimbursed, not just that particular construction.

I know on that score we are not going to reach agreement. But I did want to stress that much of my view of where we are.

I thank the Senator for yielding.

Mr. DANFORTH. The fact of the matter is that the fundamental issue before the court concerns the adequacy of the environmental impact statement. It is the opinion of counsel handling that litigation that if we authorize the construction of locks and dam 26 without linkage, if we do not have the linkage of the user fee at the commencement of construction, the assessment of counsel handling this lawsuit is that instead of authorization of locks and dam 26 under the Domenici-Stevenson approach, hastening the day in which locks and dam 26 would be constructed, the Domenici-Stevenson approach would put off the day when locks and dam 26 would be constructed.

Therefore, it is the opinion of the people who believe that it is very important to construct a new locks and dam 26 that it would be better to have no bill at all than to have the Stevenson-Domenici approach.

Now, it is the belief of everybody I know—possibly there would be some environmental groups that would take the opposite view—but everybody I know, that we need a new structure, a new locks and dam 26.

This is certainly the position of those who rely on the inland waterway system, and they are anxious to get going.

We just cannot delay very many more years before we have a locks and dam 26. So I think, really, the question is, how fast can we move this thing along?

I would further say that, as a matter of basic equity, it seems to me to be grossly unfair to say, "Yes, we have held locks and dam 26 as a hostage to the imposition of substantial user fees on the inland waterways, pay us your ransom in the form of a user fee bill and we will not, in turn, release the hostage."

I think that is what is involved here.

The second difference between the two bills, and these are the only differences of any substance, has to do with the cost recovery question pending a study which will be completed in 3 years. That is the only question.

There is going to be a study. There is no doubt about that. The study is going to concern the economic impact of user fees on the inland waterways and the question is, during this period of 3 years, do we anticipate the result of that study and impose a 10-percent

cost recovery without even knowing what happens to the study?

So the issue there is, as a matter of basic fairness, is it the position of the Senate that we should have the study before we impose the cost recovery or, in turn, should we impose the cost recovery or, in turn, should we impose the cost recovery before we have the study?

Should we look before we leap, or, instead, should we leap before we look?

That is the issue, and these are the only two remaining points.

The second point, frankly, from the standpoint of the junior Senator from Missouri, the question of cost recovery in the study is not that crucial an issue from the standpoint of my constituents. But the construction of locks and dam 26 is crucially important.

If the Domenici-Stevenson approach would serve to delay the construction of locks and dam 26, which is the opinion of legal counsel that is handling this case, then I think we have done a terrible disservice to the whole economy of the inland waterway system and, certainly, a terrible disservice to my constituents who live along the inland waterway system.

Mr. President, I would now like to address the question that my amendment, which has been printed, deals with, namely, deep draft harbors and ports.

Mr. President, the bill before us relates only to the recovery of costs—capital costs and costs of operation, maintenance and repair—incurred by the Corps of Engineers on the inland waterway system. The bill in its present form does not relate in any sense to recovery of costs incurred by the Corps of Engineers in deep draft harbors and ports.

Much has been said about equity. Much has been said in debating this bill and in various items that have been placed in the record by advocates of user fees that there is a question of equity involved, that somehow it is only equitable for the taxpayer to recover the costs the Corps of Engineers incurs on the inland waterway system.

Then, in the name of equity, why do we not go further and recover the costs incurred by the Corps of Engineers not only in the inland waterway system but also on deep draft harbors and ports?

As a matter of fact, this issue has been addressed by no less than the Department of Transportation itself, because the question of user fees for deep draft harbors and ports has been faced up to a very extensive study that the Department of Transportation has made. The title of this study is "Deep-Draft Navigation User Charges, Recovery Operations, and Impacts."

The final report was published in August of 1977. The report states, among other things, the following:

> The distinction between the inland waterway and deep draft systems is somewhat arbitrary and cannot be made in terms of depth or purpose or location alone.

Then the report goes on to say:

> It would be extremely difficult to institute an inland waterway fuel tax without extending that option to the rest of the system.

So, Mr. President, what we are seeing now in the position that the Department of Transportation is taking on inland waterways is step 1 in a 2-step analysis which pertains not only to the inland waterway system but also pertains to deep draft harbors and ports.

The question has been studied thoroughly by the Department of Transportation as to the effect of user fees on the deep draft harbors and ports. What do we mean when we talk about what the Corps of Engineers is doing in deep draft harbors and ports? We are talking about the annual expenditure last year—the expenditure in 1977—of $264.9 million of the taxpayers' money on deep draft harbors and ports. This money is being spent with respect to projects in the following States: Maine, Massachusetts, Connecticut, New York, Pennsylvania, Maryland, Virginia, Florida, Alabama, Louisiana, Texas, California, Oregon, North Carolina, South Carolina, Washington, Minnesota, Michigan, Ohio, Illinois, and Indiana.

The State of Missouri is not on that list. In Missouri, we do not have any deep-draft harbors and ports, but we do happen to have a thousand miles of inland waterway system. If it is the purpose of the Department of Transportation to recover costs of what the Corps of Engineers does in the State of Missouri, why single us out for special treatment? Why pick on people of the Midwest? Why not apply the same principle to everybody? Why use the approach that the Department of Transportation apparently is using of divide and conquer, to pick off the inland waterways system today and then leave for some later day the picking off of deep-draft harbors and ports States?

Let us talk about the comparison of what the Corps of Engineers does. What does the Corps of Engineers do in capital expenditures in the inland waterways system as opposed to the deep-draft harbors and ports? What is the difference? Both require the construction of locks. The Corps of Engineers constructs locks on the inland waterway system. That is what locks and dam 26 is all about. That is what we are debating today. The Corps of Engineers also constructs locks and deep-draft harbors and ports.

Reservoirs: The Corps of Engineers constructs reservoirs in connection with the inland waterway system, also in connection with deep-draft harbors and ports.

The construction of roads and bridges: This is done with respect to both the inland waterway system and deep-draft harbors and ports.

Levies and flood walls are constructed with respect to inland waterway systems and deep-draft harbors and ports.

Pumping plants are put in place with respect to both inland waterway systems and deep-draft harbors and ports. The list goes on and on.

The question I ask the Senate is simply this: If it is so fair and so reasonable and so equitable for us to impose user fees to recover the cost of what the Corps of Engineers does on the Mississippi River, why not do the same thing on the Great Lakes? Why not do the same thing in New York Harbor? Why not do the same thing all over the deep-draft harbors and ports system? Why single out the inland waterway system? Why single out the river system? Why recover the cost of construction of a lock in the inland waterway system when you do not do the same in the deep-draft harbors and ports?

What possible logical reason is there for the distinction? What conceivable argument can be made for singling out the inland waterway system when you do not apply it to the deep-draft harbors and ports? What principle of fairness applies if you oppose a user tax on the inland waterway system and not on the deep-draft harbors and ports?

Let us take, for example, the construction of a dike. Dikes are constructed in connection with the inland waterway system. Dikes also are constructed on deep-draft harbors and ports. What happens when a dike is constructed? Land surveyors are brought in; engineers prepare plans. That is all part of the capital cost. It is going to be recovered under this bill, if Senator DOMENICI gets his way. Why not recover it for deep-draft harbors and ports as well? What is the difference between a land surveyor surveying land on the coasts of this country or on the Great Lakes of this country and the same land surveyor going into the St. Louis area and surveying?

How about excavation and dredging? What is the difference between the Corps of Engineers operating a dredge on the Mississippi River or on the Missouri River and the Corps of Engineers operating a dredge in the deep-draft harbors and ports? What is the difference? What possible principle applies?

I would like to answer from the Senate or from some of the advocates of user fees during the course of this debate.

What possible arguable difference is there between a dredge which operates in the deep-draft harbors and ports, on one hand, and a dredge that operates on the inland waterway system, on another?

Bulldozers, dump trucks, water pumping operations: What difference is there between a bulldozer operating in connection with deep-draft harbors and ports and a bulldozer operating on the inland waterway system? Why should we insist that recovery only be made for the bulldozer that operates on the inland waterway system and not on the deep-draft harbors and ports?

When piles are driven, when a foundation is installed for a dike, when concrete is laid, when heavy-duty cranes are used, when the cement trucks come in, what is the difference between the inland waterway system and the deep-draft harbors and ports?

Why are we singling out only one area for the recovery of costs, when we do not single out other areas in this bill at the same time? What is the principle of fairness? What is the possible logic behind such an approach?

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

Mr. DOMENICI. Mr. President, I will respond very briefly to two items.

I say to the Senator from Missouri, with reference to the 10 percent recoupment and his very good explanation, that we have a study that will be coming in after it.

The Senator asks why the 10 percent, if we are going to do the study? Let me say, in all honesty, how I feel about it.

First, I have already expressed the fact that I do not think the study is going to come back with any indication that a 10-percent recoupment balances the transportation system or is equitable.

But in the first debate on this issue, and I did not bring it down this time, but I think I had occasion to show it to the Senator, the studies that have been forthcoming in the past 15 years on this issue I would think just in terms of paper would be about a foot-and-a-half to two-and-a-half-foot thick, and I guess what I am saying to the Senator is that I hope the study is proposed, be it in Senator LONG's amendment or mine, I hope it will not go the way the others have. Therefore, it appears to me that if we have a 10-percent recoupment, which I also have explained in my opinion is nothing more than a watchdog, at least the studies will be looked at very, very carefully.

On the second issue, I know of the Senator's genuine concern as to why the inland waterways and not the deep ports, and I have not studied it to the extent that the Senator has, other than to say to the Senator that the whole theory of this approach was to balance competing transportation modes and I am not aware of any competing traffic mode with reference to the deep port vessels. About the only things that compete with them at this point are airplanes. So I do not think there is anything to balance in terms of if we are subsidizing those ports we are obviously doing it for a genuine national interest and not to the detriment of another kind of competing mode of transportation which contributes to the national well-being or conversely if adversely affected by the disparity of a super subsidy on one as we have in this case.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from New Mexico has 1 hour and 50 minutes remaining.

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

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

Who yields time?

Mr. LONG. Mr. President, I yield 2 minutes to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I have no prepared remarks on this matter, but I have enjoyed hearing the debate on it which brings in review all these years that I have had the privilege of being on the Subcommittee on Appropriations that handles the funds about which we are talking.

By and large, 25 years later, after some of this money that I saw being spent, when an examination was had about our energy resources, conditions for having to have additional energy sources came to the front as the Nation's gravest problem to look over and see what the payoff was for a great many of these projects of water transportation that we are proposing now to tax and then charge a capital investment percentage. The very spot that we found the big returns and perhaps the best investment year after year that the Government has made for many years is in the transportation by water, the generation of power by the force of falling water, hydroelectric power, and many other constructive applications of these projects that have contributed so much to our economy, the very high level of our economy for our great Nation.

So it was revealing to me, and I wish I could make it clearer and share it with the Members who have come here more recently. My conclusion is that in my experience, at least on the Appropriations Committee, beyond sheer protection and beyond vital health matters, these funds have paid off beyond all doubt more than any that I have had anything to do with appropriating or seeing about, and I believe that is true across the board.

For emphasis, now, as we turn in another time and another era and in a crisis really with reference to energy, it is the same projects and the same investment that has done so much otherwise that is coming in now to fill the gap and be part of the foundation of our future years and decades.

So I think we better look the second time and think a long time before we go to this contributing factor. In our present energy supply and in our present economy, as to these many projects that are throughout the Nation, none have been intentionally left out. If any area happens not to have a geography that fits in with the programs, they may not be there. But across the board Congress has been fair, willing, and impartial, as have others.

So let us think a long time. Even the Long amendment puts some of these user fees on there, and I will support some of that. But this capital investment idea has no place in our present needs. I hope we will stay the hand here, even though those who would tax it are doing it in good faith, stay the hand and we will see greater days for the projects we already have as well as those to come.

Unless the Long amendment is passed, instead of the Domenici amendment, we are going to necessarily cut off for the future innumerable projects, be unable to justify them, and the Nation will suffer as well as various areas.

I thank the Senator very much for yielding to me.

Mr. LONG. Mr. President, the Senator is very welcome.

I yield to the Senator from Missouri.

Mr. EAGLETON. I thank my colleague from Louisiana.

Mr. President, I rise to speak in opposition to the Domenici substitute.

I have joined with Senator LONG, Senator EASTLAND, and my colleague from Missouri, Senator DANFORTH, in introducing an amendment which will bring about an equitable and reasonable resolution of the longstanding and intertwined issues of authorizing a replacement for locks and dam 26 on the Mississippi River and imposing waterway user charges. Our amendment would authorize such replacement locks and dam on the same terms in the same language as that approved by the House and the Senate last year. Our amendment also would impose, for the first time, waterway user charges in the form of a fuel tax which would begin at a level of 4 cents per gallon, phasing upward to 11 cents per gallon within 9 years.

When Senators review the history of this legislation and read our amendment in light of that history, they will find that we have made very substantial concessions to the demands of the administration, of those in the Senate who have been our opponents on these issues in the past and, in some cases, of those who were our allies. I intend to review the concessions we are willing to make in order to get a bill through. I also will review the elements that make up our proposal, and contrast them with the major points in the alternative proposal being urged by Senators DOMENICI and STEVENSON.

First, I want to emphasize that the locks and dam project, authorized in this bill, is a vital one not only for my State but also for all areas that use the products borne via water transportation on the Mississippi River and its tributaries. We should not lose sight of this fact in the battle over user fees.

Locks and dam 26 was built almost 40 years ago with a theoretical life expectancy of 50 years, and it has deteriorated badly. The dam was constructed on wood pilings driven in sand and there has been excessive settling and shifting of the structure. The river bed downstream has been scoured out nearly to the depth of the foundation pilings, and there is a danger of eventual collapse. The structure quite literally is sinking into the river, and it will continue to settle and crumble during the 8 to 11 years required to construct a replacement.

Its creaky condition notwithstanding, locks and dam 26 serves as the crossroads of the inland waterway system. All waterborne commerce between either the Upper Mississippi or the Illinois Rivers and any other waterway must traverse this obsolete facility. More tonnage moves through locks and dam 26 than through the Panama Canal. More than half of the tonnage downstream last year consisted of grain destined for export and much of the fertilizer used by farmers throughout the upper Midwest goes upstream through locks and dam 26. More than 80 percent of the cargo shipped through locks and dam 26 is agriculture- and energy-related.

Locks and dam 26 is too small to handle present traffic, let alone projected increases, and is a major bottleneck in

the Nation's transportation system. Last year, on the average, a tow had to wait half a day to get through locks and dam 26 and some had to wait up to 40 hours. Locks and dam 26 has one 600-foot lock and one auxiliary 360-foot lock. Its downstream counterpart, locks and dam 27, the only other lock that has to handle all of the traffic to and from both the Upper Mississippi and Illinois Rivers, has one 1,200-foot lock and one 600-foot lock. Traffic which flows with little delay through locks and dam 27 (built in 1952) stacks up at locks and dam 26. The 1,200-foot lock planned for the replacement facility will help to eliminate this bottleneck.

Various proposals have been advanced for rehabilitation of the existing locks and dam. However, extensive studies have shown that the cost of rehabilitation so nearly approaches that of replacement, with none of the benefits of longer useful life and enlarged capacity associated with replacement, that rehabilitation is not a feasible alternative.

There has been separate legislation passed by the House and the Senate authorizing a replacement lock and dam. I trust that, whatever the outcome of the dispute over user fees, we finally will see this authorization enacted and, ultimately, work begun on the replacement facility. While the locks are in Illinois, the dam across the Mississippi River touches Missouri's shores. The inadequacies of the existing facility severely handicap Missouri farmers, shippers, and the water transportation industry centered around St. Louis.

As we all know, the fate of this legislation will be determined by what we do with the waterway user charges. Our amendment addresses this issue in a very responsible fashion.

It is evident that Congress intends to impose some level of fuel tax on commercial carriers of cargo by water. It originally was my view that the House had passed a very reasonable bill in H.R. 8309, which established a tax level of 4 cents a gallon beginning on October 1, 1979, going to 6 cents a gallon 2 years later. I continue to believe that there is some risk of crippling our Nation's vital system of water transportation by going above that level of taxation, given the lack of any hard data on the economic effects of imposing such taxes.

As we approached the time for consideration of this legislation, however, it became evident that some higher level of taxation must be proposed in order to free the locks and dam project, which was being held hostage to the waterway tax. Moreover, negotiations with the Department of Transportation made clear that the administration felt the need for a higher fuel tax than that provided in H.R. 8309.

Accordingly, my colleagues and I adopted the tax level which was urged on us by the Department of Transportation; namely, 12 cents per gallon. That was what they told us they had to have, and that is what we give them in our amendment.

DOT also urged that a study be undertaken to assess the effects of the user tax and to recommend appropriate tax levels for the future. We include such a study, to be led by the Secretaries of Transportation and Commerce, in our amendment. DOT asked that provision be made to bring about an expeditious vote on the legislation based on the study recommendations. We include that. DOT asked that we accept the Nelson amendment, which provides for an environmental study of the Upper Mississippi. We include the Nelson amendment in our proposal.

In short, Mr. President, we have gone a long way to try to make peace with the administration. Politics has been described as the art of compromise, and we have shown a willingness to compromise on many points. However, there are two points on which we cannot yield.

First, we believe that the imposition of the fuel tax must be linked to some assurance that a new lock and dam is going to be built. The passage of this authorization does not give that assurance, for there is a lawsuit, now pending before the U.S. district court here in Washington, that challenges the environmental impact statement on this project. I have no way of knowing what the outcome of that suit will be, but I know there certainly is a possibility that the suit may carry on past any effective date for a fuel tax in the next 3 to 5 years.

It is evident that my constituents—and, in fact, the constituents of every Senator—are going to have to pay ransom for locks and dam 26 in the form of higher consumer prices resulting from the increased expense of water transportation. So be it. However, if we are going to pay the ransom, we at least should be assured that we are going to get the hostage. I cannot believe that Congress is going to require the American people to pay this ransom and still be left with a bottleneck on the Mississippi because the replacement project is tied up in court.

Our amendment would forestall this eventuality by setting the effective date for the imposition of the waterway tax as January 1, 1982, or the date on which the Secretary of the Army certifies that construction has begun on the new locks and dam, whichever is first. I hope that my colleagues will see that simple equity requires the inclusion of such a provision.

A second area of difference with DOT has to do with another form of ransom. The administration is insisting that no waterway project can begin without an arrangement for some form of user charges to recover a part of the cost of the project. This is a great departure from past practice. It would mean that projects that already have been authorized in various of my colleagues' States would be subjected to the same kind of ransom demand we have experienced with locks and dam 26, for the only way in which the cost recovery requirement could be waived would be through a concurrent resolution adopted by both Houses of Congress. Those of you who have hopes that necessary future projects in your State would be authorized would face the same requirement. It may be that Congress will choose to impose some form of cost recovery on future projects, but it should not be done through this scheme of holding the project for ransom. Senators who represent coastal States should recognize that the same principle of cost recovery will inevitably be applied to harbors and other facilities for deep-draft shipping.

These two issues are the major points of difference between the Domenici-Stevenson amendment and the amendment I have offered along with my distinguished colleagues. The Domenici-Stevenson amendment has been described in the press as the new "compromise" on waterway user charges. I would submit that it is not much of a compromise at all. It is an all-or-nothing proposal, which would rush us too swiftly into the business of constructing toll gates across all of our inland waterways.

I urge instead adoption of the Long-Eastland-Eagleton-Danforth amendment, which will allow a reasoned approach to the new field of waterway user charges and, at the same time, enable us finally to get moving on the long overdue replacement of locks and dam 26.

I thank my colleagues.

Mr. NELSON. Mr. President, I wonder if the Senator from Louisiana might yield me some time from either side. I wish to address myself solely to the pending amendment. I am opposed to it.

Mr. LONG. Mr. President, I ask unanimous consent that the Senator from Wisconsin be yielded 10 minutes, to be taken equally from both sides.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). Without objection, it is so ordered.

Mr. NELSON. I believe the Senator from New Mexico is prepared to yield me time.

Mr. LONG. I asked that it be yielded jointly from the time of both the Senator from Louisiana and the Senator from New Mexico.

Mr. NELSON. All right.

Mr. President, I have not at any time, over the past 3 or 4 years, been involved in the debate on the question of user fees, and I am not involved in it now. The issue that activated my interest occurred 4 years ago, when Federal Judge Richey ruled, in a lawsuit brought before his court, that the Corps of Engineers did not have the authority to proceed to build a new locks and dam 26 under the 1909 Rivers and Harbors Act, a law which permits the corps to repair and maintain existing locks without seeking specific congressional authorization. The court simply ruled that the proposed replacement was new construction, and was without authorization. Therefore the court halted work until proper authorization was obtained.

One particular part of the Court's decision activated my interest, the question of the planned destruction of the Upper Mississippi River running from Cairo, Ill., to the St. Croix River junction and on up to the Twin Cities, Minneapolis and St. Paul. The Court held, based on internal Corps of Engineers documents,

that the corps intended, without authorization, to proceed to replace all 25 locks north of locks and dam 26, with new locks, new dams, and a 12-foot channel. It was at that point that I became involved in the issue. Shortly thereafter we designed and introduced a bill which would: First, prohibit the Corps of Engineers from proceeding to replace the locks and dams north of Cairo, Ill.; second, would prohibit the corps from proceeding with the construction of a 12-foot channel; and third, it required that a comprehensive economic and environmental study be made of the Upper Mississippi River system.

So far as I know, not a single supporter of locks and dam 26 advocates the construction of the 12-foot channel and the replacement of the 25 locks above Cairo, Ill. All the farm organizations I have talked to, the REA, and others, all say they are not interested, and for a very good reason, too: There simply is no place to dispose of 3 feet of additional spoil from the Mississippi River all the way from Cairo to Minneapolis.

The purpose of the amendment that I offer, which is a part of each of the Long and Domenici-Stevenson amendments, mandates that economic and ecological studies be made on a systemic basis to determine what, if any, further expansion should take place. This will be the first time that a comprehensive study of this kind has been made on any part of the inland waterway system, and sets a very good precedent. We all, all of us representing States that are involved in the inland navigation system, have always supported an effective, adequate operating locks and dam 26. This river, we all recognize, is a magnificent asset, and that part of the river to which this study is addressed, north of locks and dam 26, is a magnificent and valuable asset from several standpoints: It is a very important avenue of commerce, carrying agricultural products of great importance, grains down the river, fertilizers up and down the river, and it is an important source of water for industrial use. In fact, it is a vital source of municipal drinking water to the cities bordering the river all the way from the Twin Cities down to the gulf.

Furthermore, it is a very important recreational asset. Hundreds of thousands of people bordering that river, up from Cairo to LaCrosse, to Prescott, to Minneapolis and St. Paul, use that river every year for fishing, and hundreds of thousands more for boating and swimming. It is probably the most valuable and most widely used recreational asset anywhere in the Midwest, including any of the three Great Lakes that are there. Moreover, it is a fine wildlife habitat which is protected, some of it as wilderness and some of it as part of the Upper Mississippi Fish and Wildlife Refuge. So there are a large number of significant economic and recreational interests on or near that river that must be protected.

In addition, we recognize that all of these multiple uses are very important. This amendment addresses the question of evaluating the traffic on the river. What really is the optimum traffic that can be carried on that river without beginning to destroy other valuable uses of the river? Nobody knows.

Is it 70 million tons a year, 80 million tons a year, 90 million tons a year? Nobody knows the answer to that question. We should have it.

That is the purpose of the study. That is why I became involved—when I discovered that the corps was, in fact, going to take this dramatic action without authorization from the Congress at a cost, over the period of time, of $3.5 billion.

As to the amendment proposed——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NELSON. Will the Senator from New Mexico yield another 5 minutes to the Senator from Wisconsin?

Mr. DOMENICI. I will be delighted to yield an additional 5 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. I now wish to address myself to the amendment proposed by the distinguished junior Senator from Missouri.

This amendment would impose the same fuel tax upon users of the deep water ports of the United States. The deep water ports would include all of the major deep water ports on the Saint Lawrence Seaway system, including Chicago, Milwaukee, Detroit, and so forth.

It would impose this tax based on the concept that the dredging of the ports is a cost which is a subsidy by the Federal Government.

There is no question but that it is.

Let me say for the record my sole concern respecting our respective transportation systems—air, surface, trucks, highways, and waterways—is equity and fairness. In my judgment, all modes of transportation should be treated equally. There is no argument, so far as I know, that justifies unequal treatment of the various modes of commercial profitmaking transportation in the United States.

We do not know, or we are not in agreement, what equal treatment would mean. How much subsidy do the rails get? How much subsidy do the waterways get? How much subsidy do the deep sea ports get? How much subsidy goes to the airlines, and how much to the trucks? We have never had a study of that. Both of these amendments authorize and direct that those studies be done. They should be done. Then we ought to have the courage and the commonsense to treat them all alike, every mode of transportation, whatever that requires.

If we are going to provide some subsidies to various modes of transportation, as I suspect we probably always will, then the treatment should be equal.

Wisconsin is one of the four States in the United States that is part of the inland waterway system and part of the Saint Lawrence Seaway system. Another is Indiana because across the northwest corner of Indiana runs the Illinois River and Indiana is on the lakes. The State of Illinois is also on both the seaway system and the inland navigation system. Then Minnesota is involved in the seaway system and bordering Lake Superior. Wisconsin is bordered by Lake Superior, part of the seaway system, and Lake Michigan, which is also part of the seaway system.

As to the amendment offered by the Senator from Missouri (Mr. DANFORTH), let me say that the amendment contains a flaw—not just a disabling flaw but plainly, simply, and obviously a fatal flaw.

The Senator from Missouri argues the proposition—and I am now addressing myself to the St. Lawrence Seaway——

The PRESIDING OFFICER. The Senator's additional time has expired.

Mr. NELSON. Mr. President, I yield myself another 5 minutes. The manager of the time (Mr. DOMENICI) has given me the authority to control time on the bill while he is not on the floor.

I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. NELSON. As I said, this should be looked at closely. I would like to have the response of the Senator from Missouri.

This amendment does not contain just a disabling flaw, but it is a fatal flaw so far as the deepwater ports of the Great Lakes Seaway are concerned. It also contains another seriously disabling flaw because of its impracticality as applied to the ocean ports on the east coast, the west coast, and the Gulf of Mexico.

Because some fees are being charged to the inland waterway system the thrust of the argument of the Senator from Missouri is that if a fee is to be levied regardless of how much that fee may be, then a user fee in the form of this kind of a tax should be equally applied to the users of the deepwater ports on our two coasts, the gulf, and the Saint Lawrence Seaway.

What is that fatal flaw so far as the Saint Lawrence Seaway is concerned? The Saint Lawrence Seaway has 15 locks and dams. Under law the Saint Lawrence Seaway has to charge tolls for those who use the locks sufficient to recover the capital investment for building those 15 locks, for maintaining those 15 locks, for operating those 15 locks, and for repairing those 15 locks.

Those fees have been levied to do so. As a matter of fact, the fees were just raised last year again, in order to be sure that the capital investment to build those 15 locks, maintain and operate those 15 locks, and repair those 15 locks is paid for by the users. Last year, bulk cargo was 70 cents per metric ton. It is raised in 1979 to 77 cents, raised in 1980 to 99 cents.

I ask unanimous consent that this table showing the various cargo charges be printed in the RECORD.

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

TOLLS

The toll schedule was recently renegotiated, and is to be phased in by 1980. The

tolls are designed to cover all operation and maintenance and capital recovery.

	1978	1979	1980
Bulk cargo (per metric ton)	$0.70	$0.77	$0.99
Containers (per metric ton)	.99	.99	.99
Government aid cargo (per metric ton)	.61	.66	.72
Grain (per metric ton)	.61	.66	.72
General cargo	1.55	1.55	2.15
Charge on vessel (per gross ton)	.14	.14	.14

The new rates went into effect April 1, 1978, to be phased in by April 1, 1980.

All of the tolls collected thru the Welland Canal (8 locks) go to the Canadians, and 29 percent of the tolls collected (2 U.S. locks) on Lake Ontario are U.S. dollars.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NELSON. I ask the Senator if he will yield another 5 minutes.

Mr. DOMENICI. I am delighted to yield 5 minutes.

Mr. DANFORTH. Will the Senator yield half a minute?

Mr. NELSON. Yes.

Mr. DANFORTH. I shall be happy to see, in my amendment, that the Saint Lawrence Seaway will be exempted from it. I think the Senator is right, that that is one exception where there are user fees charged. On the rest of the deep-draft harbors and ports, of course, they are not. I would be perfectly happy to modify my amendment in accordance with the Senator's desire.

Mr. NELSON. Let me say to the Senator that I appreciate that he recognizes this is a special case because, you see, if that principle were applied to the Saint Lawrence Seaway, in order to be fair, the Senator from Missouri would have to agree to a levy of a tax high enough to capture the total capital investment from the beginning of the waterway or, at least, back to 1959, when the Saint Lawrence Seaway opened. All the construction costs have been paid for since then. In order to be fair, the Senator would have to agree to levy a tax to pay for the construction of everything on the inland waterway since 1959. That would not make it equal, of course, but at least, that would be a fair place to start. In addition, the cost of operation and maintenance of all these locks and dams, which would be a cost much higher than the Senator from Missouri would want to support.

However, I am here to make the case in behalf of the Saint Lawrence Seaway, which I think is compelling, in fact, irrefutable. I did say, though, if the Senator listened to my remarks, that I thought the flaw was fatal respecting the Saint Lawrence Seaway and disabling so far as it affects the other deep water ports on the east coast, the west coast, and the gulf, because, if for no other reason—and there are others—it is very impractical.

It may be so that the study would disclose a method of making charges for dredging. I am not sure that that is the way we want to go. I think we ought to have the study first.

There is another point. The Senator from Wisconsin, in looking at it, cannot figure out how one would administer this tax for fuel for even the ports outside of the Saint Lawrence Seaway. What happens? A ship comes down from Canada on the west coast to Seattle, to Los Angeles, to San Francisco, to San Diego, or wherever. It buys its fuel in Canada, discharges its cargo, picks up cargo at San Diego or San Francisco, Los Angeles, or Seattle, and goes back to Canada. They did not buy anything, so they would not pay any tax. That would happen with shipments from all over South America, Mexico, across the gulf: Deliver the goods, pick up whatever they are bringing back, buy no fuel, pay no tax. So we would end up where the only ones we could really get a tax from, for all practical purposes, would be that shipping which was intracoastal within the United States, putting them at a competitive disadvantage with Canadians, Mexicans, other South American countries.

I really believe that, even with the Saint Lawrence Seaway exempt, which is recognized as logical by the distinguished Senator from Missouri, I cannot see any practical way in the design of this amendment to collect those fees on the deep water ports. I am not sure in my own mind, in any event, whether it is a good idea. I would have to be persuaded that it is and that it is equitable respecting all other waterways.

Mr. President, I yield whatever time I have remaining.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. How much time do I have remaining on the Stevenson-Domenici amendment?

The PRESIDING OFFICER. The Senator from New Mexico has 90 minutes remaining.

Mr. DOMENICI. How much time does the Senator from Louisiana have?

The PRESIDING OFFICER. Two hours and 1 minute.

Mr. DOMENICI. I am only going to take a couple of moments at this time. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 5 minutes.

Mr. DOMENICI. I first want, once again, to thank the distinguished Senator from Wisconsin (Mr. NELSON) for the tremendous participation, knowledge, and leadership that he has exercised in this whole issue. Even though his argument about the deep seaports certainly in no way had much to do with the Stevenson-Domenici amendment, I think the Senate profited much by the knowledge that he exhibited and gave to us here today.

I do not think it should go unnoticed that the claims are made by the barge companies that any recoupment or tax on this subsidized system is the death knell; that they are gone, they are going to go broke. I guess we ought to have listened attentively as the Senator discussed the fact that, at the Saint Lawrence Seaway, we are not talking about 10 percent as we are in this bill. We are not talking about a 12-cent fuel tax imposed over a number of years, which we understand, when fully in place, will only return half the operation and maintenance costs that the corps spends of American tax dollars. That system is operating and obivously competitive and doing a job.

We heard the distinguished expert say not only did they not set arbitrarily a 10 percent recoupment of future projects or a 12-cent fuel tax; they are drawn under an agreement that says they have to pay all of the costs, recapture the construction and recapture the annual operation and maintenace. And I do not imagine that anybody is saying that that is an inoperative system or that they are noncompetitive, that we ought to cut that in half, or we ought to do what we have been doing for all the years in the past: Cut it down to nothing, zero, and subsidize it in toto.

So, while his argument specifically had to do with a technical issue that he is very informed on, I commend him for bringing up the example. That certainly ought to convince everyone that that which the Secretary of Transportation has indicated he would accept in behalf of the President, that is in this bill—10 percent in the future for new projects only, as a kind of watchdog, and a 12-cent tax which is identical with that suggested by the distinguishd Senator from Louisiana, other than at what point in time it commences and reaches its full imposition—how anyone can think that is unreasonable is beyond this Senator.

I also want to say that, for those who represent farm States with farm products, I know that there is tremendous pressure in their offices.

People are talking about adding anything to the price of grain when it is depressed, worried about it.

Let me suggest that the best economists in this country have testified almost ad nauseam in the subject that if we continue the subsidized freebie system of inland waterways, that ultimately the farmers of America are going to suffer because the railroads are just going to go out of existence in the very heartland of America where they are required to haul this grain.

We have a list of rail abandonments and if the people think they are up in the Northeast, they are mistaken. They are right in the heartland of America where they are needed to haul the grain. The reason they are being abandoned and are going out of business is because right up the road exists this free system we are subsidizing 40 percent.

The farmer says, "We don't want a half-cent or a quarter-cent a bushel now because our prices are low." There is no Senator more sympathetic to them than

this one. But the truth of the matter is that the economists that have looked at the need for a balanced system say that the time has come to end this particular giveaway, this distortion, on those who have no access to the waterways. Most of them are that kind and are not going to have any way to ship except the most expensive, whatever it is that is left over.

So I submit to those Senators who are worried about that, the answer is that the way to keep a viable system is to begin—we are not ending, we are not running anyone out of business—begin this system now with a little bit of equity and a little bit of balancing that does not exist at this particular point.

Economists who have no reason to favor one over the other, whether it is the Otto Ecksteins of Harvard, whether it is the attorney general of Florida, the many newspaper editors around this country in States served by both, who have drawn on the expert advice that has been given them by economists, transportation experts, all say the same thing.

It is just a myth, Mr. President, just absolute myth for anyone to be here concerned about whether we are going to break the barge companies, whether the barge companies are going out of existence.

That is just absolutely incredible that we would even have that as an issue. The issue is, do we want to continue to build a system free with no safeguards against overruns, excesses, against the kind of thing that says we need a new lock and dam here, so let us build it, with no one around but some formula on cost-benefit that the Corps of Engineers has to administer and run and punch into the computer that can almost justify any one of them and then build it free.

Let me summarize the status of growth and profit in these two industries and then I will reserve the remainder of my time.

The good Senator from Louisiana talked a little bit about reasonable profit and I am not here to argue what a reasonable profit is at all in these industries. But I just want to summarize one more time.

The yearly growth, yearly new growth in barge transportation, is 6 percent—6 percent.

The yearly growth rate of the rails in this country is 1 percent, in terms of freight hauled. and that is with many minuses that we are already aware of.

The barge company profits—and here again I am not one to argue whether it is right or wrong, whether they are too big or little, except that I do object to their trying to sell the argument that they are the ma and pa of the stores, the industries, when that is not so—but theirs is at least 10 percent profit.

For the railroads, the best information we can get, and it is doubtful on the high and we think it is too high, but, basically, it is about 1 percent on equity.

When we put all those together, it is just absolutely incredible that the issue here would be distorted and be based upon putting anyone out of business, charging an excessive amount to refund the taxpayers what they are putting in.

The argument, basically and simply, is that those who have had inland waterway projects constructed year after year, based on nothing more than the economic models prepared by the Corps of Engineers, just do not want any real economist looking over their shoulder. That is it. That is all our 10 percent recoupment is going to do.

It is going to say, "OK, get this project ready, get your cost estimates, get your user standards."

Then it will say, "Now, you people are going to use it," and once they have been using it free, come in, take a look.

When that happens, they are going to understand that in the first 10 years after it is built they will have to pay back 10 percent, not 100, not 50, 10 percent, with interest, 1 percent a year.

We call that the watchdog approach because they will be looking over the shoulder to see if perhaps we can fix up that old one at a little less cost.

Maybe we do not need this one to the extent of $1.5 billion. Maybe $700 million will do.

Again, I do not want to pick on projects. But I submit that the Tennessee-Tombigbee—and again we do not touch it, it will be built, it is under construction, we are not going to charge it anything other than the fuel tax that everyone pays—but I submit, a 10 percent looking over the shoulder would not have permitted a $1.4–$1.5 billion overrun on that project, and I understand overruns. I do not take the floor and demagog overruns. I understand inflation. I understand change of circumstance.

But I also understand that when the commercial user of these kinds of facilities has to do nothing but furnish the Corps of Engineers with figures on how much freight they are going to be able to deliver through that facility so they can punch it into a computer for cost-benefit, then there is no watchdog and the private sector, which is so good at that, is used not at all.

Because it is natural that they would be greedy in that situation. I do not fault them for it. But, obviously, if they have got to pay a little bit of it, when they give their estimates they may be just a little bit more realistic.

When they decide how many hundreds of millions of taxpayers' dollars are supposed to go in that, they may say, "We don't need to, we will get by with one lock." Or, "Let's spend $100 million and rehabilitate one." Or, "Do we really need to build this whole new system to serve some city as we have in the past if we are going to have to pay a little bit of the share?"

Senator DANFORTH has made an argument that concerns me. On a number of occasions he has worried me about the fact that we might slow down some of the economic growth in the area served, and that maybe—maybe—industries, maybe little companies, large companies, have expected this growth, and are therefore kind of penalized retroactively.

If I were convinced that there was going to be no real loss, I would not be here. What I am convinced of is that, if the Stevenson-Domenici amendment is adopted and in place, they can no longer count on this transportation system running wild; and their economic projections of what it will be 10, 15, or 20 years from now may have to be adjusted somewhat. I use the word "somewhat" intentionally, because it still will be the most economic, the cheapest, and the most subsidized mode of transportation in America.

One final argument: It has been said that in this day of energy shortage, somehow or other we should preserve this system, subsidized 40 percent, as indicated by the Secretary of Transportation, CBO, CRS—not the barge companies. They do not think it is that much. I did not ask the Department of Transportation. They are the ones, including CRS, who said that. We still are going to be subsidizing them substantially. There is no question about that.

They are going to grow at the most rapid pace of any around, subject only to the prudent analysis of the capacity of some of these river basins, as discussed so thoroughly by the distinguished Senator from Wisconsin, that eventually you are going to have to look at the other uses of a beautiful river system and not continue to say how many barges it will handle. Nonetheless, they are going to grow.

On energy, we have been told that we should maintain this system, which is so energy conservation oriented, the cheapest. If you look at it, at first blush you would think that motoring down a river should be a lot cheaper than motoring down a railroad track. I do not know why one would kind of intuitively think that. I did. But the fact is that, per ton mile, in terms of energy used, the railroads are cheaper than the inland waterways; because you have to go down and you have to come back, and you cannot make the river straight. So you have to follow it wherever it goes. To get from a point 100 miles downstream to 100 miles upstream as the crow flies, you have to navigate the river as the river flows. The fact is not that it will save energy as contrasted with railroads, in units that you ship. In fact, it is quite to the contrary.

The Congressional Budget Office, in the 11 reports they surveyed, estimated that the energy use for domestic water transportation generally falls in the range of 500 to 700 Btu's per ton mile, while the usual range for rail freight was 300 to 700 Btu's, and 400 to 500 Btu's for oil pipeline.

So I do not believe there is any real argument against the Stevenson-Domenici amendment, other than that after 44 years and every President since Roosevelt, we would just like to change the way of doing business a little bit—just a little bit. Basically, that is that 10 percent recoupment down the line on new projects.

I will repeat one argument: For those in the Senate who say we should wait for the study that is going to tell us what is right, I am going to repeat that this has been studied, restudied, and studied again. All the studies, in terms of a balanced transportation system, could just as well have been thrown in the waste-

basket. Whether I prevail or Senator LONG prevails, I do not want the next study coming forth to be thrown away as the others were. So if it comes down and we have this meager 10 percent on the books, it will be looked at. It will be voted on. It will be assessed. Unless you do this, and unless you take affirmative action, the 10 percent will remain the law of the land.

In that respect, too, it is significant not in terms of economics, because it is insignificant what it is going to add to the system. I defy anyone, even the barge companies, to come here and tell us it is going to break the farmer: How much that little 10 percent on one new project, which can be spread over the system or on the project itself, is going to add to freight costs. It is insignificant.

What they really do not want is to change the basic approach of having anyone other than the corps and its cost-benefit ratios, established under every President, at the encouragement of the commercial user, changed one bit.

I, for one, agree wholeheartedly with the President of the United States when he says it is time that we bring a change to this system, which costs $300 million a year in operation and maintenance and an equal amount, on an average, over the last 10 or 15 years, in capital improvements, to serve basically one mode of transportation.

I reserve the remainder of my time.

Mr. DANFORTH. I yield myself 1 minute.

Mr. President, I want to talk very briefly on the question of relative subsidies between the railroads and the barge lines.

Under the long amendment, the total Federal subsidies available to railroads per ton mile would be 1.18 mills. The total subsidies under the Long amendment for the riverways would be .90 mills per ton mile. Under the Domenici approach, the difference would be between 1.18 for the railroads and .82 for the barges.

So, under both approaches, the policy of the Federal Government would be a very heavy bias in favor of the railroads and against the barge lines.

We already made that decision; we made it last June. It is the position of the administration. We have conceded the point.

The question is not whether we are going to favor the railroads by undue subsidies. The question is how far we are going.

The PRESIDING OFFICER (Mr. MUSKIE). The Senator's 1 minute has expired. Who yields time?

Mr. LONG. Mr. President, I was not under the impression, when I asked unanimous consent, that we were going to agree to debate 6 hours on the parliamentary situation that we have at this moment.

Under the unanimous-consent agreement, we are going to have 3 hours on the Domenici amendment and 3 hours on the Long amendment; and I thought when we offered one as a substitute for the other, we would have 3 hours before the first vote, an hour and a half equally for both sides, and then we would have 3 hours on the other, if we wanted to take it, and I did not think we would.

One reason I have been asking so many times about how much time remains is that I could not understand how we could have that much time remaining.

I suggest, in view of the situation in which we find ourselves, that we both agree to debate this matter for perhaps another half hour, or perhaps even less, and then vote.

I ask the distinguished Senator from New Mexico what his reaction is to that proposal. I thought we were going to debate 3 hours on this matter. It appears that there is a misunderstanding. The Chair had this thing set up as though we were going to debate it for 6 hours.

Mr. DOMENICI. Mr. President, I do not really believe that I want to take all the remaining time, but I would not want to agree at this moment to shortening it. I would like to confer with Senator STEVENSON and a couple of other Senators. That should not take more than a few moments to discuss with them, and then I may be ready to agree with the distinguished Senator from Louisiana.

Mr. LONG. While the Senator is discussing, I will speak for a few minutes and respond to a few arguments the Senator made.

Mr. DOMENICI. Will the Senator yield for one moment?

Mr. LONG. I yield.

Mr. DOMENICI. I say to the distinguished Senator from Missouri that I do not want to spend a great deal of time talking about the subsidies he has discussed. I have a detailed analysis of my theory, which is supported by some transportation experts, indicating that the only real test of the subsidy is its impact on revenues and their rates. I know we would disagree. However, rather than going into detail, I say to the Senator that I have it analyzed, at least as to what it means in terms of that approach.

I ask unanimous consent that my statement explaining that be printed in the RECORD, and I reserve the remainder of my time.

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

TON-MILE SUBSIDIES

The only real test of a subsidy is its impact on revenues—and their rates. On this basis, barge owners get a 40 per cent direct subsidy, according to the Congressional Budget Office, while competitors get 3 per cent or less.

Let me explain why a ton-mile analysis is no true test. Let us assume the subsidy is not 40 per cent, but 100 per cent, which might translate into a ton-mile subsidy of 1 cent or 10 cents, whatever. That level of subsidy means, in effect, that the service is fully subsidized, and shippers can use it for "free." The competitor may get the same ton-mile subsidy, but it only translates into 8 per cent of revenues, meaning 92 per cent of his revenues would have to be raised by rates on the shippers? Now, what effect do you think that will have on traffic?

One other point. The figures of my good friend from Missouri (Mr. DANFORTH) are basically false, because they assume an annual subsidy to the railroads of $1 billion, apparently including railroad retirement funding, which is basically a replacement for Social Security, loans to ConRail, etc.

Mr. DANFORTH. Mr. President, I should like to expound on the subsidy question, because it is so important, and in my opinion it has been so misrepresented by, for example, the Secretary of Transportation in his letter.

Subsidies as a percentage of revenue is a totally meaningless figure. It means absolutely nothing.

Subsidy as a percentage of revenue would mean that there would be a very low percent and a very high revenue generating industry which happens to be the railroads. The only meaningful measure of subsidy is how much subsidy the Federal Government is providing to move a ton of freight a mile. What is the ton mile subsidy?

We have agreed in the Long approach that the bias of the Federal Government is going to be against the barge lines and in favor of the railroads, that under the Long approach—and this is why I say the Senator has won the day, he has already won; it is just a question of how far we are going—under the Long approach the ton mile subsidy for the railroads with a 12-cent fuel tax as opposed to the barge lines will be 1.18 mills for the railroads and 0.90 mills for the barge lines. If we have in addition to that a 10-percent capital cost recovery the 0.90 is reduced to 0.82. The bias in in this bill, no matter which way we go on a ton-mile basis, which is the only revelant way to measure relative subsidies, the bias is going to be in favor of the railroads and against the barge lines.

I do not know that is a justifiable policy. It seems awfully strange to me, but I do think we are now beginning to talk about the real issue that is involved because the real issue is not recovering the taxpayers' money. If that were the real issue, then we would apply the same standard to the inland waterways as we apply to the deep draft harbors and ports, and that is not in the bill as we have it right now.

So the question is, do you help the railroads by hurting the barge lines? The question is competition between the two, and the bias of this bill and the bias of the administration is that we should do exactly that. For the sake of diverting traffic from the barge companies to the railroads, we are going to impose this tax, and the upshot of the whole thing is that the relative subsidies between railroads and barges are going to be heavy no matter which way we go, weighted in favor of the railroads and against the barges.

Mr. LONG. Mr. President, I agree with the Senator from Missouri that that is the only logical way to compare the subsidy of two different industries, that is, of transportation industries. If it is freight you are talking about the relevant comparison is how much subsidy you are giving per ton mile. If it is passenger you are talking about, then the relevant figure is how much subsidy are you giving per passenger mile. And to keep the figures any other way is to discriminate and to be unfair.

There was some points made, Mr. President, which also I believe to be in error. The Senator made the point that because the waterways had help in building locks

and dams that is destroying the railroads.

Mr. President, there is a far more efficient mode of transportation than a barge. It is far more efficient to put something in a deep draft vessel and send it around the coast than put it in a barge and go through a shallow waterway—far more efficient.

We have a railroad like Southern operating in competition with the most efficient of water transportation, and it is a healthy railroad.

The Senator made the point that when you talk about the energy savings a barge oftentimes goes empty from one place to another and goes fully loaded in one direction and sometimes empty coming back. The Senator completely ignored the fact that the railroads have the same backhaul problem for their empty cars that the barges have for their empty barges. Sometimes they have a load back and sometimes they do not. Just like in arguing that a railroad, if possible, has to lay a straight track from one point to the other, he ignored the fact that the railroads have all sorts of problems in getting from one place to another, such as natural obstacles, mountain ranges and goodness knows what. But look at the ConRail line in western New York to see how they go around in a circle to get where they want to go with it, and the same thing is true in other respects of the rail lines.

What we have proposed here and what we are agreeing to amounts not to a 10 percent cost. It is a 25-percent cost of defraying because the tax would bring in what is about 25 percent of that which the Government is spending on waterways. That is a lot more than any 10-percent cost recovery that we are talking about. In other words, if you look at the cost of maintenance and also look at the cost of the construction, you add it all together and it works out to a figure less than $600 million, and we are talking about raising $150 million a year with a 12-cent per gallon tax. That is a 25-percent cost recovery.

The system should also be given credit for 7-percent recovery now in that the local people in putting up their easements and their lands, and that type thing, for their waterways are already making, in effect, a 7-percent cost contribution.

So, Mr. President, not all railroads are in an unhealthy condition. But insofar as they have problems, I point out it is not just because they have water competition. It is because they have trains going somewhere where its a 5-man crew where a 3-man crew would be adequate, and some railroads in fact are operating a 3-man crew.

It is not quite fair to say that because they have a very expensive pension program and they have more labor than might be necessary we should plague their competitor by increasing his cost which means just the user of the service, the farmer or the person receiving the shipment, on the other hand, has to pay a great deal more because someone wanted to penalize the waterways in order to give the railroads an additional chance.

We would agree that, yes, there should be a study and you should compare all of the services and at the end of the study then should see what additional charge there should be. But as the Senator from Missouri points out, it may very well be no additional charge is justified if you compare on a fair basis what is being done for the railroads compared to what is being done for the waterways. We have voted for this railroad bill last year that provides hundreds of millions of dollars of additional subsidy for the railroads. Railroads have been subsidized from the year one in the country starting with the enormous land grants that were made for them. We passed tax bills that have provided tax advantages, which is another form of subsidy that have been directed far more toward the advantage of the railroads than others just because we thought they needed it at that particular point. They have not been ignored. And to take the view that you should penalize the waterways and the water users because the railroads are having a bad time of it overlooks the fact that a great deal of it is because of their own inefficiency. In many instances, their cars get all across the country and they do not know where they are and have lost records of where the cars are. They would be out in the West and they would not know how many boxcars or certain type cars they had in this area or the other area when efficiency and good management would insist that they keep better records of that and have better plans of their movements.

So when you have what amounts to a 25 percent tax that ought to be regarded as a user charge itself, and it certainly is, and to try to add an additional charge during a period when a study is going on strikes this Senator as being unfair.

Mr. President, therefore, I hope the amendment will not be agreed to.

Mr. DANFORTH. Mr. President, I yield myself such time as I require out of the time allotted to my amendment.

I would just like to follow up on what the Senator from Louisiana has just said. I am not opposed to helping the railroads. As a matter of fact, in the State of Missouri we have many, many more miles of track than the State of New Mexico has. I think we have about three times as much. We have three railroads that are headquartered in our State, and I am all for helping the railroads. That is how we got to 1.18 mills per-ton-mile subsidy for the railroads.

It comes in the form of the purchase of ConRail debentures and preferred stock; it comes in the form of interest and subsidies to insolvent railroads, and grants to railroads for rail continuation; it comes in the form of the Federal Government picking up railroad retirement and social security payments and various kinds of tax expenditures.

I do not even include in the 1.18 mills per-ton-mile Amtrak. Taking over, of course, passenger service was a great benefit to the railroads, but for the purpose of computing this figure I have not event included Amtrak, and still we get to 1.18 mills per-ton-mile of freight as opposed to, under the Long approach, .90 mills per-ton-mile for the waterways.

I do not mind subsidizing the railroads, but what strikes me as being very unfair is when you try to help one competitor by hurting the other, and that is exactly what is involved before us now. It is trying to help the railroads not by further subsidy of the railroads but by imposing a penalty, a tax, on the barge lines, and it will—and the DOT surveys have shown this, reports have shown this—that the effect of imposing the tax on the inland waterway system will be to—divert traffic from the inland waterway system to the rails. It is just as simple as that. That is the whole point.

It is not recovering the taxpayers' money; it is not saying why should we proved free dredging, and so on, on the inland waterways, that is not the point. That happens to be the form in which the subsidy comes for the inland waterways today.

The form that the subsidy comes in for the railroads is in the form of purchasing ConRail debentures, and so on. It is just a question of the type of subsidy that is involved, and there is a different type of subsidy involved in the inland waterway system, and what we are doing now is imposing a tax in order to, in effect, reduce the subsidy that the inland waterways are receiving.

That is the point. It has to do with relative subsidies, it has to do with diversion of traffic. It does not have to do with recovering money for the taxpayer because, as pointed out earlier, if that were the case, then the costs of dredging for the Corps of Engineers in the inland waterway system and the costs of dredging in the deep-draft harbors and ports, the costs to the taxpayer are actually identical problems.

The PRESIDING OFFICER (Mr. HATHAWAY). Who yields time?

Mr. STEVENSON. Mr. President, I yield myself 5 minutes on the Domenici-Stevenson amendment.

Mr. LONG. Mr. President, will the Senator yield? I would like to inquire whether we might agree to reduce the time in line with what I had thought we had agreed to to begin with.

Is the Senator from New Mexico in the Chamber?

Mr. STEVENSON. No, I do not believe he is in the Chamber at the moment.

I have discussed that with him. It is my understanding, and it was at the beginning, that we were to aggregate the time on these amendments and try to dispose of them both with one vote. But I would be glad to discuss that with the Senator from New Mexico.

Mr. LONG. I am not seeking to prevent the Senator from making his speech, do not misunderstand me, but I believe most of what could be said has been said, and I believe it would accommodate all if we could try to bring this matter to a vote sometime soon and get on with the business. But I thought perhaps the Senator had talked with the Senator from New Mexico and that the Senator from New Mexico is here. I beg the Senator's pardon.

Mr. STEVENSON. Mr. President, I will be happy to discuss that with the

Senator from New Mexico. I certainly have no interest in delaying this matter unnecessarily, and I agree with what the Senator from Louisiana has said about everything that could be said has been said, but I am not convinced that it is all understood.

The issues between these two amendments are narrow. They both require user fee studies; both require environmental studies, and they both provide for fuel taxes for use of the inland waterways starting at 4 cents and going up to 12 cents.

As the Senator from Louisiana has mentioned, the 12-cent tax will produce revenues of about $153 million. That under this amendment will not take effect until 1985. When it does take effect it will be much less than competing modes of transportation pay in comparable taxes, and it will only represent about half of the operating and maintenance costs for the inland waterway system.

Mr. President, the issue is narrowed down to the construction cost recovery formula in the Domenici-Stevenson amendment, which is not contained in the amendment offered by the Senator from Louisiana. That amendment requires the recovery of new construction costs in the future not to include the construction costs for locks and dam 26, and it will only take effect after the study and after the construction of future facilities. It will not take effect until they are in operation, which means it will be 6, 7, 8, 9 years before this cost recovery formula produces any revenue at all, and before that time Congress will have had an opportunity, and with the benefit of the study, to reconsider the formula.

On the basis of that study, if all of these predictions about the dire consequences for the waterway interests are true, why, Congress could repeal it. If they are not true, Congress could increase it. If it takes no action at all, only then would it be, unless of course it is reaffirmed by Congress, would it be continued.

Now, Mr. President, that 10 percent cost recovery formula over 10 years, which means 1 percent a year for 10 years, would produce, if it takes effect at some future day, approximately $1.8 million a year. That is what this whole debate is about, a difference of $1.8 million a year off in the future if Congress does not repeal it or otherwise change it with the benefit of a study.

Mr. President, for that $1.8 million a year, the users of the inland waterway system, all the people of the Midwest, would receive about $613 million in new construction, and that construction would be for locks and dam 26, the most critical navigational facility in the country, Gallipolis in West Virginia, and Vermilion in Louisiana.

To the extent that there is that recovery of about $1.8 million a year, plus the gasoline taxes, they are all benefited also, not only by the construction, but also as taxpayers. The cost to farmers, with which all of us are rightly concerned, would, as a result of the fuel tax, in 1985, when we reach 12 cents, amount to—this is on the basis of estimates by groups representing the farmers—about $1.2 billion. That is not a very high price to pay for the maintenance of the inland waterway system, the construction of these facilities, and also for the beginning of an effort to redress the competitive disadvantages and help to save the railroads from collapse, which is already true in the Midwest with the bankruptcy of the Milwaukee Road and the Rock Island.

I ask, Mr. President, why is there such a heated debate over $1.8 million a year, when there is no difference of opinion about the gasoline tax, the fuel tax, which will produce much more, or, for that matter, over the construction, which will cost some $613 million?

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. STEVENSON. I yield myself 5 minutes more.

Mr. President, I have some difficulty understanding this, too. When this began, long ago, I opposed cost recovery as a percentage, an arbitrary percentage of some indeterminate future cost, because I did not believe we should legislate in the dark or delegate the revenue-raising responsibility to the executive branch, but I have made a concession; so has the administration, a large one, and so has Senator DOMENICI. I made it because Congress will have an opportunity to reconsider this formula long before it takes effect, and even if it were to take effect it would produce $1.8 million a year. That seemed to me to be a very small concession to make, in view of what is at stake.

It is the principle that matters to the administration, and it is the principle that will bring this bill down if it is not accepted by the Senate. That has been made clear beyond any doubt. It has been made clear to me in three conversations with the Secretary of Transportation and in conversations I have had with representatives of the White House, and it has been made clear by the President in conversations that he has had directly with Members of this body.

If that principle, which, as I say, may some day cost $1.8 million a year, is not accepted, then this bill will be vetoed, and I for one, Mr. President, am not going to take that possibility lightly or play "chicken" with the welfare of this region, the American Middle West, over $1.8 million, with a chance to change the formula.

That is what this debate has boiled down to, after all these years and, indeed, after a debate that has spanned many decades. It is small enough. And besides, it is about time that the principal beneficiaries of an enormous public investment in both operation and maintenance and construction begin to pay for a small part of that investment.

So I commend Senator DOMENICI once again, and once again I urge my colleagues to support our amendment.

Mr. DOMENICI. Mr. President, I yield myself 5 minutes.

First, Mr. President, I would like to yield to the Senator from Maine (Mr. MUSKIE) for purposes of a colloquy.

Mr. MUSKIE. Mr. President, I would inquire of the distinguished Senator from New Mexico regarding the coverage of his amendment. I am particularly concerned as to which waterways will be included under the definition of "inland waterways of the United States" in section 305. I understand that the Senator from New Mexico has a list of waterways to which his amendment applies.

Mr. DOMENICI. Yes, I have here a list prepared by the Corps of Engineers which describes all waterways covered by this provision. I send that list to the desk and ask unanimous consent that it be printed in the RECORD at this point.

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

The following inland and intracoastal waterways of the United States are subject to this Act

Alabama-Coosa Rivers.
Allegheny River.
Apalachicola-Chattahoochee and Flint Rivers.
Arkansas River (McClellan-Kerr Arkansas River Navigation System).
Atchafalaya River.
Atlantic Intracoastal Waterway.
Black Warrior-Tombigbee-Mobile Rivers.
Columbia River (Columbia-Snake Rivers Inland Waterways).
Cumberland River.
Green and Barren Rivers.
Gulf Intracoastal Waterway.
Illinois Waterway (Calumet-Sag Channel).
Kanawha River.
Kaskaskia River.
Kentucky River.
Lower Mississippi River.
Upper Mississippi River.
Missouri River.
Monongahela River.
Ohio River.
Ouachita-Black Rivers.
Pearl River.
Red River.
Tennessee River.
White River.
Willamette River.
Amite River and Bayou Manchac, LA.
Atchafalaya Basin E-W access channels, LA.
Barataria Bay Waterway, LA.
Bayou Bonfouca, LA.
Bayou Dupre, LA.
Bayou Grosse Tete, LA.
Bayou Lafourche and Lafourche Jump WW, LA.
Bayou Plaquemine Brule, LA.
Bayou Segnette, LA.
Bayou Teche and Vermilion River, LA.
Bayou Terrebone, LA.
Black River, AR, MO.
Blackwater River, FL.
Bolles Harbor, MI.
Canaveral Harbor, FL.
Cape Fear River, NC.
Cedar Bayou, TX.
Channel from Back Sound to Lookout Bight, NC.
Chefuncte River and Bogue Falla, LA.
Clatskanie River, OR.
Clear Creek and Clear Channel, TX.
Clinton River, MI.
Coos and Millicoma Rivers, OR.
Cowlitz River, WA.
Cypress Bayou and Waterway, TX, LA.
Darien Harbor, GA.
Delaware Bay-Chesapeake Bay Waterway (VA portion), project recently classified "inactive" because Governors of the three States withdrew support. Project name reverted back to its old name, "Waterway on the Coast of VA, VA".
Double Bayou, TX.
Escambia & Conecuh Rivers, AL, FL.
Freshwater Bayou, LA.
Grand River Harbor and Grand River, MI.

Greenville Harbor, MS.
Houston Ship Channel (shallow draft segment), TX.
Intracoastal Waterway Caloosahatchee to Anclote River, FL.
Lake River, WA.
Little Calliou Bayou, LA.
Long Island Intracoastal Waterway, NY.
Manteo (Shallowbag) Bay, NC.
Matagorda Ship Channel (shallow draft portion), TX.
Memphis Harbor, TN.
Mermentau River, Bayou Nezpique and Des Cannes, LA.
Mermentau River, LA.
Minnesota River, MN.
Nanticoke River, DE, MD.
Narrows of Lake Champlain, NY, VT.
New Jersey Intracoastal Waterway, NJ.
Neuse River, NC.
Okeechobee Waterway, FL.
Old River, CA.
Pamlico-Tar Rivers, NC.
Petit Anse Tigre and Carlin Bayous, LA.
Roanoke River, NC.
Rollinson Channel, NC.
Sacramento River (Shallow-draft), CA.
Savannah River below Augusta, SC, GA.
Smith River, OR.
St. Croix River, MN, WI.
Siuslaw River, OR.
Tennessee-Tombigbee Waterway, AL, MS.
Trinity River and Tributaries, TX.
Vinton Waterway, LA.
Waterway connecting Pamlico Sound with Beaufort Harbor, SC.
Waterway from Empire, LA to Gulf of Mexico, LA.
Waterway from Intracoastal Waterway to Bayou Dulac, LA.
Waterway Norfolk, VA to Sounds of North Carolina, VA, NC.
Wicomico River, MO.
Yaquina River, OR.

Mr. MUSKIE. Is this an inclusive list of all waterways which will be covered by this amendment?

Mr. DOMENICI. Yes, it is.

Mr. MUSKIE. I am pleased to learn that. I am concerned with the potential for ambiguity in the definition, "inland waterway of the United States," at least as it applies to certain rivers in Maine which are maintained by the Corps of Engineers to support a variety of traffic including, in some cases, barge traffic. I note that no waterways in Maine are included in the list of waterways which the Senator from New Mexico has sent to the desk. So his statement that the list excludes all other waterways is reassuring. If I can prevail on the Senator from New Mexico just a bit longer, I would draw his attention to the situation on three rivers in Maine which come to mind with regard to this provision. I would like his assurance that the Fore River, the Penobscot River, and Kennebec River are not subject to the provisions of his amendment. The Corps of Engineers does occasional dredging on various portions of those rivers for a variety of reasons to support a variety of traffic including oceangoing vessels, recreational vessels, fishing vessels, and commercial barges. It is not clear to me from the information available which type of vessel provides the primary rationale for the dredging which the Corps of Engineers periodically undertakes on portions of these rivers. Is it the understanding of the Senator from New Mexico that, notwithstanding the definition of "inland waterways of the United States" in section 305, his amendment would not apply to any river in Maine?

Mr. DOMENICI. The Senator from Maine is correct. My amendment does not apply to any rivers in Maine. I appreciate his concern that this matter be clarified, so let me repeat that the list of waterways I have sent to the desk is an all inclusive list of waterways to which my amendment applies. Notwithstanding the definition in section 305, no river in Maine is covered. Further I assure him, with particular reference to the Kennebec River, the Fore River, and the Penobscot River in Maine, those rivers are not covered by the provisions of my amendment.

Mr. MUSKIE. I thank the Senator.

Mr. DOMENICI. Mr. President, have the yeas and nays been ordered on the amendment?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. DOMENICI. I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. There are two amendments pending.

Mr. DOMENICI. I am speaking of the Domenici-Stevenson amendment. I ask unanimous consent that it be in order to order the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have not been ordered on the amendment of the Senator from New Mexico. Without objection, it is so ordered.

Mr. DOMENICI. 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. DOMENICI. Mr. President, I suggest the absence of a quorum, and ask that the time be taken equally from both sides.

Mr. LONG. Mr. President, if the Senator will withhold that, I would like to respond briefly to the remarks of the Senator from Illinois.

The Senator from Illinois just made a statement to the effect that we were talking about $1.8 million a year. I do not know how he arrived at that conclusion. I must admit that I was reading from some notes and other material when he mentioned that subject the first time, but I would think the Senator is off, Mr. President, by about 20 to 1.

For example, looking at the cost projected, here, of construction by the Corps of Engineers, the present rate of construction, for 1978, appears to be about $356 million a year. In 1982 it is expected to be about $533 million a year. Let us not just assume that one takes an average figure of, say, $400 million a year for construction. Once the present construction is behind us, and we go to replacing the existing locks—I am talking about replacing the existing locks that are there now, and after about 50 years those locks get to where they need to be replaced—a modern lock costs a lot of money. Those old locks are small, and any time you have to break tows up to get them through, they ought to be replaced with bigger ones. So just replacing what we have would cost a great deal more than anything projected here.

But for the sake of argument, let us assume the cost to be $400 million a year. With $400 million a year over a 10-year period alone, you would have $4 billion in construction in place. Ten percent of that is $400 million; but if you are collecting 1 percent a year, that is $40 million. That works out to be something over 20 times what the Senator is estimating in his so-called recovery proposal.

Furthermore, Mr. President, those who advocate this approach are not going to be satisfied with that, and I have not heard anyone say they would be. Here is this water resources study that was submitted to the Bureau of the Budget, and they recommended a 10-percent cost recovery, the kind of thing they say they are talking about here. When the Office of Management and Budget looked at that, what did they recommend? Not any 10 percent; they recommended 100 percent recovery of maintenance cost and 50 percent of construction cost, which works out to be about a 75-percent recovery. So you say that you will only want them to pay 10 percent, and perhaps the next year or the year after that the amount would be $1.8 million; but what you are talking about a few years down the road is being asked to pay $300 million or $400 million. This is just one step, as part of that picture.

We are willing, at this point, to say, "Yes, we will go along and pay what amounts to a 25-percent figure." If you relate it to the construction cost, it is 50 percent of the construction cost. If you relate it to construction cost plus maintenance, it is 25 percent of the overall. We are willing to say, "All right, we will agree to that; we are willing to pay that. But it is going too far to start this thing as a part of that at a time when you are initiating a study to breach this thing by saying you will have an additional 10-percent cost recovery in addition to that."

The PRESIDING OFFICER. Who yields time?

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

Mr. DANFORTH. Will the Senator withhold that for a moment?

Mr. GRAVEL. I am happy to.

Mr. DANFORTH. Mr. President, I would like to reiterate the point which I think should be considered before the Senate votes on this matter. This is the question, is whether or not the ransom is going to depend upon the release of the hostage; whether the hostage will be released before the ransom is paid. As far as I am concerned, that is the basic difference between the Domenici-Stevenson approach and the Long approach. It is the timing of the imposition of the tax, the timing in which the tax is going to be imposed.

Under the Domenici-Stevenson approach, the tax would be imposed in October 1979. It would commence in October 1979. Under the Long approach, it would be imposed either in January 1982 or when construction is commenced on locks and dam 26, whichever comes first.

If the tax is imposed in 1979 whether or not construction takes place, the fact

is that this is going to be a tremendous incentive for the plaintiffs in a lawsuit; namely, the railroads, to drag their feet with litigation. The effect of the Domenici-Stevenson approach instead of hastening the day in which construction of locks and dam 26 will commence will be to delay the construction of locks and dam 26. This is why it is the opinion of those who are championing the cause of locks and dam 26 that it would be better to have the bill vetoed. From the standpoint of the construction of this project, it would be better to have no bill than to have a bill which imposes the tax in October of 1979. The Stevenson-Domenici approach will delay the construction of locks and dam 26.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum, with the time to be charged to me.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENSON. 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. STEVENSON. Mr. President, I yield myself 5 minutes on the Domenici-Stevenson amendment.

It has been said that approval of this amendment might delay the construction of locks and dam 26 and that is why champions of locks and dam 26 are against it. I want to remind my colleagues who introduced this legislation to authorize the construction of locks and dam 26—and, before me, it was our Vice President, Mr. MONDALE—that is not an entirely accurate statement about "champions." I believe that there are many so-called champions of locks and dam 26 who support this amendment for the reason that it will hasten the construction of this facility. Surely, the construction of locks and dam 26 will not be hastened by the defeat of the amendment which authorizes the construction of locks and dam 26.

Also, Mr. President, the defeat of this amendment will do nothing to speed up the resolution of the litigation over the adequacy of the environmental impact statement. On the contrary, the approval of this amendment, which is the only amendment which can become law, would be a clear statement by Congress—indeed, by the Federal Government—that construction of this facility is intended to go ahead.

What is more, all the parties in interest, including those who are parties to the litigation, would, for the first time, have an incentive to end the litigation. The waterway interests have an interest in the construction of locks and dam 26. Because of the environmental protections in this amendment, the environmentalists obtain much of what they want, including a prohibition against a 12-foot channel. The other principal party in interest, the railroads, are receiving a part of what they want; namely, a system of user fees, including the principle of cost recovery. So not only would locks and dam 26 be authorized, without which it cannot be constructed, but this amendment would also give all the parties a new incentive to wind up litigation which has gone on for a long time already.

Furthermore, with a strong statement of Federal policy, the policy being to proceed with construction of this facility, the judge certainly ought to have an incentive for doing what he can to hasten the resolution of that litigation.

Mr. DANFORTH. Mr. President, will the Senator yield on that point?

Mr. STEVENSON. Yes, I yield to the Senator from Missouri.

Mr. DANFORTH. On my time.

Mr. STEVENSON. It does not matter.

Mr. DANFORTH. I should like to point out that the opinion of the Senator from Illinois is diametrically opposed to the opinion of the legal counsel of the Committee to Construct Locks and Dam 26. The opinion of legal counsel for the Committee to Construct Locks and Dam 26 is that this matter is in litigation; the litigation could last anywhere from 2 to 4½ years; but whether or not locks and dam 26 is authorized this year has very little, if any, effect and the question of linkage is the most important question. If there is no linkage and the tax is imposed in 1979, then there will be a tremendous incentive for the plaintiffs in the lawsuit—to wit, the railroads—to delay as long as they can in litigation and the effect of this will be continued delay in construction of locks and dam 26.

Mr. STEVENSON. Mr. President, in addition to all the reasons I mentioned, I neglected to mention one other, which, as was the case with the others, might not have been apparent to this lawyer or firm who, presumably, represents opponents of waterway fees. I think this should be made very clear. If the litigation does continue and it is not resolved and construction of locks and dam 26 is delayed unnecessarily, then before the cost recovery becomes effective, Congress will have an opportunity to reconsider, on the basis of the study. I should be very surprised if, when that time comes and there is no construction—the Congress would approve cost recovery it is with the full expectation of the supporters of this amendment that it will hasten construction of locks and dam 26 that we offer. This is a price that some of us are willing to pay for locks and dam 26, and if we do not get what we are bargaining for, then we shall all have—many of us, at least—some second thoughts about cost recovery.

Now, let me add a word, Mr. President, in response to what the distinguished Senator from Louisiana has said, I understand, about my arithmetic. I mentioned earlier that this construction cost recovery formula would produce, so far as we can tell, about $1.8 million a year—that is what we are arguing about—when it takes effect, if it takes effect, at some uncertain time in the future. That is based on the estimated construction cost of Gallipolis and Vermilion, La., the total construction cost of which is $159 million for Gallipolis and $22.3 million for Vermilion. That is a total of about $181 million.

Then I must point out that, instead of 10 percent a year, this is 10 percent over 10 years, so it is 1 percent of capital costs a year. That is how I come to the figure of $1.8 million.

Mr. LONG. Will the Senator yield to me?

Mr. STEVENSON. If the Senator will hear me out, I have not responded to his question yet. He raises a good point and I want to concede as much.

The Senator, as I understand it, is pointing out average construction costs for the past, saying that they may continue into the future. And he is right; they may. We do not know what they are going to run in the future. But in 1977, they are estimated to run about $277 million and for 1979 are estimated to run $356 million. This cost recovery formula would not apply to any of this construction that is already authorized, already underway. It would only be construction in the future and would only take effect after the construction and during the operation of the facility, which is why the Senator from Illinois said these; namely, Gallipolis and Vermilion—are the first to which it can apply and only when they are in operation.

The Senator makes the point that there may be other facilities off in the future, and maybe they will run at $356 million a year some day, way off in the future. I do not know.

I do not know. If they do run at the 1978 level of $356 million, new construction, after operation, then we have to revise my figure of $1.8 million and make it 1 percent of $356 million, which would produce, way off at that uncertain date, an annual capital cost recovery of $3.5 million.

So instead of the issue boiling down to $1.8 million, it would, I believe, under the Senator's hypothesis, which is not at all unreasonable, boil down to $3.5 million.

It is on that question, $3.5 million, according to my calculations, hangs Locks and Dam 26, this other construction which will cost taxpayers $613 million.

Mr. LONG. Will the Senator yield at that point?

Mr. STEVENSON. Yes.

Mr. LONG. Let me show the Senator how I would calculate the same thing.

Here is a schedule of the construction, and it is expected to gradually cost more, and the inflation would, if nothing else, make it cost more.

It is going to do that if all we do is just maintain the existing waterway because we will have to replace these locks as they get old. After they are about 50 years old, they will be replaced. Some might last longer, but somewhere between 50 and 70 years the locks have to be replaced.

I know I, for one, went through the Intracoastal Waterway System. Most locks were built starting during the war in 1940. So they still have to be replaced, not just a few, but the whole bunch, in due course.

The same thing is true of most of these others.

So if we just go beyond that, because they are already under construction, and we look at the locks that will have to be built to replace the ones there now, they will be building at least at $400 mil-

lion a year, probably $500 million a year. Just move that forward over a 10-year period and we are talking about $5 billion, and take a 1-percent annual charge on $5 billion, and that is another $50 million.

So that is just for what we would be building over the 10-year period.

So we are much more accurately talking about the problem if we are talking about $50 million a year, and perhaps even more than that after a 15-year period, than we are when we are talking about a mere $1 million.

The Senator is as far off as the number 25 is to one on the impact of what he is talking about here.

But, furthermore, those who are pressing for this 10 percent right now, what they really want, they want 75 percent cost recovery. For example, here is a study made by the National Waterway Conference where the recommendation was that a navigation ought to have a 10-percent cost recovery. The OMB recommended 100 percent of operation and maintenance and 50 percent of the construction cost, which works out to be about a 75-percent cost recovery.

So what we are talking about here is really to step up, to move, pick up speed toward what someone would like to do in terms of a 75-percent cost recovery, rather than a 25-percent cost recovery.

Mr. STEVENSON. Mr. President, first of all, none of these dams are going to be replaced if there is no one to pay for them. They are not all falling down, in bad shape. As a matter of fact, my home is several hundred yeards from one of them.

But it is true, in the future, over time, like everything else, they will wear out and have to be replaced.

Now, think about locks and dam 26. It is a bottleneck. It does not have adequate capacity. So it has to be replaced at a higher level of capacity.

But that is not true of the other locks and dams on the upper Mississippi. They have more capacity than this dam which has to serve not only the upper Mississippi River, but also the Illinois River.

Now, "new construction" does not pick up a replacement unless it is a replacement at greater capacity.

Every one of those locks and dams on the upper Mississippi can be replaced without any cost recovery at all under this formula unless the capacity is increased. Even then, as I have tried to indicate, the cost recovery under this formula, which may never take effect and will not take effect until after the Congress has had a chance to reconsider it, and then with the benefit of a study, would only produce 1 percent a year of the cost of construction of that new facility which has greater capacity.

Mr. LONG. Will the Senator yield for a moment on my time?

Mr. STEVENSON. I yield.

Mr. LONG. Even if we assume, and I do not think it is a safe assumption, that the demands of modern commerce will not require building larger locks to accommodate bigger barges and bigger tows, even if we assume that, on what basis can we assume that those who presently favor going for 10-percent cost recovery, by the time we get around to replacing those locks, even if they have the same capacity, are not going to want to pay the whole cost of replacing it rather than the excess?

Does it occur to the Senator that Mr. DOMENICI might have a successor in the Senate who thinks every bit as much in terms of more charges on the waterways than he does at this moment?

What we are talking about is something of a compromise. But those who advocate the additional 10 percent now have made it clear they want a great deal more than that. What they think about is 75 percent.

Mr. STEVENSON. It did occur to me someone might want more. Also, Mr. President, it occurred to me that some Senators, like the Senator from Louisiana and the Senator from Illinois, might want less and that we can make those decisions in the future when we know what the costs are going to be, what the impact would be, and when we had a study that made it possible for us to legislate in the sunlight.

I do not know what it should be. It sounds as though it should be a little higher than 10 percent, or 1 percent a year, not even applicable to replacement of facilities, unless there is an increase in the capacity.

With all respect to my friend and colleague from Louisiana, I do not live on the lower Mississippi; I live on the upper Mississippi where these facilities are. I go through them. It is going to be a long time before the capacity of most of those locks and dams needs to be increased.

I have some estimates that there will not be need for any replacement, certainly not a replacement of many of larger capacity, until some time in the next century.

So, Mr. President, this is a small price, indeed, a price that may never be paid, for a critical locks and dam and one that will cost taxpayers, without some contribution from its users, over $400 million a year.

The President has made his intentions clear. If this principle money is not in the bill, it will be vetoed. How that would hasten construction of locks and dam 26, I fail to see.

So, for the sake of the taxpayers, for the sake of competing modes of transportation, for the sake of all the people in this area, including the farmers, who must get their products to market, for the sake of the commercial waterway users, this amendment should be approved.

I yield back my time.

HIGH-LEVEL WATERWAY USER CHARGES—IT'S THE FARMER WHO WILL PAY

Mr. DOLE. Mr. President, I would like to express my opposition to high-level inland waterway fuel taxes that would inevitably go even higher under a cost-recovery waterway user charges edict. Senate approval of the Stevenson-Domenici amendment would have an adverse and in some ways unique impact on the Nation's farmers.

Not only are waterway user charges highly selective in concentrating on particular commodity movements and regions, but American agriculture would literally be hit coming and going.

As my colleagues know, the price the farmer receives for grain, soybeans and other farm products is largely determined by the price at seaport—that is, the export or world price—minus transportation charges for getting the farm products to port. The farmer pays those transportation costs, and because of the availability of inland barge transportation he commonly can save 10 cents or 11 cents per bushel, at present, under what other transportation modes charge. That is one of the few pluses in the American agricultural economy today.

Therefore, no matter what level of user charge is imposed, it is the farmer who is going to pay it. The farmer cannot pass the increased transportation costs on to consumers abroad because it is not the farmer who determines the export price. Even if he could increase the asking price, it is unlikely the farmer could get it—American farmers are facing tremendous competition overseas from foreign grain and soybean growers particularly.

So, Mr. President, the salient impact of high level waterway user charges on the American agricultural economy might easily have an adverse impact on the Nation's trade balance. If agricultural exports were excluded from trade balances of recent years, the Nation would be much more in the red than it is now.

This amendment means an even dimmer prospect for the individual farmer, who already is caught in a vicious and unrelenting cycle of lower prices for his commodities and higher costs of production. At the same time proponents of this amendment would decrease farm profits even more, they would also place additional transportation charges on heating oil, tractor fuel, fertilizers and numerous other goods necessary for production that are shipped on the inland waterways. The farmer, too, would pay these charges because they would be passed on to him as a consumer.

As this legislation is being debated, thousands of farmers are faced with the prospect of having to refinance bank loans or disposing of some farm assets to meet debt payments. This amendment would complicate those already unpleasant prospects for the simple reason that the value of farmland is determined by the value of crops that land can produce. A reduction in crop value means a reduction in land value—a reduction in the farmer's credit.

Members of the Senate have gone on record recently and repeatedly as acknowledging that American farmers are not economically healthy, and that they need help. I urge my colleagues at this time not to strike a blow at farmers, greater than necessary, to resolve the controversy over inland waterway user charges and locks and dam 26 replacement. The distinguished Senator from Louisiana (Mr. LONG) has proposed a reasonable compromise to achieve the goal of replacing that badly needed waterway facility at the crossroads of the Nation's inland grain movements, and to impose unprecedented charges for using the waterways. I urge the adoption of the Long amendment.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. On whose time? The time to be charged equally? Is the Senator from Illinois asking that the time on the quorum call be charged to himself?

Mr. STEVENSON. I ask unanimous consent that the time be charged equally to both sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. 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. LONG. Mr. President, as I indicated to the Senator from New Mexico, I am ready to yield back the remainder of my time, if he is ready to do so.

Mr. DOMENICI. I am.

Mr. LONG. I yield back the remainder of my time.

Mr. DOMENICI. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment (No. 1829). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. LEAHY). The clerk will suspend until we have order in the Senate. Senators are unable to hear their names being called.

If Senators could cease conversations for about 60 seconds, we could have the recap and move along.

Will Senators in the well cease their conversation for just 1 minute so we may continue the recount?

The clerk will suspend until such time as the Senators from Pennsylvania and Illinois are quiet and we can go on.

The clerk may continue.

The legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. The Senate has not been in order. Apparently there is some confusion as to whether Senators voted or not. I think it is because of the noise in the Chamber. The clerk will suspend entirely until such time as there is order in the Chamber.

The clerk may continue.

The legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Colorado (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Hawaii (Mr. INOUYE), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE) and the Senator from North Carolina (Mr. MORGAN) would vote "yes."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

I also announce that the Senator from North Carolina (Mr. HELMS), is absent to attend the funeral of a close personal friend.

The result was announced—yeas 43, nays 47, as follows:

[Rollcall Vote No. 149 Leg.]

YEAS—43

Abourezk	Goldwater	Percy
Bayh	Hathaway	Proxmire
Bellmon	Hayakawa	Randolph
Biden	Javits	Ribicoff
Brooke	Kennedy	Riegle
Byrd, Harry F., Jr.	Leahy	Sarbanes
	Lugar	Schmitt
Chafee	Mathias	Stafford
Chiles	McClure	Stevenson
Clark	Melcher	Stone
Cranston	Metzenbaum	Talmadge
Culver	Muskie	Wallop
Curtis	Nelson	Weicker
Domenici	Nunn	Zorinsky
Glenn	Pell	

NAYS—47

Allen	Gravel	Matsunaga
Anderson	Hansen	McGovern
Baker	Hatch	Moynihan
Bartlett	Hatfield, Mark O.	Packwood
Bentsen	Hatfield, Paul G.	Roth
Bumpers	Heinz	Sasser
Burdick	Hodges	Schweiker
Byrd, Robert C.	Hollings	Scott
Case	Huddleston	Sparkman
Danforth	Humphrey	Stennis
DeConcini	Jackson	Stevens
Dole	Johnston	Thurmond
Durkin	Laxalt	Tower
Eagleton	Long	Williams
Eastland	Magnuson	Young
Ford		
Garn		

NOT VOTING—10

Cannon	Haskell	Morgan
Church	Helms	Pearson
Griffin	Inouye	
Hart	McIntyre	

So amendment No. 1829 was rejected.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to reconsider the vote by which the amendment was rejected.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider. The yeas and nays have been ordered.

Mr. DOMENICI. I ask for the yeas and nays on the motion of the Senator from Tennessee to reconsider.

Mr. LONG. I move to lay that motion on the table.

The PRESIDING OFFICER. Is there a request for the yeas and nays?

Mr. DOMENICI. Yes.

The PRESIDING OFFICER. The yeas and nays have been ordered on the motion to table the motion to reconsider. The question is on agreeing to the motion to lay on the table the motion to reconsider. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The clerk will suspend. The Chair is aware of the fact that several Senators during the last roll call said they had voted and the clerk was unable to hear their votes, and apparently they were not recorded the first time around. Because of that the Chair will insist on order during the roll call and the Chair will ask the clerk to suspend so long as there is noise either in the Chamber or in the gallery. The clerk will suspend until there is order.

I would remind Senators that several Senators were not recorded the first time around when they voted because of the noise in the Chamber.

The call of the roll was resumed and concluded.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Colorado (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Hawaii (Mr. INOUYE), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE), would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

I also announce that the Senator from North Carolina (Mr. HELMS), is absent to attend the funeral of a close personal friend.

The result was announced—yeas 49, nays 41, as follows:

[Rollcall Vote No. 150 Leg.]

YEAS—49

Allen	Gravel	Matsunaga
Anderson	Hansen	McGovern
Baker	Hatch	Moynihan
Bartlett	Hatfield, Mark O.	Packwood
Bentsen	Hatfield, Paul G.	Roth
Bumpers	Heinz	Sasser
Burdick	Hodges	Schweiker
Byrd, Robert C.	Hollings	Scott
Case	Huddleston	Sparkman
Danforth	Humphrey	Stennis
DeConcini	Jackson	Stevens
Dole	Johnston	Talmadge
Durkin	Laxalt	Thurmond
Eagleton	Long	Tower
Eastland	Magnuson	Wallop
Ford		Williams
Garn		Young

NAYS—41

Abourezk	Glenn	Nunn
Bayh	Goldwater	Pell
Bellmon	Hathaway	Percy
Biden	Hayakawa	Proxmire
Brooke	Javits	Randolph
Byrd, Harry F., Jr.	Kennedy	Ribicoff
	Leahy	Riegle
Chafee	Lugar	Sarbanes
Chiles	Mathias	Schmitt
Clark	McClure	Stafford
Cranston	Melcher	Stevenson
Culver	Metzenbaum	Stone
Curtis	Muskie	Weicker
Domenici	Nelson	Zorinsky

NOT VOTING—10

Cannon	Haskell	Morgan
Church	Helms	Pearson
Griffin	Inouye	
Hart	McIntyre	

So the motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I proposed to the Senator from New Mexico that he should have offered his amendment first and that I should have offered my amendment as an amendment to his because the surviving amendment should have been the Domenici amendment. He is getting 90 percent of what he wanted. May I say that the only reason we are not now voting on the Domenici amendment is because I lost a flip of the coin as to who would offer his amendment first.

But let there be no doubt about it. The Senator from Louisiana is not entitled to claim any credit whatsoever for the amendment now being voted upon. The Senator from New Mexico (Mr. DOMENICI) made a battle for the tolls on the waterway or user charges, whatever it may be, and he is the winner. He gets 90 percent of his way here.

This bill goes far beyond what the House bill does. As far as the Senator from Louisiana is concerned, if he had his way, we would be going not one step beyond the House bill. This bill proposes twice as much tax as the House bill proposes. I expect to go to conference to support the 12 cents that Mr. DOMENICI offered. The reason mine says 12 cents is because Mr. DOMENICI's said 12 cents.

I want to make it clear that the real winner today is not the Senator from Louisiana. We have succeeded in delaying what Mr. DOMENICI wanted to have happen. It will happen but not quite as fast as he wanted it to happen. I congratulate him. He is the winner. The fact that my amendment appears to have prevailed does not diminish the fact that he has won a great victory, and I congratulate him.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. The pending business is the Long amendment, is that correct?

The PRESIDING OFFICER. The Senator is correct, and time on the amendmen has expired.

Mr. LONG. Mr. President, I ask unanimous consent that there be 2 minutes on each side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LONG. When we yielded back on our amendments, we yielded back on both of them? I do not want a lot of time. I just wonder where that ruling came from.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Did I understand that the order originally was for 6 hours of debate which would expire, as I calculate it, at 8:40 tonight?

Mr. DOMENICI. I believe we have, by unanimous consent, agreed to what he just stated.

The PRESIDING OFFICER. The order called for a total of 9 hours of debate.

Mr. DOMENICI. We yielded back. Mr. President, I ask unanimous consent that each of us have 2 minutes.

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

Mr. DOMENICI. I have no desire to have a rollcall vote on the pending amendment.

Mr. LONG. Mr. President, I would like to invite the Senator to join as a cosponsor of the amendment that is at the desk. I think he will vote for it, and I would like to invite him to be a cosponsor.

Mr. GRAVEL. If the Senator will yield, a lot of Members were placed in the position of voting negatively and want to be recorded in a positive fashion. I think we owe them that as a courtesy.

Mr. DOMENICI. Let me just say that my concern now is what has been expressed throughout the day. That is that we will undoubtedly adopt the amendment which will impose a 12-cent fuel tax, but my concern is that we might not get a bill because the President has indicated he wants some capital recoupment. There may be some Senators who, because of that, would desire to have a yea and nay vote on the amendment. We are all here. I do not think it will take much time. 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. DOMENICI. Mr. President, I ask unanimous consent that I be added as a cosponsor of the amendment.

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

Mr. DOMENICI. I ask unanimous consent that the roll call be limited to 10 minutes.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. tomorrow.

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

Mr. ROBERT C. BYRD. Mr. President, this will be the last rollcall vote today.

Mr. DOMENICI. If it is the last one, I withdraw my request.

Mr. LONG. I yield my remaining time to the Senator from Missouri.

Mr. DANFORTH. I would like to concur in the statements made by the Senator from Louisiana.

Mr. STENNIS. Mr. President, could we have order?

The PRESIDING OFFICER. Will the Senator from Missouri suspend for a moment until we have order?

The Senator from Missouri.

Mr. DANFORTH. This is a great day for PETE DOMENICI and a great victory for him. He has succeeded, by virtue of a singular effort, in reversing about 200 years of history. We have now agreed to a Senate bill which will have a 12-cent fuel tax for commercial use of the inland waterways. This is something I have resisted, and a lot of people have resisted. The Senator has carried the day. The only issue today was timing and how it would be phased in, really peripheral issues. The main victory has been won by the Senator from New Mexico.

Mr. DOMENICI. I thank the Senator very much.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Michigan (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Hawaii (Mr. INOUYE), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from North Carolina (Mr. MORGAN), are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE) and the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) and the Senator from Kansas (Mr. PEARSON), are necessarily absent.

The result was announced—yeas 88, nays 2, as follows:

[Rollcall Vote No. 151 Leg.]

YEAS—88

Allen	Glenn	Moynihan
Anderson	Goldwater	Muskie
Baker	Gravel	Nelson
Bartlett	Hansen	Nunn
Bayh	Hatch	Pell
Bellmon	Hatfield, Paul G.	Percy
Bentsen	Hathaway	Proxmire
Biden	Hayakawa	Randolph
Brooke	Heinz	Ribicoff
Bumpers	Helms	Riegle
Burdick	Hodges	Roth
Byrd, Harry F., Jr.	Hollings	Sarbanes
Byrd, Robert C.	Huddleston	Sasser
Case	Humphrey	Schmitt
Chafee	Jackson	Schweiker
Chiles	Javits	Scott
Clark	Johnston	Sparkman
Cranston	Kennedy	Stafford
Culver	Laxalt	Stennis
Curtis	Leahy	Stevens
Danforth	Long	Stevenson
DeConcini	Lugar	Stone
Dole	Magnuson	Talmadge
Domenici	Mathias	Thurmond
Durkin	Matsunaga	Tower
Eagleton	McClure	Wallop
Eastland	McGovern	Weicker
Ford	Melcher	Williams
Garn	Metzenbaum	Young
		Zorinsky

NAYS—2

Hatfield, Mark O.	Packwood

NOT VOTING—10

Abourezk	Hart	Morgan
Cannon	Haskell	Pearson
Church	Inouye	
Griffin	McIntyre	

So Mr. LONG's amendment (No. 1846) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1293

(Purpose: To authorize projects for rivers and harbor improvement recommended by the Committee on Environment and Public Works)

Mr. GLENN. Mr. President, I send to the desk an 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 Ohio (Mr. GLENN) for himself and Mr. METZENBAUM, proposes an unprinted amendment numbered 1293.

Mr. GLENN. 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:

At the appropriate place insert the following:

Sec. . Section 175 of the Water Resources Development Act of 1976 (Public Law 94-587) is hereby amended to read as follows: "The project for harbor modification at Cleveland Harbor, Ohio, is hereby authorized for construction, generally in accordance with the plan described in the report of the Chief of Engineers dated January 30, 1978, at an estimated cost of $27,600,000. Provided that such construction shall be undertaken in stages. The initial stage shall consist of construction of that element of the project to deepen and widen the East Basin, substantilly in accordance with the plan referred to in Section M of the report of the District Engineer, dated June, 1976, at an estimated cost of $18,000,000. The existing dredged material containment site known as Site 14 may be used for the containment of excavated material from such construction. Construction of the final stage shall include one or more harbor entrances, but shall not be undertaken until completion of model studies and the determination by the Chief of Engineers that such further works are engineeringly feasible, and economically justified, and environmentally acceptable, and the Chief of Engineers advises the Chairman, Senate Environment and Public Works Committee and Chairman, House Public Works and Transportation of such determination.

Mr. GLENN. Mr. President, the amendment I have sent to the desk will expedite the vital dredging work necessary to permit the Cleveland harbor to receive deep-draft ore carriers and other deep-draft commercial vessels.

Cleveland is currently the Great Lakes port which handles the largest volume of iron ore. However, the present depth of the channels prohibits the use of ore or other carriers of a greater length than 600 feet. Dredging the east channel of the harbor according to plans drawn up by the Corps of Engineers back in 1975, would permit the utilization of 1,000-foot ore carriers and represent a significant economic saving to Ohio and regional steelmakers.

Mr. President, the recent closing of steelmaking facilities in Youngstown and surrounding areas have been very much in the news. Job losses will eventually total 5,000 for that area alone. Permitting the remaining steelmaking facilities to secure ore at lower rates would enhance the competitive stance of Ohio steelmaking and preserve jobs in an already depressed economic area. Increased volume deliveries of ore to Cleveland will permit more inexpensive trans-shipment of this ore to the Youngstown and other steelmaking areas in the region.

Plans are already well underway to construct a $20 million port authority ore dock. Construction can actually begin on this needed facility once assurances are received from the corps that the dredging of the east channel will begin in the near future.

Projections of job savings in Northeastern Ohio alone reach as high as 35,000 jobs. Certainly, it is better to provide economic incentive on the Federal level to save jobs and increase the economic health of an area than to expend Federal/State and local funds on unemployment, training and other assistance programs once the jobs have been destroyed or lost.

The President has stated that we must do everything to enhance the competetive stance of the domestic steel industry. The projected improvements in the Cleveland harbor contained in my amendment will help American steel and other vital industries stay competetive, reduce our balance of payments deficit, bolster the dollar and help fight inflation—in addition we will save thousands of jobs and the direct income and tax revenues they represent.

This amendment is supported by the area's congressional delegation, the steel industry, the Port Authority of Cleveland and the city of Cleveland.

Mr. President, this amendment is an authorization amendment. It does not require any additional appropriation. It has been cleared on both sides of the aisle and I am prepared to accept a voice vote.

Mr. GRAVEL. Mr. President, I have no objection to the amendment and I yield to my colleague from New Mexico.

Mr. DOMENICI. We have no objection.

Mr. GRAVEL. I yield back my time.

Mr. GLENN. I yield back my time.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

UP AMENDMENT NO. 1294

Mr. DURKIN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN) proposes an unprinted amendment numbered 1294:

At the appropriate place, add a new section as follows:

SEC. —. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to conduct a study, at a cost not to exceed $135,000, of the feasibility of redeveloping the hydro-electric capacity of the Jackson Mills Dam and the Mines Falls Dam at Nashua, New Hampshire. A report of this study shall be submitted to Congress not later than one year after the date of enactment of this Act.

Mr. DURKIN. Mr. President, this amendment provides for a 1-year feasibility study of redeveloping the hydroelectric capacity of Jackson Mills Dam and Mines Falls Dam on the Nashua River in Nashua, N.H. These sites, if redeveloped, might produce 5 megawatts or more of power for Nashua and the surrounding areas. The small-scale hydroprojects could translate into a savings of $1 million in oil imports, or about 70,000 barrels of oil per annum in Nashua. The sites have tremendous recreation potential, as well.

The study is to determine the best locations for the turbines at the damsites, and the best outlets for the electricity they can generate.

I understand my amendment has been cleared all the way around, and I appreciate the support of the distinguished Senator from Alaska and the distinguished Senator from New Mexico.

The PRESIDING OFFICER. Does the Senator from Alaska wish to be recognized?

Mr. GRAVEL. I have no objection, I am happy to accept it. I yield to my colleague.

Mr. DOMENICI. I have no objection.

Mr. GRAVEL. All time is yielded back.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment was agreed to.

UP AMENDMENT NO. 1295

Mr. ALLEN. Mr. President, I send an amendment to the desk on behalf of my distinguished senior colleague (Mr. SPARKMAN) and myself and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) for himself and Mr. SPARKMAN, proposes an unprinted amendment numbered 1295.

Mr. ALLEN. 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 7, strike out lines 20, 21, and 22 and substitute in lieu thereof the following:

"(1) Alabama-Coosa Rivers: From Claiborne, Alabama, at river mile (hereinafter referred to as RM) 72.5 to the junction with the Coosa River at RM 314.".

On page 8, strike out all that appears after line 24 down through and including line 7 on page 9 and substitute in lieu thereof the following:

"(7) Black Warrior-Tombigbee Rivers: Black Warrior-Tombigbee River from Coffeeville, Alabama, on Tombigbee River at RM 116.6 to Demopolis at RM 215.4 to Port of Birmingham RM 374-411 and upstream to head of navigation on Mulberry Fork (RM 429.6), Locust Fork (RM 407.8) and Sipsey Fork (RM 430.4).".

Mr. ALLEN. Mr. President, the provisions of H.R. 8309 providing for a tax on fuel used in commercial transportation on designated inland waterways are essentially a means adopted to defray partially the capital and maintenance costs of inland waterway improvements used by nonoceangoing commerce. Although the tax is thought by some to be moderate, it is very likely that this tax will be substantially increased in the future if the natural progression we normally see after imposition of any new tax is followed over the ensuing years.

Now, Mr. President, all of the waterways designated for coverage by the new fuel tax encompass substantial existing and planned waterway improvements in the form of dams and locks and related development financed by the Federal Government with the sole exception, Mr. President, of the Mobile and lower Alabama and Tombigbee Rivers. The inclusion of these nonfederally improved waterways in the provisions of H.R. 8309 is an aberrational deviation from the policy behind the bill which should be corrected before its enactment by the Senate.

All other waterways similarly utilized and nonfederally developed have been

excluded from coverage. Significant examples of these exclusions are the Mississippi River from its mouth to 234 river miles upstream. This exclusion recognizes quite properly that the Mississippi River, for that distance, does not benefit in any significant way from federally financed waterway improvement. Also, for example, the Columbia River in Washington and Oregon is expressly excluded from the coverage of the bill from the ocean to a distance of 192 river miles inland.

Again, Mr. President, this exclusion is entirely proper since the Columbia River for that distance has not been improved in any significant fashion by Federal expenditures. Similarly, many other important waterways which are utilized by nonoceangoing commercial traffic are excluded in their entirety from application of the tax—these waterways being characterized by and large by the absence of any substantial waterway improvements. These excluded waterways are the Pascagoula River in Mississippi; the St. Johns River in Florida; the Savannah River in Georgia and South Carolina; the Cape Fear River in North Carolina; the Roanoke River system in North Carolina and Virginia; all of the Chesapeake Bay River systems—the James, the Potomac, and the York; the Connecticut River; and the Hudson River in New York.

These river systems, Mr. President, contain a total of 1,188 miles commercially used, yet the amount of Federal expenditure in relation to the commercially usable mileage is not major. Nevertheless, notwithstanding the total exclusion of these river systems from the application of the tax, several have received material Federal capital expenditures for improvement and for maintenance and operation. Thus, the Chesapeake Bay river systems have had expended over the years $11,190,000 in capital and operating costs. The Hudson River in New York has received capital improvements over the years totaling some $33,900,000. The Savannah River has had approximately $14,500,000 expended for capital and operating costs. But the point, Mr. President, is that these expenditures—though significant—have not been a major factor in maintaining these waterways as commercial usable inland rivers. Their natural condition has largely made them available to commercial traffic.

In the same fashion, Mr. President, the Mobile and lower Alabama and Tombigbee Rivers have been used in commerce since their discovery with virtually no improvements or maintenance costs designed to enhance their trafficability. Thus there have been, so far as we know, no improvements or maintenance costs whatsoever on the Mobile River and very minimal improvements and maintenance costs on the Tombigbee River below the Coffeeville lock and dam at river mile 116.6. The lower Alabama has also received minimal improvement and minimal maintenance below the Claiborne lock and dam on the Alabama at river mile 72.5. The only federally funded work on these lower portions of the Alabama and Tombigbee Rivers has been occasional channel dredging and work required as a result of the federally funded improvements above Claiborne and above Coffeeville. Historically, substantial river traffic, with a minimum of dredging, has been able to reach points below both these dams. One example is the Alabama State dock grain elevator facility which was constructed on the Alabama River south of Claiborne before—before, Mr. President—the Claiborne lock and dam and other improvements to the north were made on that river. Barge tonnage on the Alabama amounted to 1,100,000 tons in 1967 before the federally financed improvements were completed compared with an increase in tonnage of 1,700,000 tons in 1976 after these improvements.

In summary, Mr. President, most inland waterways with substantial non-ocean-going traffic which have not been substantially improved by Federal expenditures are excluded in part or entirely from the application of the river fuel tax in H.R. 8309. Many waterways which have benefited by substantial Federal expenditures have also been excluded. But, Mr. President, the Mobile and lower Alabama and Tombigbee Rivers still remain subject to the tax. These river systems should be excluded for two very clear reasons. First, these river systems do not contain significant federally financed improvements, and second, Mr. President, these river systems do not require substantial Federal maintenance expenditures. In short, it is inconsistent, illogical, and inequitable to apply the river fuel tax to the Mobile and lower Alabama and Tombigbee Rivers while permitting the exclusion of every other similar river system in the country. Accordingly, I urge the adoption of my amendment, which is technical in nature and is designed to correct a deficiency in H.R. 8309 which I do not believe the authors of the bill intended. I, therefore, urge the adoption of my amendment so that preferential tax treatment will be equitably extended to all U.S. waterways not federally improved or financed yet commercially used by non-ocean-going barge traffic.

This merely allows the Mobile River and the lower Alabama and Tombigbee Rivers to be excluded inasmuch as they have no substance.

Mr. GRAVEL. Mr. President, I have no objection to this. It is what I think is a very proper amendment. I yield to my colleague.

Mr. DOMENICI. Mr. President, I am not going to insist on a vote. But I do not share the feelings on the exclusions that are found either in the amendment that we have passed, nor with this one. I see no justification for them, but I will merely record my vote "no" if we have a voice vote.

Mr. ALLEN. I thank the Senator I appreciate his stating that he is not merely opposed to this amendment. He opposes the other amendments on the same principle.

Mr. DOMENICI. Exactly.

Mr. ALLEN. Yes.

Mr. GRAVEL. Mr. President, I yield back all time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

Mr. ALLEN. Mr. President, I move to reconsider the vote by which unprinted amendment No. 1295 was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. PROXMIRE). What is the pleasure of the Senate?

UP AMENDMENT NO. 1296

(SUBSEQUENTLY NUMBERED AMENDMENT NO. 1931)

(Purpose: To exempt certain barges from the tax on fuel)

Mr. ALLEN. Mr. President, I have an amendment which I send to the desk, and I ask that it be stated. I ask unanimous consent that it be made the pending business on tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, will the Senator from Alabama yield?

Mr. ALLEN. I yield.

Mr. DOMENICI. Rather than make it the pending business for tomorrow, I will not insist on a rollcall vote. I will express my objections and reasons, and we can have a voice vote tonight.

Mr. ALLEN. I appreciate the attitude of the distinguished Senator.

I ask that the amendment be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 1296:

On page 12, line 17, before the period insert "or to the movement by tug or otherwise of special barges, such as Lash barges, designed exclusively to carry international cargoes aboard such ocean-going vessels".

Mr. ALLEN. Mr. President, in June 1977, when the Senate passed H.R. 5885 to provide for the imposition of user charges on commercial vessels that utilize certain of our inland waterways, the report filed in support of the legislation by the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation made it clear that such charges would not be assessed against international traffic.

In October 1977, however, the House passed a substantially different bill (H.R. 8309) which substituted an inland waterway fuel tax for the user charges approved by the Senate and instead of exempting international traffic generally, as the Senate had done, the House bill merely exempts deep draft oceangoing vessels from the proposed tax.

Apparently, the House did not appreciate the very serious effect this narrower international traffic exemption will have on that segment of the U.S. maritime industry which is heavily committed to the so-called LASH (Lighter Aboard Ship) and Seabee methods of ocean transportation, or the complicated international and financial problems it

could create for the Federal Government as well. Accordingly, the amendment I offer at this time is designed to avert these unintended and unnecessary problems for industry and Government by simply making it clear that, in the case of LASH and Seabee methods of ocean transportation, the oceangoing vessel tax exemption contained in title II of H.R. 8309 shall apply not only to fuel required to move the large mother LASH and Seabee vessels, but also to fuel required to move those vessels' complement of oceangoing barges on the inland waterways of the United States.

LASH and Seabee methods of ocean transportation are relatively new. They involve the construction and operation of large, expensive, ocean-going vessels designed to carry a complement of small LASH or Seabee barges loaded with international cargoes. The mother vessels discharge their barges into inland waterways, both here in the United States and in foreign nations, to pick up and deliver international shipments. Congress encouraged the development of these new modes of international transportation to enable U.S. Maritime companies to compete more efficiently and effectively with low-cost foreign flag cargo fleets, and in a relatively few years, the Maritime Administration invested $310 million in construction subsidies for LASH and Seabee mother vessels and barges, and it guaranteed $177 million in loans to enable U.S. companies to acquire the vessels and barges. Thus, the Federal Government and the U.S. taxpayer has a stake of roughly a half billion dollars in the ability of U.S. LASH and Seabee operators to compete successfully with foreign flag fleets.

The basic concept of the LASH and Seabee methods of ocean transportation requires LASH and Seabee barges to be discharged from their large mother ships into the inland waterways of both the United States and foreign nations to pick up and deliver international cargoes. The LASH system was originally designed in Europe, so foreign flag operators also utilize that system of ocean transportation. Consequently, their LASH barges likewise travel along the inland waterways of the United States and of other nations around the world in purely international traffic. Thus, if the United States imposes a tax or other user charge on U.S. and foreign LASH or Seabee barges whenever they use our inland waterways to pick up and deliver international cargoes for their oceangoing mother ships, other nations throughout the world will almost automatically follow suit and impose similar taxes or charges on these same barges whenever they use their inland waterways to transport international cargoes.

For example, I am advised that recently the European economic community intended to impose a new tax or user charge on U.S. LASH barges that utilize the Rhine River in international traffic. Our State and Commerce Departments vigorously protested and ultimately persuaded the EEC not to impose this new tax burden on our LASH barges whenever they travel on the Rhine River. If the United States now acts to impose a fuel tax or other user charge on European LASH barges that utilize our inland waterways in international traffic certainly we can expect European nations promptly to reinstate the Rhine River charges on our LASH barges.

In sum and substance, therefore, LASH and Seabee barges engaged exclusively in international traffic on our inland waterways must be exempted from any fuel tax or other user charge the Congress decides to impose on inland waterway operations because the imposition of such a tax would lead to a chain reaction that could easily destroy some, if not all, of our own LASH and Seabee operators. Whatever new tax burden we place on purely domestic barge operations will end there—the domestic barge operators will have to pay only that one tax. But, if we impose that same tax on LASH and Seabee barges which must also utilize inland waterways of foreign nations throughout the world, we immediately expose them to an almost endless series of taxes or user charges wherever they operate. As stated above, this could easily result in an insurmountable economic burden for this segment of the U.S. maritime industry, and it could render this new system of transportation in which the American taxpayer has invested a half billion dollars noncompetitive with other modes of ocean transportation.

I understand that both the State Department and the Commerce Department are as alarmed as I am about the consequences of any tax or user charge Congress might impose on LASH and Seabee international traffic on our inland waterways, and hopefully letters the two departments have prepared expressing their deep concern will be made available for the record before the Senate takes final action on this legislation. Certainly, the two departments have good reason to be alarmed. Imposition of such a tax on LASH barges will immediately reopen the Rhine River tax battle they recently won. They will also be confronted with other taxes on U.S. maritime operations in other sensitive areas of the world, and the Maritime Administration will have good reason to wonder about the soundness of its half billion dollar investment in LASH-Seabee vessels and barges. Recently, two large LASH operators, one on the east coast and the other on the west coast, found it impossible to continue to operate their LASH systems profitably, so they abandoned their LASH operations. Other LASH operators are experiencing financial difficulties, so plainly the imposition of first, a new Federal tax in their operations in the United States, and second, a series of new user taxes on their operations in other parts of the world, could spell disaster for both the industry and the Government in this particular area of endeavor.

I am advised that LASH and Seabee international barge traffic on our inland waterways amounts to less than 1 percent of all traffic on the waterways affected by the pending legislation. It thus seems ludicrous to run all of the serious international and financial risks I have just described solely for the purpose of extending a new user tax to this international traffic on our waterways.

In conclusion therefore, I urge the Senate, in line with its previous exemption of all international traffic from these new user charges, to accept this amendment which, in reality, applies to only a small portion of the total international traffic on our inland waterways.

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

Mr. ALLEN. I yield.

Mr. MATHIAS. Mr. President, I have an inquiry of the Senator from Alabama.

I wonder whether the Senator can tell us what percentage of the total barge traffic on the waterways is represented by the exemption which the Senator proposes.

Mr. ALLEN. No, I am sorry, I do not have that figure.

I notice, however, that in the report on this bill it states:

> The section applies only to commercial shallow draft vessels. It does not apply to recreation vessels which already pay a fuel tax, nor does if apply to international traffic.

That is already part of the bill. This merely points out that it would not apply to LASH operations as well.

Mr. GRAVEL. As I understand, it is a very small percentage. It is a very new technology development that is going on, and it has been highly subsidized by the Federal Government to this point.

Mr. DOMENICI. In its truest sense, it is between 1 percent and 2 percent. If you can properly define LASH barges and if this amendment properly defines them, that is what it would be.

Mr. MATHIAS. That is what my inquiry is: Does the amendment properly define it?

Mr. DOMENICI. That is what my objection to it is. I have indicated that I am not going to insist on a rollcall vote but will merely vote "no" on it. If the Senator desires a rollcall vote, we can do so.

I assume we would want to put it over until tomorrow, in that event.

Mr. ALLEN. Yes.

Mr. DOMENICI. I have been told that it is drawn rather broadly. As I read it, it appears that not just barges designed to be carried on oceangoing vessels might be included and that our whole notion of a user fee is not against LASH barges. It is a bill to recover costs imposed on the public to benefit barge operators.

The fuel tax would be paid by a tow boat. If the tow boat contained both latch and regular barges how would you be able to divide up the tax? Those are some of the questions and a number of others that I raised.

Mr. MATHIAS. I wonder if I could make this suggestion to the distinguished Senator from Alabama. I have no reason at this point to call for a yea and nay vote on this and cause some inconvenience to Members of the Senate. But perhaps we could lay this over and give Members of the Senate an opportunity simply to look at it and see what its impact would be particularly if it is a new technology which may grow and which may then became a significant factor al-

though it is only a very small item at the present time.

Mr. ALLEN. I have no objection to laying it over. The Senator will recall that was the original request that I made that it be the pending business on tomorrow, and it was at the suggestion of the distinguished Senator from New Mexico (Mr. DOMENICI) that I went ahead and brought the matter up at this time.

Mr. DOMENICI. And I have no objection to holding it over. I say honestly to the Senator from Alabama my reason for not wanting to hold it over and merely stating my objection in the RECORD, and I will be honest with him, I just think the bill is, by the time we finish with it, including this amendment, a bill that is very, very apt to be vetoed and the exception as drawn is apt to make it more vague and the user tax theory less effective, and there is not anyone around here who doubts where I lie on that. So I did not think it hurt that cause, and I was willing to take it to conference on that basis.

Mr. ALLEN. I am still willing to see it go to conference, but if the distinguished Senator from Maryland wishes to have it carried over until tomorrow, I certainly have no objection.

Mr. MATHIAS. If that is agreeable to the Senator.

Mr. DOMENICI. Let us do that.

Mr. ALLEN. It is entirely agreeable, and I renew my unanimous consent request that the amendment be carried over until tomorrow and that it be the pending business when the bill is laid before the Senate for consideration.

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

OUR INLAND WATERWAY SYSTEM

Mr. BAYH. Mr. President, H.R. 8309, currently pending before the Senate, would authorize construction of a badly needed, new, enlarged lock and dam at Alton, Ill. At the same time, the bill will establish, for the first time, a system of waterway user fees to partially cover expenses associated with the construction, operation and maintenance of our inland waterway system. The impetus to link these two issues stems from the fact that we are on the verge of beginning a major reconstruction and enlargement of our inland waterway system.

Over the course of our history, the American taxpayer has built and maintained 25,000 miles of inland water routes, at a cost of some $8 billion. Currecently, annual expenses for building and running this system come to about $400 million and another $3.4 billion will be needed to finish projects already under construction. An additional $4.3 billion have been authorized for proposed projects. At a time when we are trying to reduce our Federal deficit, lower taxes, and closely scrutinize Federal outlays for new and existing military and social programs, it seems to me that it was most appropriate for the Senate to raise the question of future funding for waterway expansion.

Mr. President, a full public subsidy of our inland waterway system made sense a century ago when we were bent on western expansion and our railroads, which had a monopoly over freight transport, were receiving substantial assistance through land grant programs. Today this rationale no longer obtains. With costs soaring, major replacements and expansions planned and competing modes of transportation, especially rail transit, in financial difficulty, it seems only reasonable to partially phase out full Federal responsibility for expenses associated with the inland waterway system and ask waterway users to share the costs of enlarging and operating the system.

The question before us today is which of two alternative user fee proposals we will accept. Senator DOMENICI has proposed a fuel tax of 12 cents, phased in between 1979 and 1984, as well as recovery of 10 percent of future construction costs through license fees or tolls. The fuel tax proposed by the distinguished Senator from New Mexico would recover approximately 35 percent of operation and maintenance costs of the waterway system. Senator LONG has proposed a fuel tax of 12 cents also, although he would not impose such a tax until the pending legal challenge to the Alton project is resolved, with no recovery of construction costs. Both amendments require a comprehensive study on the impact of fees on our waterway system, as well as provisions vital for environmental protection of the Upper Mississippi.

Mr. President, last summer when the Senate voted on the user fee issue, the choice before us was either a very stiff user fee, amounting to 100 percent of operation and maintenance costs and 50 percent of construction costs, or no fee at all. At that time, I voted to impose a waterway user fee because I thought that some cost sharing by the industry was in order, and the Senate should go on record as supporting user fees in principle. This proposal passed, with provisions requiring congressional review of the impact of such user fees.

Since that vote, Mr. President, my staff and I have been in touch with the many groups in my State vitally affected by this proposal. As a Senator from a State on the inland waterway system, I have considered very carefully what the impact of the various proposals would be on Indiana. As Chairman of the Senate Transportation Appropriations Subcommittee, I have also carefully analyzed the impact of the different proposals on the Nation's transportation system as a whole. Finally, I have taken into consideration the need to get construction of locks and dam 26 moving, along with the President's decision to veto this bill if no construction cost recovery features are included. In light of all these factors, I have decided that the provisions contained in Senator DOMENICI's amendment most nearly meet the test of equity, both for taxpayers and competing transportation modes, and are the only ones that can move construction at Alton. I will cast my vote accordingly.

Mr. President, even with passage of the Domenici amendment, the Federal Government will still be paying 90 percent of construction costs, which constitute the lion's share of waterway expenses, and approximately 65 percent of operation and maintenance costs. The Domenici amendment will phase in the fuel taxes over 6 years. Its construction cost recovery provisions will not apply to locks and dam 26 or projects under construction, but only projects down the road. This lead time should give the industry sufficient time to adjust to the new economic climate they will face.

In the interim, Mr. President, the Department of Transportation and the Army Corps of Engineers will study the impact of these proposals thoroughly and report back to Congress in 3 years. Further, the Domenici amendment includes certain protections against economic hardships. It specifically prohibits any user fee that will result in serious economic disruption on any segment of the inland waterway. Finally, it provides that the construction cost recovery provisions will terminate upon enactment of any statute by the Congress that either authorizes the recommendations of the Secretary, to be forwarded to the Congress, or rejects or modifies such recommendations.

Mr. President, the establishment of a system of user fees is a change in national transportation policy that appears fair and timely. Every President since Franklin Roosevelt has recommended this course of action, and 15 comprehensive studies of the issue have been undertaken by the Government since 1939. In the last 2 years, the DOT has spent a considerable amount of time and money studying the costs and benefits of such a system and the administration feels strongly that the Nation will benefit from such a system. The imposition of fees will prove DOT right or wrong. I will be following developments closely and stand ready to go back to the drawing boards if necessary when DOT reports back to us.

Mr. President, President Carter has assured me that he will not veto this bill if the Domenici amendment is adopted. Therefore, I will support Senator DOMENICI's amendment, which will permit construction of the Alton project, protect the ecosystem of the Upper Mississippi, and institute equitable cost-sharing by the waterway industry.

NOMINATION OF BENJAMIN CIVILETTI

Mr. WALLOP. Mr. President, tomorrow the Senate will take up the nomination of Benjamin Civiletti and consider that together with a rather controversial report about which I have some remarks at the desk. Contained within that is a chronology of significant events surrounding the conclusions of that report.

Mr. President, recent developments on matters related to the nomination of Benjamin Civiletti have caused many members of the Judiciary Committee and the Senate great concern. The report released in the name of the Committee (although written by one staff person and filed before the committee's members had seen it) arrived at the astonishing conclusion that, on the basis of a "complete" record, "there was no

investigation of Congressman EILBERG at the time of the telephone call to the President * * *" and that "there was no 'coverup' of any investigation simply because there was no such investigation in existence during the time in question."

As one member of the Judiciary Committee who spent many hours during the hearings on Mr. Civiletti's fitness to serve as Deputy Attorney General, I am compelled by the hearing record itself to take issue with the preposterous conclusions of the report. It is inaccurate to suggest that the hearing record is "complete" on the questions raised about the Marston dismissal. On the contrary, the White House has not yet furnished the affidavits requested by members of the committee, nor has the committee obtained important information requested of various witnesses, nor has the committee heard from many key witnesses whose presence was requested who could shed light on the details surrounding that dismissal.

Assuming for argument's sake that the conclusions of the report could be sustained (which clearly is not the case on the basis of the record) the report should not be used to obscure a more fundamental question which has not yet been sufficiently developed.

The President of the United States is this country's chief law enforcement officer. He is assisted in carrying out this responsibility by the Attorney General. Whatever details the President or Attorney General did or did not know about an EILBERG investigation is irrelevant to their broader responsibility for the fair and efficient administration of justice. It was common knowledge that a massive investigation into political corruption in Pennsylvania had been going on for more than a year. The distinguished head of the Philadelphia FBI, Mr. Neil Welsh, described that city as a "cesspool of corruption." President Carter acknowledged this when he instructed Attorney General Bell to remove David Marston, saying that Congressman EILBERG had told him that Marston was prosecuting too many democrats. For the President and his Attorney General to respond to a political request to oust a U.S. attorney where the obvious consequence would be the interruption of leadership in an office charged with routing out this widespread political corruption causes great consternation about the President's commitment to uphold the laws of the land. The question lingers: Was it or was it not an obstruction of justice?

Mr. President, inasmuch as the Senate will soon be taking up the nomination of Benjamin Civiletti, it is timely to ask unanimous consent to have printed in the RECORD, for the benefit of those who have not had an opportunity to review them, a chronology of important events surrounding the Marston dismissal and accompanying remarks.

For the reasons set out in my additional views on the Civiletti nomination as well as in the chronology and accompanying remarks set forth, I must oppose the nomination when it comes to the floor.

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

CHRONOLOGY OF EVENTS LEADING UP TO THE DISMISSAL OF DAVID MARSTON AS U.S. ATTORNEY

By now, we are all familiar with the controversy surrounding the dismissal of David Marston as the United States Attorney for the Eastern District of Pennsylvania. The facts and circumstances surrounding that event were developed during the course of the hearings on the nomination of Benjamin Civiletti to be Deputy Attorney General. This area of inquiry was directly relevant to the Committee inasmuch as Mr. Civiletti was a prominent figure—the Assistant Attorney General of the Criminal Division and the Acting Deputy Attorney General—in the Justice Department at the time the so-called "Marston Affair" occurred. As a high-ranking official, Mr. Civiletti was in a position to know what criminal matters were under investigation, at whatever stage, in the Criminal Division which he headed.

It was essential to my determination of Mr. Civiletti's fitness to serve as Deputy Attorney General to assess:

(1) what information or knowledge he had about an investigation involving or related to Congressman EILBERG at either the time that the Congressman called the President and the President in turn urged the Attorney General to remove Mr. Marston, or, at any time prior to the actual replacement of Mr. Marston, in time to alert the President and Attorney General and to shield them from acting as either witting or unwitting instruments of a possible attempt to obstruct justice; and

(2) If Mr. Civiletti did not know about any such investigation, why he did not, a question that goes directly to his competence as a manager and administrator of the Criminal Division, and by analogy, the entire Justice Department.

I approached the hearings with an open mind. It would have given me great pleasure and peace of mind to conclude, after the intensive questioning, that there was no possibility of wrongdoing in the dismissal of David Marston and that Mr. Civiletti had nothing to do, either directly or indirectly, with any of the events leading up to or following that dismissal. However, the Justice Department had too much information circulating through its various sections and field offices by mid-November about Hahneman Hospital and a transaction involving one, if not two congressmen, to sustain to my satisfaction Mr. Civiletti's contention that he did not know of any such investigation. Viewing this in the alternative, if in fact he did not know about an investigation, it is quite clear that he should have known about a matter as sensitive as this one. The testimony we heard evidences an apparent breakdown in communication between line attorneys, section chiefs, deputy assistant attorneys general and the Assistant Attorney General himself, Mr. Civiletti.

I will set forth below some of the dates and events which cause me to doubt Mr. Civiletti's testimony that he simply has no recollection of any of the significant facts or information he had been told of, or about which he should have been aware, concerning Congressman EILBERG.

One last word as to the significance of this time chart. We have not, as yet, heard the complete story on the "Marston Affair" from the White House. The Attorney General testified that at the very least we should hear from Mr. Moore and Mr. Cable about the phone calls from Congressman EILBERG's office that precipitated the ouster of Mr. Marston. Because the White House has been less than forthcoming—they have refused a request for affidavits submitted by five senators on this committee—it is very difficult not to wonder whether the President might not have been aware of some of the events I am about to detail, and if he was, whether there may not be some criminal mischief afoot at the highest levels of government.

The dates below are significant because they all have one common element, that is, Hahnemann Hospital. A combination of information about Hahnemann Hospital and a transaction related thereto involving either Congressman Eilberg or his law firm (Eilberg, Corson, Abramson and Getson) surfaced on many occasions beginning in March, 1977, and intensifying by November, 1977, and becoming far more specific by December, 1977. This information was sufficiently developed in January to have raised very serious doubts in the public's mind about the propriety of the President carrying out his legal right to fire a United States Attorney at a time when it was clear that political corruption investigations were ongoing that would be disrupted by interrupting the leadership of the United States Attorney's office in Philadelphia.

KEY TO CHRONOLOGY

Editorial comments.—These comments reflect the inferences I have drawn from all the information I have reviewed.

In some cases first names have been omitted for convenience and not out of disrespect for the persons mentioned.

March 1977.—Witness Charles A. Cordial advised Special Agent Thomas Marsh, F.B.I., Washington, D.C., of Mr. Elko-Congressman Flood connection to President Shober of Hahnemann Hospital medical school in Philadelphia, Pennsylvania.

May 12, 1977.—Protected witness Deryl E. Fleming advised Special Agents Philbin and Brinkley, F.B.I.; Philadelphia, in Mr. Dowd's office, of Mr. Elko's involvement in Hahnemann Hospital project and payoffs by principals to Elko and Flood.

June 1, 1977.—Protected witness Deryl E. Fleming advised Special Agents Sackreiter and James, F.B.I., Philadelphia, in Mr. Dowd's office, of Elko and Congressman Flood involvement in Hahnemann Hospital.

May or June, 1977.—According to Mr. Civiletti's affidavit, "somebody" (probably one of his three Deputy Assistants, according to his testimony) mentioned the possibility that Congressman Eilberg might be involved in a questionable transaction.

This was brought up in the context of the grand jury reform legislation, a fact relevant in its own right, contrary to Mr. Civiletti's testimony and affidavit. Set against the background of grand jury reform, an otherwise casual comment would, in all likelihood, take on added significance, particularly to an experienced prosecutor or criminal lawyer. Congressman Eilberg is the chief sponsor of the grand jury reform legislation and also the chairman of the subcommittee before which Mr. Civiletti testified on that bill. According to an internal Department of Justice memorandum, the grand jury reform legislation is a top priority item of the Criminal Division. If Mr. Civiletti was told that Congressman Eilberg might at some time be, or in fact was under investigation, however preliminary, he would have been aware of the impact that Congressman Eilberg's reform legislation could potentially have on the draftsman himself. In other words, it is highly implausible that Mr. Civiletti would dismiss the comment so easily. Query why this "someone" thought to mention the possibility that Congressman Eilberg might be of investigative interest in the context of the grand jury reform hearings?

July 11, 1977.—Peter Smith, Assistant United States Attorney in Mr. Marston's office submitted a memorandum to Mr. Marston setting forth the facts upon which he based a recommendation that an investigation into Hahnemann Hospital should be opened. In that memo, a letter from Congressman EILBERG's law firm is listed under the category heading "Other Evidence." Marston initialed

the memo and instructed Smith to open an investigation.

August 4, 1977.—Charles Cordial indicted on obstruction of justice and perjury.

August 17, 1977.—At a meeting in his Washington, D.C. office, Mr. Baker was informed by Alan Lieberman, Assistant Attorney General in the Philadelphia United States Attorney's office, that an investigation had been started into a transaction that might involve Congressman EILBERG.

Inasmuch as this conversation occurred shortly after the Philadelphia office began its investigation, it is quite likely that Mr. Lieberman was describing a transaction involving either Congressman EILBERG or his law firm which was connected with Hahnemann Hospital.

August 18, 1977.—Mr. Baker reported the August 17 conversation to Mr. Civiletti.

The hearings did not resolve whether this was the same conversation that Mr. Civiletti had identified as having taken place in May or June.

If it was, then we know that Mr. Baker and Mr. Civiletti had an early conversation about the possibility of an investigation involving Congressman EILBERG. This would make their November 25, 1977 conversation at least a second discussion of Congressman EILBERG vis à vis an investigation.

If someone else told Mr. Civiletti about Mr. EILBERG in May or June, then this August conversation was at least the second time that Congressman EILBERG was brought to Mr. Civiletti's attention as possibly being involved in a transaction that might be the subject of an investigation. This, in turn, would make the November 25, 1977 discussion with Mr. Baker at least the third time that Mr. EILBERG was a topic of sensitive discussion with Mr. Civiletti.

August 26, 1977.—Mr. Cordial pleads guilty to obstruction of justice.

September 15, 1977.—Convicted witness Charles Cordial advised Special Agents Bird and Foster, F.B.I., Washington, D.C., of Mr. Elko obtaining federal funds for Hahnemann Hospital and agreed payoff to Mr. Elko and Mr. Fleming for their efforts in obtaining federal funds.

(Approximately) September 20, 1977.—Mr. Baker returned from Philadelphia where he met with a number of people including the Philadelphia Strike Force (Joel Friedman) and Neil Welsh, the highly respected F.B.I. Agent in charge of that office. He was "urged" by Mr. Welsh to report back to Washington that Philadelphia was a "cesspool" of corruption, that Marston was doing an excellent job, and that it was important to retain him. Mr. Baker reported this to Mr. Civiletti and to Mr. Egan.

Clearly, then, Mr. Civiletti was made aware that Philadelphia was a hot-bed of political corruption in need of conscientious prosecution of the political corruption cases. Mr. Welch's recommendation combined with Mr. Civiletti's March, 1977 recusal in the *U.S. vs. Fineman* case in Philadelphia might well have put Mr. Civiletti on notice that there might be some real merit to the information he had heard by this time at least once and possibly twice about Congressman Eilberg.

October 19, 1977.—Mr. Elko and Ms. Brislin were convicted in the West Coast Trade School Case in Los Angeles. Mr. David Hinden was the Assistant United States Attorney and prosecuting attorney on that case. Mr. Fleming testified as the principal government witness against Elko.

October 20, 1977.—Mr. Dowd flew out to Los Angeles and met with Mr. Elko and Ms. Brislin in the law offices of Mr. Alan May. Mr. Dowd raised the subject of Hahnemann Hospital as one of the areas about which he believed Elko could provide information. Mr. Dowd's source of information was Mr. Fleming, a business associate (of sorts) of Mr. Elko.

October 25, 1977.—The F.B.I. in Philadelphia, under Neil Welch's direction, opened a case on Hahnemann Hospital.

November 4, 1977.—Congressman EILBERG called President Carter urging him to remove David Marston as United States Attorney. He informed President Carter that Marston was prosecuting too many Democrats.

November 4, 1977.—Mr. Baker signed off on a request for immunity for Mr. Elko and Ms. Brislin. This was done in conjunction with Mr. Dowd's Strike Force 18 and Mr. Friedman's Strike Force in Philadelphia.

We have learned through testimony that an immunity grant requires, as a final step, the approval of the Assistant Attorney General. This is required by law, 18 U.S.C. 6003 et seq. Now, Mr. Civiletti was somehow unavailable on November 4, 1977 and according to testimony, Mr. Baker authorized these grants of immunity.

The contents of all the paperwork accompanying the request for immunity is significant. One document indicates that Mr. Fleming had said that Mr. Elko would be able to testify about Hahnemann Hospital. There is a detailed paragraph on that subject.

So we have a situation, then, where Mr. Baker has heard Hahnemann Hospital mentioned to him, or a transaction concerning Congressman EILBERG's firm, or both, in August. He again heard in September that Philadelphia was a "cesspool" of political corruption. Furthermore, according to testimony from Mr. Dowd and Mr. Baker, they met quite often, frequently bypassing the chain of command in the organized crime-strike force section. Therefore, it is possible that Mr. Dowd may have mentioned his work, and most probably his trip to California to interview Mr. Elko, to Mr. Baker. Mr. Baker, then, was reviewing immunity documents that touched upon a subject that was quite familiar to him by November 4, that is, Hahnemann Hospital. And it is not impossible that he may have made the necessary connections in his mind between Hahnemann Hospital and the transaction involving Congressman EILBERG.

There is also a curious aspect about this November 4 immunity grant. We know from Mr. Civiletti's log that he was in the Department of Justice during that day. In fact, according to Mr. Baker's records and Mr. Civiletti's logs, he had on that very morning called Mr. Baker in for a meeting. Now, this was the first time that Mr. Baker's calendar reflected a request by Mr. Civiletti to see him. Generally, they have both testified, they caught each other in passing and met informally. But this date was somewhat different.

We also have a conflict between testimony and documents on this point. Mr. Civiletti does not recall requesting a meeting with Mr. Baker. In fact, he testified that they did not meet that morning. Mr. Baker does not recall a meeting, but his log reflects a meeting at 9:35 with Mr. Civiletti. Mr. Civiletti's log shows Baker at 9:35 and is again listed at 10:00.

What did they meet about? Or what did Civiletti plan to discuss with Mr. Baker? And did Mr. Baker bring up the subject of the immunity grant at that time? None of these questions were answered to my satisfaction. One might guess, though, with as sensitive a matter as this, that Mr. Baker may well have mentioned the request for immunity to Civiletti. And even if he didn't bring it up that morning, it would still seem important enough that at some later time, Mr. Civiletti would have been, indeed should have been, briefed on the Elko-Brislin immunity.

November 4, 1977.—Mr. Elko subpoenaed to Philadelphia Grand Jury.

November 7, 1977.—Dr. Holmes of Hahnemann Hospital interviewed by F.B.I. in Philadelphia.

November 7 or 8, 1977.—President Carter calls Attorney General Bell urging Judge Bell to replace Mr. Marston because, among other reasons, Marston was prosecuting too many Democrats. According to the Attorney General's testimony, Mr. Civiletti was probably apprised of this conversation with the President shortly after it took place.

November 7, 1977.—A Philadelphia Grand Jury heard testimony from Mr. Elko.

November 10, 1977.—A Washington, D.C. Grand Jury heard from Mr. Elko.

Surely, Elko's testimony did not go unnoticed by anybody in the Justice Department. At the very least, Mr. Friedman, in Philadelphia and Mr. Dowd in Washington were aware of what was going on.

November 13, 1977.—United States Attorneys Conference in Washington, D.C. Mr. Marston met with Associate Attorney General Michael Egan. Mr. Egan told Mr. Marston about the "pressures from on high" to replace him, describing Congressman EILBERG's phone call to the President.

November 14, 15, 16, 1977.—Mr. Elko was in Mr. Dowd's office along with Assistant United States Attorney David Hinden and other F.B.I. agents. During debriefings, Mr. Elko mentioned Hahnemann Hospital and Congressman EILBERG. Somebody, either Mr. Hinden, Mr. Dowd or an F.B.I. agent showed Mr. Elko a piece of paper dated June, 1976, which detailed various job options for Mr. Elko. One notation indicated a sum of $50,000 to be paid Mr. Elko by Congressman EILBERG's law firm. The Eilberg-Hahnemann Hospital connection was discussed, though not in detail.

There is another conflict in testimony on this point. Mr. Dowd specifically denied that Mr. Elko had discussed Congressman EILBERG or Hahnemann Hospital on November 14, 15 or 16. He also had no recollection of using papers, visual aids, or diagrams in debriefing Mr. Elko. Contrast this with Mr. Hinden who was quite certain that the subject of EILBERG and Hahnemann Hospital had come up in November and that Mr. Elko had been questioned on these dates about a document which contained a reference to Congressman EILBERG's law firm.

November 25, 1977.—Mr. Baker met with Mr. Civiletti, a meeting which Mr. Civiletti does not recall but, significantly, does not deny. Mr. Baker informed him at this time that the "Eilberg case is alive" as Mr. Baker's notes reflect. In addition, Mr. Civiletti was informed of the conversation from on high to replace Mr. Marston and the fact that Mr. Marston's office was conducting an investigation into Congressman EILBERG.

This was not a casual comment. This conversation called for some direction from Mr. Civiletti as to how the Criminal Division should follow up on this possible criminal act by a congressman. Mr. Civiletti's response, to "tell Egan," is entirely unsatisfactory coming from the head of that Division.

Mr. Egan, after all, has nothing to do with the Criminal Division. His job is replacing United States Attorneys. Mr. Civiletti should have seized the reins and directed further investigation into Congressman EILBERG's call as a possible attempt to obstruct justice, in addition to alerting Mr. Egan and the Attorney General to this sensitive matter.

December 9, 1977.—Intensive discussions focusing on Hahnemann Hospital and Congressman EILBERG took place during the debriefing of Mr. Elko. These are reflected in the F.B.I. 302's taken during those sessions. The debriefing sessions continued throughout December through January 3, 1978 according to Mr. Hinden's testimony.

How does one reconcile the testimony of Mr. Hinden and Mr. Dowd? Mr. Hinden's testimony is that as early as November 14, 15 and 16, Mr. Elko was discussing Congressman EILBERG and Hahnemann Hospital. Mr. Dowd has testified otherwise; in fact, he has

said that on these dates, there was no mention of either EILBERG or Hahnemann. But this is not the only significant difference between Mr. Dowd's perceptions of the Elko debriefings and those of Mr. Hinden. Mr. Hinden testified that on December 9, intensive discussions were underway in Washington. In fact, these discussions took place in Mr. Dowd's office in the presence of F.B.I. agents. One of the subjects brought up and described in detail was Congressman EILBERG's involvement with Hahnemann Hospital, discussions which are reflected in F.B.I. 302 notes. Mr. Hinden went even further in his description of these debriefings when he said that they continued in an intensive fashion from the beginning of December until January 3, 1978.

Mr. Dowd's testimony is otherwise. According to his recollections, the first date upon which he had facts connecting Congressman EILBERG to Hahnemann Hospital was December 19.

Fortunately, this conflict in recollections can be resolved by reference to the F.B.I. 302's which were taken during debriefings of Elko at which Mr. DOWD was present if not actively participating which corroborate Mr. Hinden's testimony.

This is relevant to our inquiry into what Mr. Civiletti knew, and when he knew it, because it has a very direct bearing on Mr. Baker's notes of the November 25 meeting with Mr. Civiletti at which time he reminded Mr. Civiletti that there was no change in the status of Congressman EILBERG and that the "EILBERG case is alive."

If, as Mr. Hinden has testified, Mr. Elko had mentioned Congressman EILBERG and Hahnemann Hospital on November 14, 15 and/or 16, then it is that much more likely that there was real substance to Mr. Baker's notes that the "Eilberg case is alive." After all, by that date, the F.B.I. in Philadelphia already had an active case on Hahnemann Hospital, the U.S. Attorney's office in Philadelphia was involved in that investigation, and John Dowd's Strike Force 18 was also involved in aspects of the Hahnemann Case.

In the final analysis, Mr. Hinden's testimony makes Mr. Baker's testimony—that he discussed an EILBERG case with Mr. Civiletti—that much more believable.

This outline could most certainly be expanded to include other pertinent events during the latter part of December and in January, including, of course, the dismissal of David Marston as United States Attorney.

January, we all know, is the month in which the President held a press conference at which time he was asked about Mr. Marston and Congressman EILBERG's phone call. It was shortly thereafter that the President revised his previous posture on the Marston matter.

January was also the month in which Mr. Marston notified the Attorney General by letter (dated January 9, 1978) that principal defendants in political corruption cases were eager to have Marston removed and viewed that event as a remedy for their less than desirable lots.

We also know that Mr. Dowd briefed the Attorney General and many other individuals on January 16 on the investigation involving Congressman EILBERG, and that beginning on that day and continuing for one week, the Office of Professional Responsibility conducted a superficial investigation intended to clear the President and Attorney General of wrongdoing. The Attorney General himself testified that the in-house investigation by the Office of Professional Responsibility did not go far enough and that, at the very least, Mr. Moore and Mr. Cable in the White House should have been interviewed. While the details of all the events of December, January and February concerning the "Marston Affair" are not developed in this summary outline, that is not to say that they are not relevant to the general question—who knew what and when?

However, insofar as my evaluation of Mr. Civiletti to be the Deputy Attorney General of the Justice Department goes, the aforementioned events are the material ones. Based upon this chronology, it was my conclusion that the Department of Justice had enough information by November about an "Eilberg case" to have put the Attorney General and the President on notice that Mr. Marston's office was investigating sensitive matters surely touching upon one, if not two congressmen, both of whom had repeatedly insisted on the replacement of Mr. Marston.

A quick review of all the events that occurred prior to November 25, support my conclusion that Mr. Baker did meet with Mr. Civiletti on November 25 as Mr. Baker has testified and furthermore, Mr. Civiletti was told about the "Eilberg case" on that date.

In finding Mr. Baker's testimony more credible than Mr. Civiletti's, I am not accusing Mr. Civiletti of lying. I have said during these hearings that his memory is a highly selective one, and I will stand by that. I arrived at this conclusion after an evaluation of the most reliable evidence. In this case, I am impressed by a combination of factors including, but not limited to, Mr. Baker's personal notes and his affidavit and testimony. Because Mr. Civiletti's credibility is in doubt on the Marston matter, in addition to other reservations I already have expressed in "additional views" on Mr. Civiletti's nomination, I am compelled to oppose this nomination.

SOLAR ENERGY—A PROMISE AND A CHALLENGE

Mr. HARRY F. BYRD, JR. Mr. President, today Americans from coast to coast are holding observances of Sun Day, a celebration of the great potential of solar energy.

As a supporter of our solar energy programs, and as a cosponsor of Senate Joint Resolution 110, which established Sun Day, I am greatly encouraged by the Nation's response today.

I believe that we should look at solar energy as a promise and a challenge: A promise of almost limitless energy, free of polluting effects, and a challenge to our science and technology to make this promise a reality.

I take pride in the role which my State of Virginia has played in the development of solar energy.

Today it was announced that Ferrum College, in Franklin County, Va., will build a dormitory heated and cooled by solar energy, with the aid of a grant from the Department of Housing and Urban Development.

This is the newest of a number of major solar projects in Virginia, including an advanced solar technology building at Langley Research Center in Hampton and solar installations at Fauquier High School in Warrenton and Terraset School in Reston.

In addition, a number of private developers are including solar hot water heating in newly built homes. Approximately 50 homes in Virginia now are equipped with solar heating and cooling equipment.

At the Virginia Polytechnic Institute and State University in Blacksburg, research is going forward in the technology of using solar energy for livestock shelters and for the drying of grain.

The efforts going forward in Virginia and her sister States are of immense importance. Only through research and development, and the practical applications of the fruits of scientific work, can we make progress toward the realization of the true potential of the Sun.

Solar energy is certainly one of the most promising technologies now under development to give our Nation a greater degree of independence from high-priced foreign oil. It has the particular virtue, also, of providing a vast energy supply without damage to the environment.

So it is wholly appropriate that on this Sun Day we give the greatest possible encouragement to those in private industry and government who are working to harvest the energy from the Sun.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, appoints the Senator from Oklahoma (Mr. BARTLETT) as a congressional adviser to the SALT delegation in Geneva during 1978.

TEXTILE TARIFF CUTS MEANS EXPORT OF JOBS

Mr. HELMS. Mr. President, I am pleased to join in sponsoring S. 2920, the bill offered by the distinguished Senators from South Carolina (Mr. THURMOND and Mr. HOLLINGS) to exempt textiles and apparel from tariff reductions during the Tokyo Round of Multilateral Trade Negotiations in Geneva.

The American textile and apparel industry is the largest single employer in the United States, employing over 2.3 million people, or 1 in 8 of all manufacturing employees. Of this, 17 percent are minority workers and 66 percent are female. It is the largest employer in North Carolina. Located in both urban and rural areas, this industry's continued ability to provide meaningful jobs is vital.

The survival of this industry is being threatened by rapidly increasing imports into the American market. In the period 1972–77, on a per-pound basis, imports grew at a rate three times faster than our domestic market.

The textile and apparel trade deficit has increased over 30 percent since 1973, to a negative $3.4 billion last year. These figures translate to a displacement of over 400,000 jobs in the American textile industry. In North Carolina, close to 2,500 workers have had petitions approved for adjustment assistance, ranking North Carolina the fifth highest State for petitions approved.

Even with our existing bilateral agreements, which cover some three-quarters of our textile and apparel imports, the potential import growth for 1978 is enormous. Because of a combination of factors, this year's imports could easily exceed 1977 figures by 40 percent.

A reduction of duties on textiles and apparel would only invite more textiles and apparel into the United States. U.S.

market growth is estimated at 1½ percent per year to 1983. In terms of annual growth rates, the scenario over the next 5 years could be: Domestic market, 1½ percent; quotas, 6 percent, and imports, 10 percent.

Reductions in tariffs would aggravate this already serious problem. The cuts under consideration could lead to an additional loss of 50,000 jobs directly and thousands more in ancillary industries. For this reason, they must be prevented. Textile tariff cuts are totally inconsistent with our textile trade program, for they distort the basic assumption behind the multi-fibre agreement. They are equally inconsistent with the overriding goal of this and previous administrations to reduce unemployment.

One added aspect of the importation of textile goods has been unfortunately overlooked. It is the role that the U.S. taxpayer has had in subsidizing the development of textile industries in other nations. A glance through the reports of the World Bank, the Inter American Development Bank, the Asian Development Bank, the Export-Import Bank, and the Agency for International Development have all subsidized through loan guarantees, grants, or low-interest loans, the construction of textile industries in various countries. In the case of U.S. agencies, those aids came directly from the U.S. taxpayer. In the case of the multilateral assistance agencies, in no case is the U.S. taxpayer not the largest single benefactor.

The subsidization of textile mills abroad puts the U.S. Government in a schizophrenic position. On one hand, the Federal Government taxes textile workers in North Carolina and other places and uses some of that tax revenue to help build textile plants in other nations. Then it says "We must help these countries sell their output." And so imports to the United States grow far faster than the U.S. market grows. American textile jobs decrease, and people who used to pay taxes are now on welfare rolls or other Government assistance programs. That is not good government, good politics or good economics.

I fully support S. 2920, and I pledge my best efforts toward its early Senate passage.

WASHINGTON METRO ALTERNATIVES ANALYSES

Mr. MATHIAS. Mr. President, a significant regional decision for the Washington Metrorail system was announced today in Washington. Locally elected officials at the Washington Council of Governments meeting today determined the results of a federally mandated "alternatives analyses" of the Washington regional rapid rail system after this comprehensive assessment. Their conclusion was that the entire 100-mile system, as originally adopted 10 years ago, best serves the needs of the citizens of the region and should be completed.

The success of the Washington Metrorail system has attracted attention throughout the country. Use is greater than expected. Approximately 180,000 to 190,000 people a day are riding the 23-mile Metrorail system. Most seem pleased with it except for the expected minor irritations of working the kinks out of something new. The public acceptance has been so positive that a new phenomena, the lunchtime "rush hour," has been created in the middle of the day by the "lunch bunch." Meanwhile, Metro has been minimizing transit operating costs by the elimination of bus service that competes with Metrorail. This is particularly noticeable where the citizens have the most to gain by switching to rail—in Montgomery and Prince George's Counties. In addition, the system has been essentially crime-free, thus eliminating the perceived fear of an underground subway system. By any conceivable service measure, the congressionally approved Metrorail system is clearly a success.

Even a brief examination of the Metrobus program shows that it, too, has improved lately. Costs are being stringently controlled. Ridership gains are evident where the buses have been smoothly integrated into the rail system. Service improvements in some areas are apparent. Metrobus is not perfect—but there are clear signs of progress.

We have all heard about the tremendous cost increases and delays in building the system. The vast majority of the cost increases are due to inflation and construction delays.

Some of these delays have been caused by "cost saving" decisions made by the U.S. Department of Transportation. The Department demanded a thorough reevaluation of all unbuilt links of the system in a new process known as alternatives analysis. Since the beginning of this federally mandated alternatives analysis study, it has been subjected to flurries of requests from the Urban Mass Transit Administration to change the study in midstream. Local officials reluctantly concurred in the decision to conduct this study, and insisted on a thorough reevaluation of the system to insure an analysis of the highest possible integrity that would meet all possible Federal objectives. The result was a resounding reconfirmation of a system of approximately 100 miles.

While this analysis has been going on, the costs of building it have continued to mount. We now must ask ourselves whether anything really has been gained as a result of this 17-month, federally mandated delay?

Let us take a look at the so-called 60-mile interim capital contributions agreement between local jurisdictions and UMTA. As I understand it, this agreement is to fund to operational status 60 miles of Metrorail, and partially fund the construction of other segments.

One of the components of the interim capital contributions agreement is the "part B–3" package. It is not controversial—all of the jurisdictions concurred on it 2 years ago. The formal application for these funds was submitted on September 12, 1977. Nothing has happened since then. Even though UMTA staff knew it was coming, there has been no approval of this important grant, nor has UMTA commented on it. WMATA estimates that the delay has cost approximately $330,000 each month, or about $2.5 million for the 7½ month delay to date.

WMATA has been using money reserved and committed for other projects to fund the essential construction items which had to go forward. The Authority has, therefore, lost at least $100,000 of potential interest earnings which could have been used to help fund the system.

Then, on top of all of this, there is the Glenmont, Md., route "B" debacle. In a letter to Secretary of Transportation Brock Adams dated June 13, 1977, I urged that this route not undergo alternatives analysis, since the many years of prior study and evaluation have shown it to be absolutely vital. Instead, I recommended a "thorough reevaluation of the architectural and engineering design standards."

In its report on the Department of Transportation Appropriations request of fiscal year 1977, the Appropriations conference committee required a condensed architectural and engineering analysis to be completed by October 1, 1977.

The local officials completed their report to UMTA by that date.

Although UMTA staff had fully participated in the entire study, it seems they were not able to provide the Secretary with sufficient information for him to make a decision until November 21.

UMTA was not yet satisfied, however. They hired their own consultant to evaluate the work of WMATA's consultants. This involved 3 more months of work which brought us to February 14 of this year.

Last August 12, WMATA halted final design work on route "B" in the expectation that savings of the engineering analysis on this route would be realized. The analysis did recommend certain changes that could have resulted in approximately $19 million in savings—if redesign could begin in November. It could not.

Redesign could not begin until mid-April. The costs due to this delay of 5½ months are put at a minimum of $6.9 million, or about one-third of the total design savings. However, if the analysis had not been required in the first place, the whole 2-year delay in construction would not have occurred. I am sure that this 2-year delay will cost more than $19 million. Was this reanalysis with its delays and costs necessary? Absolutely not.

We could also look at the Department's review of the Metrobus program to see how many major items such as bus garage replacement and rehabilitation programs have been delayed, also greatly increasing their costs.

We know that the cost of building the entire Metrorail system will be more than the available money from the interstate highway transfer provisions. We can expect that there will be more delays and higher costs simply because of the problems in processing grant applications through the Department of Transportation. We can expect that the administration will be recalcitrant about deciding to complete this system, despite its proven and growing success.

I wonder how we can restore a sense of financial responsibility to the Washington Metrorail system when the Department of Transportation itself is a major source of construction delays and cost increases? To eliminate this costly unnecessary redtape, I believe it may well be appropriate to direct congressional funding for this program.

I am afraid that similar problems are occurring across this Nation in other cities attempting to provide energy-efficient and full-service mass transit systems. It is indeed unfortunate that local decisionmaking is being thwarted by the Federal Department of Transportation.

Clearly, the administration lacks a commitment to solve Washington transit problems as an important component of center city revival—a program that must be a cornerstone in the President's urban policy.

SUN DAY

Mr. DOLE. Mr. President, today is May 3, designated by the Congress as Sun Day. In Washington, D.C., in Lawrence, Kans., and all across the Nation today, there will be programs extrolling the benefits of clean, safe, and environmentally acceptable solar energy. As a cosponsor of the original Senate resolution, I would again like to express my support for Sun Day.

The Sun Day celebration has involved the efforts of many people. Credit certainly should go first to Dennis Hayes, who has taken the idea from its conception to the point where it is a national observance. Credit also goes to all the States, local governments, and private groups that have lent their support and committed their resources to organizing the celebration throughout the country.

A MESSAGE TO THE GOVERNMENT

While I am sure that the celebration will be entertaining, interesting, and informative for all those who attend, I think that we in the Congress must view Sun Day from a much different perspective. For us in Congress, Sun Day represents a very serious message from the American people to their elected representatives.

The message is that the citizens want to see a real commitment to solar energy. They cannot help but be dissatisfied with the present effort within the Government to foster solar energy, and they want to see this situation changed. The question is whether the Government can rise to this new challenge.

GROWTH OF THE SOLAR INDUSTRY

Certainly we have seen a rapid growth of solar energy in the private sector, especially for heating water and for heating houses. The new solar industry shows all the creativity and ingenuity that we pride in our free enterprise system. New innovations occur almost daily, and the price of solar heating equipment continues to come down.

With the promise of new markets, we see aggressive advertising on the part of the equipment manufacturers. We see home builders offering this new option to potential buyers. We see local contractors learning the techniques of solar energy and providing the ability to adopt our existing homes to use solar energy.

But the private enterprise system can still use all the help it can get from the Government. And our role should be to foster this industry where the technology is demonstratively competitive as an alternate energy source.

THE ROLE OF GOVERNMENT

First of all, the Government can take care to see that it does not stand in the way of progress. We have in this country an enormous array of regulations that were imposed in other times, for other purposes. When these regulations stand in the way of rapid growth of solar energy, we need to review them and change them if necessary.

We have developed building codes that should be reviewed in order to adapt them to the new possibilities brought about by solar energy. We have a system of property taxes that can result in higher taxes for a person who chooses to help the country by using solar energy. The utilities now have a monopoly on our power needs and this situation also needs to be reviewed in light of the ability to put a power source on each and every house.

There are also new legal problems presented by the advent of the new technology. If I put solar collectors on my house, can my neighbor cut off my access to the Sun by building an extension on his house? The list of legal and regulatory problems goes on and on.

The second thing the Government can do is to protect consumers as this new industry matures. We need reliable standards of efficiency so that people can really decide among the many solar products that will soon be on the market. The public will also need new kinds of information that are not generally available at the present time. People need to know whether a solar heater will really save them money compared with a gas heater, or an electric heat pump. And that depends on the price of fuels in each locality. But comparison shopping implies that people have the necessary information to make intelligent choices. Getting reliable, unbiased information out to the American people is an excellent role for the Government in this new area of solar energy.

The third thing that the Government can do is to foster research on new techniques to get the price of solar energy down. While the market today is primarily limited to hot water heating and space heating, there are many more applications of solar energy, real possibilities for the future. Solar-powered air-conditioning is well on its way to being competitive with electric air-conditioners. On the other hand, electricity generated by solar power is further off in the future.

We now power satellites with the Sun, and solar electricity is used in many other applications where price is not a primary consideration. But to generate electricity for large segments of the population, we need a price that is competitive with electricity generated by coal and nuclear plants. If solar is to compete, it must be price-competitive.

Now I have confidence in our scientists and engineers and I know that new solar technologies can be competitive in the not-too-distant future. But it will take an enormous amount of R. & D. to make it happen. An excellent role for Government is to foster that research effort.

GOVERNMENT EFFORTS TO DATE

Mr. President, I think it is important to review the proper role for the Government in fostering solar energy. It is important because the performance of the Government to date has been totally unsatisfactory. True, we have an R. & D. program, but it is hardly related to the regulatory problems that solar energy presents. We are also much too late in starting a program to protect the consumer as the new markets develop.

Most of the difficulty lies with the new Department we created precisely to help solve the energy problem. The Department of Energy has yet to prove to the country that it is up to the task. In my opinion the Congress has done its share. We have shown our willingness to authorize new programs for solar energy. But we must be assisted by the DOE if those programs are to be successful. It could be, as some have argued, that the Department is new, and that it will soon get to a point where it can handle the programs it was set up to administer. I sincerely hope this is the case.

Mr. President, hopefully Sun Day will be the beginning of a concentrated effort to expand the economical use of solar energy in this country. It is a great challenge and an admirable goal for this country to be able to produce an inexhaustible supply of energy at a reasonable price. I will continue to work, as I have in the past, to foster progress toward this goal.

SUN DAY

Mr. PERCY. Mr. President, today is Sun Day. And the Sun has seen fit to shine gloriously, as if in recognition of the attention it will receive.

Today, I joined several of my colleagues at the Washington Monument to participate in the Washington Sun Day celebration. Dennis Hayes, Dick Munson, Peter Harnik, Bob Gordon, Lauren Battaglia, Joane Shorey, Chris Palmer, and all the others who worked so diligently to put this celebration together are to be commended for the educational, interesting, and entertaining schedule of events that have been planned for today. I am proud to have been asked to be a part of it.

Today we pay homage to solar energy. Tomorrow we will get back to work on it. Indeed, I hope Sun Day motivates the Congress toward more substantial and more aggressive solar energy development legislation. It is a clean, free, renewable resource, and the more of it we harness, the less oil we will have to import.

Mr. President, there are many other good reasons to use and develop solar and other renewable forms of energy. A few of those reasons are enumerated in the remarks I made earlier today. I ask unan-

imous consent that those remarks be printed in the RECORD.

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

REMARKS BY SENATOR CHARLES H. PERCY, "SUN DAY," WASHINGTON MONUMENT/SYLVAN THEATER, WASHINGTON, D.C., MAY 3, 1978

We are here today to express our commitment to solar energy by commemorating "Sun Day"—a national and international celebration of the sun.

I want to thank my 56 colleagues who cosponsored my Resolution that gives full Senate support to "Sun Day." And we all commend President Carter for signing the Resolution swiftly, which lent his strong support to today's activities.

As we state our dedication to solar energy, we must begin the job of making solar power a top national priority.

For hundreds of years, mankind's progress has been linked directly to harnessing and using more and more energy. We have been living with a "More-Energy-Forever" dream. But we know that the dream is now a myth.

The myth has bred energy carelessness and waste as well as arrogance and a lack of respect for the natural limits imposed by the earth's finite resource.

The More-Energy-Forever myth encouraged grand schemes aimed at controlling and exploiting the environment to suit our needs. We realize the danger of that attitude.

Solar energy, on the other hand, challenges us to ally ourselves with the natural environment. This is a more fitting and mature challenge for the future.

It is mature because we must find permanent energy solutions. Only renewable energy resources can last forever. Struggling to conform our needs to the earth's natural energy sources is much more sensible than struggling to make the earth conform to our demands.

"Sun Day" celebrates the beginning of the "Renewable-Energy-Forever" dream, with solar energy in the forefront.

The arguments in favor of solar energy are compeling. It cannot be embargoed. Its supply is unlimited. It is environmentally safe. It will create jobs.

I believe the Federal government has a responsibility to provide incentives for increased use of solar energy.

Our current commitment to solar energy is not sufficient. But we have taken some important steps. A solar tax credit is one measure that has been approved by the members of the Energy Conference Committee. It would grant homeowners as much as a $2,200 tax credit for solar energy equipment that costs $10,000.

The Congressional Solar Coalition, an informal group of Senators and Congressmen who have banded together to promote solar energy development, recently introduced eight bills aimed at providing incentives for the use of solar energy and other renewable forms of energy.

One of the most exciting aspects of the Solar Coalition's initiatives is the international use of solar energy.

In the 1950's, the United States started the "Atoms for Peace" program. It may have been one of our biggest mistakes. Nuclear energy has now become far too expensive to fuel the development of Third World nations. Since the initiation of the "Atoms for Peace" program, nuclear weapons capability has spread and the threat of further proliferation is very real. What we need now is a "Solar for Salvation" program.

The Solar Coalition has developed just such a "Solar for Salvation" program. I introduced two bills to help American firms export solar and other renewable energy technologies. Senator Cliff Case and I introduced a bill to put solar equipment on our diplomatic building abroad, especially in developing countries. I feel it is particularly important to people in developing countries because the climate and rural life styles are better suited to solar energy than power generated by huge power plants with miles and miles of transmission lines.

The solar tax credit and the Solar Coalition's efforts domestically and around the world are only first steps. What is also needed is a united, binding commitment to conservation and solar energy by millions of Americans.

I say conservation and solar because the latter is not possible without the former. If energy demand continues to grow at its current pace, by the year 2025 we will need all the solar energy we can harness, all the nuclear power plants we can build, all the coal we can mine, all the shale oil we can produce and any other source of energy we can get our hands on simply to keep pace. We will be spending so much money producing energy that we will have little capital leftover in the rest of the economy to use it.

The transition from oil and gas to renewable resources is by no means definite. The dream of More-Energy-Forever still has enough force to drive us to bankruptcy.

Unless Americans learn to conserve, our energy choices for the future will be extremely limited. We will be slaves to a bankrupting policy of all-out energy development. With conservation, we can pick our best energy future. Without it, we will be the victims of the worst.

Already there is a strong commitment across the country to solar energy's promise of environmentally safe energy independence. I am confident that today's commemoration of the importance of solar energy will build upon that commitment so that we can later look back on May 3, 1978, as the day America raised its sights to the sun.

PLANNING FOR A U.N. ALTERNATE ENERGY CONFERENCE

Mr. PERCY. Mr. President, Senator Humphrey, shortly before he died, introduced Concurrent Resolution 62 calling on the United Nations to convene a World Alternate Energy Conference in 1980. The goal of this conference, as expressed in the resolution, would be the establishment of an International Alternate Energy Commission. Senator McGOVERN reintroduced this resolution as Concurrent Resolution 71 and I have joined him in actively pushing it.

Generating sufficient momentum and international support for a major conference and the establishment of a new international agency is an extremely difficult and time-consuming process. Therefore, Senator McGOVERN and I determined that planning must begin immediately if the ideas behind this resolution are to become a reality in 1980. To this end, we have asked the Congressional Research Service to prepare a preliminary concept paper covering such items as: Ways in which the support of developing countries can be enlisted for this conference; what international and foreign agencies might provide valuable planning assistance; and what the U.S. Congress can do to assist in planning for this conference and international commission.

Mr. President, I ask unanimous consent that Senator McGOVERN's and my letter to the Congressional Research Service be printed in the RECORD at this point.

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

U.S. SENATE,
Washington, D.C., April 18, 1978.

Dr. GILBERT GUDE,
Director, Congressional Research Service, Library of Congress, Washington, D.C.

DEAR GIL: Senator Humphrey, in one of his last official acts as Senator, introduced Concurrent Resolution 62 (recently reintroduced by the undersigned as Concurrent Resolution 71) requesting the United Nations to convene a World Alternate Energy Conference in 1980. The goal of this conference, as expressed in the Resolution, would be the establishment of an International Alternate Energy Commission comparable to the International Atomic Energy Agency.

Since the Arab oil embargo and the subsequent five-fold increase in oil prices, many developing nations, unable to pay these prices, have had to forego their development aspirations. Those developing countries which have continued to import oil have done so at the risk of international bankruptcy as their debts to international lending institutions have mounted precipitously.

The United Nations General Assembly has discussed on innumerable occasions ways in which nations can be relieved of the high oil price burden. One possible means suggested by the General Assembly is the establishment of an International Energy Institute. The Secretary General, Kurt Waldheim, was delegated the responsibility of proposing specific functions for such an organization. He recommended that it:

Monitor resources.

Analyze and exchange information on alternative energy sources.

Advance global planning to avoid shortages in the future.

Promote cooperation between those who have financial and technological resources and those who do not.

Orient research and development towards meeting the requirements of widely differing situations.

Assist in the transfer and adaptation of energy technology.

Encourage development of indigenous or regional energy capacities.

Train personnel.

Unfortunately, little visible progress toward implementation of this idea has occurred. Moreover, while the United Nations has held very successful Conferences on Food and the Environment, and is now preparing for a Conference on Science and Technology Transfer, it has not yet convened a major conference focusing on global energy problems.

We believe that such a conference, followed by the establishment of an International Energy Commission, could have substantial benefits for both the developing and the developed world. There does not appear, however, to be sufficient momentum at this time to begin substantive planning for either a conference or an International Commission. We are hopeful that the introduction of Senator Humphrey's Resolution could provide the necessary catalyst to begin generating momentum to move these ideas into the planning stages.

Planning for such a conference and commission requires a great deal of thought. We believe that the Congressional Research Service can contribute many helpful ideas. We would like CRS to prepare a concept paper on the idea of a UN energy conference and commission.

With respect to the idea of a Conference on Alternate Energy Sources, we would like CRS to:

Examine the concept proposed in Senator Humphrey's Resolution, and analyse whether such a conference would be worth holding.

Examine past United Nations Conferences

to determine the most appropriate format for this conference.

Determine ways in which the support of LDC leaders for this conference could be enlisted.

Determine which international and foreign agencies might provide valuable planning assistance for this conference.

Determine what, if anything, the U.S. Congress could do to assist in the planning for this conference.

Determine the best process and mechanism by which American public support could be assured for this conference.

With respect to the idea of an International Energy Commission, we would like CRS to:

Examine past UN preliminary proposals for an International Energy Institute, paying particular attention to ways in which the emphasis on renewable energy technology can be strengthened,

Suggest ways in which the support of LDCs can be generated to push these UN proposals out of the preliminary planning stages.

Suggest ways in which the Congress and the relevant departments and agencies of the Federal Government may assist the United Nations in the development of these proposals.

In addition to the work done by CRS, we hope there might be an opportunity to use outside consultants under CRS guidance, especially in connection with a possible CRS workshop following the completion of the concept paper.

In carrying out this project, we should like to continue working with the Energy section and the Natural Resources section of the Environment and Natural Resources Division. Preliminary discussions have already taken place with Dr. Frances Gulick and Dr. Denis Little.

We appreciate your assistance and cooperation.

Sincerely,

CHARLES H. PERCY,
GEORGE MCGOVERN,
U.S. Senators.

POTENTIAL DISINCENTIVES TO U.S. TRADE

Mr. PERCY. Mr. President, I am deeply concerned about the President's proposals to increase greatly the tax on U.S. corporations operating abroad.

As Harvey Kapnick, chairman of Arthur Andersen & Co., pointed out recently at the 41st annual Chicago World Trade Conference, a strong international position is essential to the well-being of the U.S. economy, particularly in light of our trade and payments deficits. It is a time, as Mr. Kapnick says, when we should be encouraging the private sector, not restricting its initiatives to participate in international trade.

Mr. Kapnick questions the wisdom of tax reform proposals and other Governments regulations which act as disincentives to invest in operations abroad. I believe his points are very well taken. Today, we should be doing everything possible to increase our exports and stature in international trade. These incentives not only expand our export base, but create jobs for American workers as well, and their continuation will help us correct our trade deficit and bolster our economy.

The United States is part of an international economy. Attempts to restrict our participation in it will only serve to hurt our own interests.

Mr. President, I ask unanimous consent that a Chicago Sun-Times article of April 10 which excerpts Mr. Kapnick's remarks be printed in the RECORD.

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

CARTER PLANS HURT EXPORTS: KAPNICK

(NOTE.—The following is an excerpt from a speech given last week at the 41st annual Chicago World Trade Conference by Harvey Kapnick, chairman of Arthur Andersen & Co., the international accounting firm with offices in 39 nations. Kapnick spoke after receiving an award for leadership and innovative contributions to world trade, national trade policies and international understanding.)

"I wish to share with you my deep concern about one of the biggest mistakes that I believe our government is making today. The Carter Administration proposed that legal entities of multinational companies domiciled in countries outside the United States be taxed as though they were on the same basis as units operating in the United States.

"Present law recognizes that such U.S.-owned subsidiaries should not be required to pay taxes until profits are remitted as dividends. Quite often profits that are not remitted are needed for the growth of a company's facilities. Now the administration proposes the elimination of such so-called deferrals and the immediate payment of taxes on foreign earnings. I believe that this amounts to the expropriation of private property abroad.

"Let me illustrate. If a developing country wishes to give industry a tax benefit to create jobs and develop the local market, I believe that nation has the same right that we claim here to give incentives to the private sector to pursue such social goals. It is a domestic question. However, we now propose to use our tax law to eliminate that foreign tax incentive, increasing the tax that the corporation pays in the United States by the amount of the incentive offered by the underdeveloped country.

"We are, in effect, expropriating that tax incentive and taking away private property without compensation, a practice which we have continually fought to prevent. This is not only morally wrong, in my opinion, it is also impractical and short-sighted to think that those foreign markets are not going to be expanded and those jobs are not going to be created in these developing countries.

"Another government regulation which tends to restrict exports and thus impacts the trade deficit is the tax treatment which we give to Americans living abroad. These individuals have very substantial added living costs in many countries in which they live. The tax cost for this relief has very little impact on our total tax revenues. However, since it is perceived to be a 'gimmick,' the issue can be used for great political benefit in the rhetoric for reform.

"But what does it actually do? Today we are seeing many jobs in large construction projects where Americans were formerly used being replaced by non-Americans. This is not, however, disastrous to the projects, since other countries which give significant incentives to those who go abroad will fill the needs for jobs on such projects.

"The disastrous aspect of this decision on the United States, however, is that today when large construction projects are being developed, they are being developed with specifications for machinery, equipment and other goods and services which are not U.S. furnished. If an engineer is American, he thinks in terms of American specifications; if he's English, he thinks in terms of English specifications; if he's French, in French specifications.

"This is the real impact on our economy, and stated in its simplest terms, the impact to save a few dollars in tax under questionable reform issues has increased and will increase our trade deficit which is part of our domestic economic problem of a falling dollar and lack of exports. Thus again government regulation is the principal cause.

"International trade and investment is the bridge from our country to the rest of the world for the private sector. It is also the most promising avenue to a more stable and peaceful world.

"There is much talk about the need for expanded human rights, which is a very appropriate philosophical concern. As we think aout human rights around the world, however, let us also ask ourselves whether the farmers in our country don't have the right to produce as much as their ingenuity and efforts can produce and whether the hungry abroad do not have the human right to food if they can buy it from our farmers. Where the ability to produce exists, but government thwarts and restricts it, government jeopardizes very real human rights.

"If we want a healthy domestic economic society, the American people will have to produce more, not less; and if we want to correct our trade and payments deficits, we will have to sell more, not less. Indeed, if we want to control the menace of inflation that threatens our society's basic values, we must demand that big government do less to restrict the initiatives of the private sector. The issues involved in international trade and investment are a good place to start."

THE TAX BURDEN OF INFLATION

Mr. PERCY. Mr. President, a recent Peoria Journal-Star article by C. L. Dancey expresses exactly my concerns about how inflation, working with our progressive tax structure, unjustly increases the taxpayer's Federal tax burden. I can well understand why taxpayers across the country are threatening a "tax revolt." Even workers who have been fortunate enough to receive wages which have kept pace with inflation have been negatively affected because our progressive tax rates take a larger bite of income without the worker's having attained any increased purchasing power. We must immediately address the problem of how to protect the average taxpayer's purchasing power and standard of living from these inflation-created tax increases.

This is one major reason I have joined five of my distinguished colleagues in introducing the Tax Reduction Act of 1978. Our proposal provides a permanent tax cut which will offset for 3 years the impact of inflation and limit the impact of higher social security taxes. Our bill will offset inflation by widening the marginal tax brackets and increasing the personal exemption, the standard deduction, the general tax credit and the earned income credit for 3 years at a fixed rate of 6 percent. Second, it will provide an income tax credit equal to 10 percent of social security taxes paid.

I believe this article captures the frustration of many middle-income taxpayers who, working ever harder in these inflationary times to maintain their standard of living, are being penalized for their productivity and contributions to their country. We owe it to them to address this problem without delay.

Mr. President, I ask unanimous consent that the Peoria Journal-Star article by C. L. Dancey entitled "The Tax Fraud—On You," published in the

March 27 edition, be printed in the RECORD at this point.

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

[From the Peoria (Ill.) Journal-Star, Mar. 27, 1978]

THE TAX FRAUD—ON YOU

I've talked about it in general terms, but I never realized myself what a treadmill the trickery of the graduated income tax—combined with inflation—creates for every single working man . . . until I went through the tax tables to create an actual example.

And it stands in the path with a club to beat down any upward movement in our society for the "poor" as well as the average worker.

It's brutal and it is happening to you in some stage right now.

Let's work one from somewhere in the middle, and then take a look at where that fits you if you are on either side of that.

Let's say you make a taxable income of $12,000 and enjoy raises annually that exactly match inflation. Your costs go up—let's say arbitrarily—6 per cent a year from inflation. Your income goes up 6 per cent a year, too—inflation.

You are staying even, lucky guy!

As a single person, your taxes on that original $12,000 are-were-or-will-be about $1900 In 10 years, with an inflationary round of 6 per cent at both ends, your taxable income should reach about $21,490. Your taxes on the same basis ought to be $3,402—and you're still be just even all around. But your actual taxes on that income will really go up to $4,-974.40.

Your income and costs for the same things both go up 79 per cent over those years of inflation, but your taxes automatically go up 162 per cent.

You think that's bad? For the married couple, it's worse in a way.

Your taxable income as a married couple is or was $12,000—and your taxes then appropriately $1105. In ten years of 6 per cent inflation, your joint income goes up to $21,-490—79 per cent more in both things—and your income taxes go up to $3,283—a rise of 197 per cent. The government is skimming and inflation is dragging you below the real value of your original income. You've gone up on pure inflation, with no gain, but the government is taxing you as if you were making it in pre-inflation dollars.

You have kids? You get a break at first—and then get zipped faster.

You and your wife have two kids and start the calculation with $12,000? Okay, on that you pay $827 taxes. After inflation, again your joint income rises in ten years to that good old $21,490—and your taxes go to $2899. Your income and inflationary costs both went up 79 per cent but through the trickery of the graduated income tax, your income tax went up 250 per cent.

Your spendable income has actually gone drastically down, thanks entirely to the highway robbery of Uncle Sam's trick taxes.

Maybe over that period you did better than the inflationary figure, and your income improved as well as kept up? But how much did you have to "progress" to stay even?

This guy with the wife and two kids, when he hit $21,490 after the round of inflation should have paid (to keep everything fair and equal as it was before inflation) about $1500 ($1480.99) in taxes, instead of $2899. So, if he gets "merits" increases above inflation and actually makes progress—he has to make another $1420 over his rise to $21,490 just to catch up with the tax overcharge and get even with where he was before inflation—and that $1420 "gain" wouldn't even do it because that would put him in another bracket and raise his taxes still more . . . another $384 in fact, so he needs $23,294 to get even, but the tax on that additional $384 goes up too—he needs another $98 to pay it, and the tax on that added $98 is $28 so you still aren't even with the pre-inflation $12,000 income . . . every time you take two steps toward getting even, Uncle Sam will kick you back one.

Now, some of you are starting that cycle if you're around $12,000 in taxable family income. Others are deep into the very cycle described, and others of you who don't make that much—and pay almost no income taxes—will soon be shoved into this vicious cycle by inflation even though you are only holding your own in "spendable" income.

Those of you who are higher—or started somewhat higher—the same thing is happening to you . . . only more so because the brackets just get steeper.

And this is the reality of what's happening. Treasury figures on the actual taxes they've collected show that it really does work this way.

The higher you earn, not only the more you pay proportionately, but the proportion itself goes up and up so that federal income shows Uncle Sam getting from the very rich by far the highest take, the middle incomes paying very high, the modest incomes paying significantly, and the lower quarter of workers—plus all of the indigent—paying nothing at all . . . yet.

The tax laws are deliberately unfair by any standard . . . and inflation combined with this stair-step system makes them brutally unfair to every hardworking American trying to get even a little bit ahead.

Tax reform is badly needed, indeed, but not the mythological reform based on the fakery of the battle-cry "Soak the Rich."

They are soaked, indeed, and the figures prove it—and there aren't enough of them to carry the load. The talk about "loopholes" has been used to paper over the facts about actual tax receipts and to carry on this system for plundering the entire working middle class, unfairly, and knocking down anybody trying to move up into it.

We are told that "upward movement" is the most needed and desirable thing in our society . . . the ultimate liberal goal . . . and we're told this by the same "humanists" that designed and maintain a tax system that throws up a roadblock when anybody tries to move upwards, first from poverty and then harder and harder if he keeps trying.

It makes that most desirable upward movement incredibly difficult—and penalizes it every step of the way.

That's the reality.

We have been suckered by a bunch of con men hollering "Soak the Rich" as a cover for actually blocking the path out for those in poverty while plundering the middle class.

SENATOR PERCY RELEASES GAO REPORT ON IMPROVEMENTS IN THE DETECTION OF MEDICAID FRAUD AND ABUSE IN ILLINOIS

Mr. PERCY. Mr. President, on November 12, 1975, pursuant to information gathered in hearings by the Senate Special Committee on Aging, Senator ADLAI STEVENSON and I requested that the General Accounting Office (GAO) investigate problems in the Illinois medicaid program. In our letter, we asked GAO:

Has the Illinois Department of Public Aid (IDPA) in fact improved its system for paying Medicaid claims, strengthened its capabilities in dealing with Medicaid fraud and abuse, and developed a more effective utilization review system?

On March 10, 1978, GAO released its report, entitled, "Further Improvements Needed in Investigations of Medicaid Fraud and Abuse in Illinois." GAO found that, 3 years ago, neither the Department of Health, Education, and Welfare (HEW) nor IDPA had adequate systems for processing claims, thus contributing to a high incidence of fraud and abuse. The report states that,

Substantial progress has been made, and an organization to audit, investigate, and review such activities has been established.

Regarding HEW, GAO found that, 3 years ago,

No unit to investigate suspected Medicaid fraud and abuse or to help States develop necessary capability to investigate such activities * * * existed within HEW.

This has been corrected by the establishment of the Medicaid Fraud and Abuse Unit and Medicare Program Integrity Group.

In 1977, these units were consolidated into the Health Care Financing Administration Program Integrity Office. Since the creation of these units, considerable progress has been made in developing the capability to detect fraud and abuse in both the medicare and medicaid programs at the Federal and State levels.

Regarding IDPA, GAO found that, due to the establishment of a computerized system for detecting fraud and abuse, Illinois recovered $6 million in erroneous payments in 1977 alone.

However, although substantial progress has been made at both the Federal and State levels, GAO has made recommendations for further improvements. At the Federal level, it recommends that information on terminated providers be exchanged between medicare and medicaid. No formal system of information exchange now exists between these two programs. At the State level, it recommends that better coordination be effected between the medicaid program and the State licensing agency in order to determine whether providers' medical licenses should be revoked. In addition, GAO recommends that HEW assist IDPA in fully implementing a Medicaid Management Information System. One of IDPA's difficulties has been an inability to implement fully its planned computer processing system. Part of the delay has been caused by slow processing by HEW of relevant IDPA applications.

Fraud and abuse in the medicaid system are still problems, but, thanks to diligent congressional oversight and responsible action by HEW and IDPA, great strides have been made in solving this problem. I ask unanimous consent that the Digest of the GAO report be printed in the RECORD.

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

INCREASED HEW EFFORTS TO IDENTIFY MEDICAID FRAUD AND ABUSE

Almost 3 years ago GAO reported on investigations of suspected fraud and abuse in the Medicaid program, particularly in Illinois. The Department of Health, Education, and Welfare (HEW) had no unit to investigate suspected Medicaid fraud and abuse or to help States develop necessary capability to investigate such activities. GAO concluded that HEW should better coordinate its Medicare and Medicaid fraud and abuse reviews.

In May 1975 HEW established a Medicaid Fraud and Abuse Unit for evaluating States' programs. This unit had 108 authorized positions in 1977. Subsequently, this unit and Medicare's Program Integrity Group were

consolidated into the Health Care Financing Administration Program Integrity Office. This Office should improve the coordination of investigations between Medicare and Medicaid regarding the improper activities of those providing medical services—doctors, druggists, nursing homes, etc., hereafter referred to as "providers."

FURTHER IMPROVEMENTS NEEDED

GAO identified some problems which the new Health Care Financing Administration should attempt to eliminate, including

Communication to Medicare of information on providers terminated from Medicaid for improper activities;

The inability of HEW headquarters to assure that each region makes scheduled reviews of State efforts to control Medicaid fraud and abuse; and

Limited HEW evaluation of, and assistance to, Illinois' efforts to identify providers that may be involved in Medicaid fraud or abuse because HEW was building up its capabilities in this area.

FURTHER IMPROVEMENTS NEEDED IN ILLINOIS TO IDENTIFY SUSPECTED MEDICAID FRAUD AND ABUSE

Since GAO's earlier review on identifying suspected Medicaid fraud and abuse in Illinois, substantial progress has been made, and an organization to audit, investigate, and review such activities has been established.

During 1977, Illinois referred 60 providers to a U.S. attorney for prosecution, stopped 70 from participating in Medicaid, recovered $6 million in erroneous payments, and established a computerized system for identifying providers who most likely defrauded or abused the program.

GAO noted that much of the money recovered by Illinois was from payments for duplicate or other unallowable billings and most of Illinois' audit efforts pertained to payments made before December 1974.

Some erroneous payments might have been avoided had proper prepayment edits been made. Over $1.6 million in duplicate and unauthorized drug payments would have been avoided. This also would have allowed the Illinois audit staff more time to review (1) recent payments rather than those several years old and (2) unanalyzed pharmacies' payments.

FURTHER IMPROVEMENTS NEEDED IN ILLINOIS CLAIMS PROCESSING

Since April 1975 Illinois has improved its Medicaid Claims Processing System by reducing processing time for paying error-free Medicaid claims.

However, it has been slow to make the suggested improvements in GAO's prior report for:

Reducing manual processing;

Reducing computer rejects; and

Improving accountability for processed claims.

In addition, Illinois has fallen behind about 3 years in its plans to fully implement a Medicaid Management Information System to better manage its Medicaid program. This system is only partially used now.

RECOMMENDATIONS

The Secretary, HEW, should direct the Administrator of the Health Care Financing Administration to require that:

Information on terminated providers is exchanged between Medicare and Medicaid so that, as appropriate, providers are terminated from both programs; and

Each HEW regional office reviews State efforts to control fraud and abuse.

Specifically, with respect to Illinois, HEW needs to make sure that the State routinely reviews current information on all major provider groups and reviews the feasibility of coordinating Medicaid investigations of fraud and abuse with State licensing agencies to help determine if providers' medical licenses should be revoked.

In addition, HEW should assist Illinois in implementing fully a Medicaid Management Information System. Such implementation of this System should enhance Illinois' claims processing procedures and minimize payments for duplicate and other unallowable billings.

UNIVERSITY OF ALASKA ROTC PROGRAM

Mr. STEVENS. Mr. President, as my colleagues may recall last year I was successful in having my senior reserve officers training amendment included in the Defense Procurement Authorization Act (Public Law 95–79). It requires the maintenance of at least one senior ROTC unit in each State if requested by an educational institution in that State and approved by the Governor. A minimum of 40 students must be enrolled in the entire program. This also includes the students in the university's branch campuses.

Because my State was in danger of losing its only officer commissioning source, enactment of this amendment was of particular importance to Alaska. I am pleased that the University of Alaska has met the new minimum enrollment requirement and remains a part of this important program.

With its immense terrain and different climatic conditions, Alaska has proven to be an ideal training ground for military forces. The ROTC at the University of Alaska has taken advantage of these unique conditions and started a new program that is being emulated by other schools. The attached release from the university describes their "adventure training program."

I ask unanimous consent that this article be printed in the RECORD.

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

UNIVERSITY OF ALASKA NEWS RELEASE

FAIRBANKS.—ROTC programs in universities across the nation are now moving towards a new program pioneered by the University of Alaska, Fairbanks' ROTC unit; the outdoor skills lab or adventure training program.

The program, which began in the spring of 1977 at the UAF, evolved from the already established leadership courses, which were required of students seeking any Army commission. It was a more exciting and challenging way to learn leadership skills that were once talked about dryly in the classroom setting; skills such as skiing, mountaineering, rappeling, orienteering, marksmanship and arctic survival.

The outdoor skils lab was also a major ROTC recruitment effort for a program which was in the red and faced a sure shut-down that semester.

It opened its doors to all college students regardless of class standing, and it held the student to no commitment of working towards an Army commission. (Although some students have joined the ROTC ranks after going through the lab).

In its second year now, the lab boasts an enrollment of 60, which almost triplicates the 1977 enrollment figures and denotes the popularity of the courses.

According to Lt. Col. Charles Smelcer, professor of Military Science at the UAF, the idea of the program is to develop qualities of leadership as well as build physical and mental stamina in participants. The program also provides ROTC cadets with hands-on experience in leadership positions, and supplements Military Science classes, drills and field maneuvers.

This semester the lab started out with arctic survival on its agenda. Students were bussed to Eielson Air Force Base for lectures on the basics of survival, and the following week were taken to the Arctic Survival Area on the base, where they put into practice what they had acquired in the lectures. They tried their hand at building shelters, procuring food and water, building fires, signaling and avoiding the hazards of hypothermia, frostbite and dehydration.

Next morning the busload headed back towards civilization, and the head count was correct; all had learned to survive.

ALASKA NATIVE CLAIMS SETTLEMENT ACT

Mr. STEVENS. Mr. President, the ANCSA amendments which I am cosponsoring begins a process which I hope will lead to the resolution of a number of outstanding problems regarding the implementation of the Alaska Native Claims Settlement Act. Since its passage in 1971, the Alaska Native Claims Settlement Act has greatly influenced the lifestyles of Alaskans, both native and nonnative.

The organization of regional and village corporations pursuant to this legislation and the selection of lands by these corporations has been completed, although a number of problems have been encountered in the implementation of aspects of the legislation. The Secretary of the Interior has recently implemented a series of decisions regarding ANCSA implementation which will hopefully solve some of the problems without legislation.

However, it has become apparent that further legislation to clarify specific problems is necessary in order to speed the implementation process. The introduction of these amendments today represents the first step in a process which I hope will culminate in the passage of legislation this year which will resolve the remaining problems which have arisen during the 7 years since the passage of the Alaska Native Claims Settlement Act.

Let me make clear my feelings that these amendments represent a beginning. I understand that the Department of the Interior is also working on amendments to the Native Claims Act as a result of its recent review of ANCSA problems, and I would hope that any amendments from the Department which Congress chooses to enact could be included as a part of this amendment package. Additionally, the specific language of these amendments may require some reworking prior to final passage.

I look forward to working with the Alaska Native community, the State of Alaska, the Department of the Interior, and the Senate Energy and Natural Resources Committee to put together a sound set of amendments which will benefit all parties involved in the implementation of the Alaska Native Claims Settlement Act. The Alaska Federation of Natives has worked on these amendments over the past 18 months and has asked that the amendments be introduced as a package.

My sponsorship of these amendments does not necessarily indicate my support

for each and every amendment. Some amendments I support in concept but have reservation regarding their specific language. In other cases, such as the amendment relating to pending Alaska Native allotment applications, I am unsure whether amendatory legislation is the best approach to the problem addressed. However, I am honoring the request of the Alaska Federation of Natives to introduce all amendments together and allow the legislative process to sort out those which will eventually receive congressional support. I am aware that in certain instances these amendments deal with specific problems of individual corporations which may involve conflicting interest between these corporations and the State of Alaska.

My sponsorship of these amendments does not represent a specific commitment to the amendment as written, although I would certainly like to resolve selection problems encountered by individual corporations, if at all possible.

My final thoughts regarding this legislation involves an issue which has far overshadowed the Alaska Native Claims Settlement Act of which it was originally a part. I am referring to the congressional consideration of the Alaska d-2 lands issue which was authorized by section 17(d)(2) of the Alaska Native Claims Settlement Act.

The House of Representatives has grouped a number of nonrelated issues together as part of its d-2 legislation. In essence, the issues involving implementation of the Alaska Native Claims Settlement Act and d-2 have been thrown into the same pot. In my mind, these issues are unrelated and should be dealt with in separate pieces of legislation.

The d-2 lands issue, which deals with the establishment of new national parks, wildlife refuges, forests, and wild rivers in Alaska, is complicated enough without injecting the intricacies involved in the consideration of amendments to the Alaska Native Claims Settlement Act. I hope that the Senate Energy and Natural Resources Committee will act separately on these amendments and not tie them to its consideration of the d-2 lands issue.

I look forward to working with all interested parties in introducing a sound and well thought-out package of amendments to the Alaska Native Claims Settlement Act. The package of amendments can pass the Senate this year.

ALASKA'S D-2 LANDS

Mr. STEVENS. Mr. President, this year Congress will decide the question of final disposition of Alaska's d-2 lands. Our decision will have a profound and lasting effect not only on Alaska but on the future path of America.

Alaskans resent the imposition of massive land withdrawals at the behest of outsiders, invoking the cause of environmental protection. In the first place, Alaskans are true environmentalists and have the Nation's best record in State wilderness planning. We already have two-thirds of the Nation's wildlife refuges and 25 percent of the national parks. In the second place, establishment of these areas will not alter past environmental abuses in the lower 48. It will not provide lower 48 communities accessible wilderness areas and ultimately will deprive all Americans of vital natural resources to sustain viable economic growth.

The real question is: How should the land be utilized and what uses are to be allowed on the land? Future generations of Americans have a right to determine their own destiny rather than being subjected to arbitrary congressional action prohibiting reasonable uses of Alaska's lands.

Recently I received a letter from a young woman in my State which I believe reflects the concern of many young people who are trying to build their American dream. These people want to preserve the beauty of Alaska but they do not believe that locking up Alaska for all time is the answer. I ask unanimous consent that Donna DeNier's letter be printed in the RECORD.

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

MARCH 10, 1978.

DEAR SENATOR STEVENS: As a young person living in Alaska I have dreams of a future where I can own land, raise a family and enjoy the outdoors. I will have to work hard for the dreams to become reality especially if the d-2 issues are accepted by Congress. Land is expensive right now, but if more acreage is tied up by the government, where will the prices go? I see only more expensive land and less access to any remaining land.

I feel your fellow congressmen fail to remember what it is like to be young, broke, and full of hope for the future. They can sit in their secure worlds, ride in their nice cars to their own homes and dictate what *my* life will become. Please remind them that there are people who have a dream and that they (the congressmen of the United States) hold the key to those dreams. The future generations depend on their attitudes and votes.

Thank you!

DONNA DENIER.

P.S. I used to be an ultra-conservative member of the Sierra Club until I suddenly realized that land can be used and taken care of at the same time. There can be effective controls over use other than shutting the doors to the forest.

STUTTERER TELLS A TALE

Mr. DOLE. Mr. President, the President's Committee on Employment of the Handicapped publishes "Disabled USA," a magazine containing current information on progress being made in the rehabilitation and placement of disabled individuals. In a recent issue, one article in particular caught my attention, for it focused on the problems and consequences of stuttering.

In this article entitled "A Stutterer Tells a Tale," the author, John M. Williams, recounts his experiences as a former stutterer. He writes of the symptoms, possible causes, and difficulties associated with this handicap. Mr. Williams also gives an historical account of stuttering, as well as current views and statistics. For instance, over 2 million Americans stutter, or roughly 1 percent of the persons in the United States. Men outnumber women stutterers 4 to 1. Finally, Mr. Williams tells of successful therapy now being carried out at several research and treatment centers across the country.

Stuttering is not classified as a severe handicap, but its effects can be devastating for the stutterer who does not learn how to live with his disability. This informative article makes worthwhile reading for all persons, and I recommend it with the belief that it will provide a better understanding of stuttering.

I ask unanimous consent that "A Stutterer Tells a Tale" be reprinted in the RECORD.

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

A STUTTERER TELLS A TALE

Two actions trouble me most about my stuttering. They are: 1) The strangled words coming from me, and 2) The hideous looks on people's faces as they listen and watch me stutter. Sometimes these looks bear pain. Sometimes sympathy. Sometimes annoyance.

As an adult stutterer, I am aware how severe a handicap it can be, particularly in job hunting. Classic stuttering symptoms are: Rapid fire repetitions of consonant or vowel sounds, especially at the beginning of words; unnaturally prolonged vowel sounds in the middle of words; and complete verbal blocks.

Some years ago while I was undergoing speech therapy, a therapist took movies of me during my various stuttering blocks. I was unaware of his actions.

When he showed them to me about a week later, he remarked "you resemble a person having an epileptic seizure." He added, "most stutterers do when they are chronic." He had worked with epileptics. Several weeks before I saw a young man go into an epileptic convulsion. I agreed with his description.

What I saw frightened and baffled me. I saw my eyes bulge and then close, my lips quiver and occasionally form a perfect "O," my forehead break into a cold sweat, my arms swaying in all directions as though they were on a string, my mouth spraying saliva in all directions, my hands shaking, my right shoulder coming up to meet my right ear. All of this and more and no words came out. (Over the years through a steady stream of speech therapy, I have been able to eliminate entirely most of these secondary symptoms associated with my stuttering.)

It is not hard, therefore, to understand why stutterers were once thought to be possessed by demons when they go through such antics to communicate. As a communicator, I am very much aware that the ability to communicate to others through language categorizes us as human beings in a human society. For through the power of speech, we distinguish ourselves from all other creatures. *Stuttering penetrates the very roots of this human distinction.*

Nothing about stuttering is as simple as it seems—for the reason that nothing about speech is as simple as it seems. It is often called, "The disorder of many theories."

Speech therapists and others have attributed a large number of reasons to the causes of stuttering. They include a broad range of organic defects, neuroses of one kind or another, social pressures, faulty learning experiences, lack of self-confidence, poor speaking patterns reinforced throughout the years, a genetically transmitted flaw, forcing a left handed person to do things right handed (this is the attributed cause for my stuttering), because someone received a terrible scare as a youth, or because a person's mind works faster than his mouth. The causes appear infinite.

Since the pressure to communicate can make stuttering worse, it has been suggested that social pressure is the most widely attributed cause for stuttering. One theory holds that children begin to stutter when they are overaware of the need to use the correct word, the correct accent, and to be

fluent. Proponents of this theory cite the fact that the Utes and Bannocks, midwest American Indian tribes, have virtually no stuttering problem. These tribes have a remarkably permissive attitude toward children's speech.

Their cousins, the Cowichans, expect children to take part at an early age in complicated rituals under the critical eyes and ears of the tribal elders. Cowichans place a high price on communications skills—and have a high rate of stuttering.

On the other hand, some theorists believe that stuttering is essentially learned behavior—a speech habit ingrained in a child as a result of certain childhood experiences and periodically reinforced during normal social intercourse. Following the successes of Ivan Pavlov and B. F. Skinner, some behaviorists are presently attempting to cure stuttering by breaking old patterns of reinforcement.

What may be the first recorded cure for stuttering is described in a Greek myth about a young prince, Battus, who beseeched the oracle at Delphi to help his stuttering. Battus was told by the oracle to sail to North Africa with an army to defeat hostile natives and never to return. Battus was victorious and became the golden tongued ruler of the Greek colony of Cyrene.

The most famous myth on stuttering concerns Demosthenes who rid himself of his stuttering problem by filling his mouth with pebbles and outshouting the turf.

Aristotle, who is thought to have stuttered, believed the stutterer's tongue was abnormally thick or hard, therefore, was too sluggish "to keep pace with the imagination."

Hippocrates blamed an excessively dry tongue and prescribed blistering substances to drain away the black bile, the root of the problem.

Galen, a second century Greek physician, who was looked upon as the supreme medical authority in Europe during the middle ages, thought that the stutterer's tongue was too cold and wet.

Celsus, a Roman physician, suggested gargling and massages to strengthen the weak tongue that caused stammering.

Francis Bacon concluded that people stuttered because of the refrigeration of the tongue. To cure the problem, he suggested a remedy of a draught of hot wine.

Some two million people, roughly one percent of the population in the United States, stutter. Many of them live in fear of that sudden, prolonged, strangling block. Many of them are chronic. Many have stuttered most of their lives. Most are male. There are at least four male stutterers to every female. Most have been embarrassed by it many times.

For me the most painful stigma I can personally associate with my own stuttering has been the extreme difficulty of finding a satisfactory job where I can achieve my fullest potential.

Many times over a dozen years, prospective employers in government, industry and in some creative and social areas, have sat in their desk chairs, praised my strengths, only to raise a hatchet and cut off my head by saying, "Mr. Williams, this is a very competitive field. In dealing with other people I find it important for our clients to feel as comfortable as possible, to feel relaxed. I am afraid with your stuttering problem this is not possible. Therefore, I am not going to hire you. I'm sure you can understand that. Meanwhile, good luck in your search."

Until very recently, most speech therapists agreed that nearly one-third of the adult stutterers could be greatly improved or cured, one-third somewhat improved and the rest were unhelpable. In the pessimism bred by these figures, they generally focused on eliminating their patients' fear of stuttering rather than the stuttering.

Today a group of therapists are attacking stuttering more aggressively, concentrating almost entirely on the physical side of the problem. They believe, "Stuttering is a series of learned motor responses and can be unlearned through training." They are teaching new ways of speaking with the aid of technological instruments. They seem to produce a large number of successes.

The Precision Fluency Shaping Program at the Hollins Communications Research Institute, Roanoke, Virginia, claims success with about 80 percent of its students. The method has been adopted by Walter Reed Medical Center as well as by speech therapists in several schools around the country.

Dr. Ronald Webster, a professor of psychology, created the program after years of making a detailed analysis of stuttering speech.

He says, "Speech is complex, so we break it down into many small, easy steps and teach these one at a time." With this method, each new skill, whether it involves breathing, voice quality, or articulation, must be learned precisely, and each one builds on the one that preceded it in a tight sequence. At first each skill is exaggerated and later toned down.

Slowing down the speech is the stutterer's most difficult task. It is also the first one Webster emphasizes, "This is essential in order to hear and work with individual components of speech; they cannot be isolated when people speak at normal tones."

Those taking the course are given stopwatches. They practice in soundproof cubicles in 20 minute stretches, learning to make syllables for a minimum of two seconds. Next they learn to breathe slowly and deeply, using their abdominal muscles. After succeeding with these exercises, they proceed to work on the skill which Dr. Webster considers most critical: Making the voice gentler at the beginning of each syllable and then raising it less suddenly than they did before.

A few years ago Dr. Webster designed a small, individual computer, referred to with affection as a *Voice Monitor*. It analyzes the gentleness of ones' voice and a green light appears when it is acceptable.

Stutterers spend six hours or more a day practicing lists of individual sounds, vowels, consonants, syllables and then words until they have made approximately 50,000 correct responses. At all times they practice on their speech onset and subsequent rise in volume.

Throughout the process the stutterers are guided by two therapists and an assistant.

"We don't cure people in the sense that we get at the cause of their stuttering, but we teach them compensatory behavior," explains Dr. Webster. "There is an awful lot still to be sorted out. . . . The voice monitor is a step in the right direction. We need to go beyond it. We need a computer system that can make a far more detailed judgment of responses, so that it can write individual prescriptions for each stutterer. We're only just getting going."

Dr. Martin Schwartz, research associate professor at N.Y.U. Medical Center, claims he has cured at least 89 percent of stutterers who have come to him. He says, "stuttering begins with a locking of the vocal cords in response to fear. The repetition and stuttering blocks are actually attempts to unlock these cords."

To prevent stuttering or stop it, he suggests stutterers inhale and exhale just before beginning to speak, then talk very slowly. He stresses that daily practice is needed to reinforce what he teaches. His course usually runs one week.

Some therapists are advocating using a metronome. The theory is that the stutterer should speak in time with the beat, first at a very slow rate and then a faster speed.

Another leading therapy is one developed by Charles Van Riper. Van Riper devised a method he calls fluent stuttering. He tells stutterers, "If you are going to stutter then learn to do it right." Since every stutterer knows that fighting a block makes it worse, he or she is told not to try to stop stuttering, but to stutter as smoothly as possible, without the spasmodic breathing, facial twitches or other muscular tensions that characterize stuttering.

About 100 years ago stutterers had their tongues cut by doctors on the theory that people stuttered because their tongues were too long. Around the early 1900's, children who stuttered were beaten. Today the chances of early prevention are rising. Research into causes, preventions and elimination of it are growing.

Employment opportunities now exist for people who stutter in business, labor, education, medicine, law, government, politics, journalism, arts, social fields, agriculture, health and other areas. Patience and perseverance are required as the stutterer moves into jobs.

By combining these qualities with ability and leadership, the community will benefit from gifted, intelligent, sensitive and aware individuals whose contributions will improve mankind as a whole.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

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

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGES FROM THE HOUSE

At 3:29 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the following bill, with an amendment in which it requests the concurrence of the Senate:

S. 422. An act for the relief of the First Baptist Church of Paducah, Ky.

The message also announced that the House agrees to the amendment of the Senate to H.R. 8423, an act to amend titles II and XVIII of the Social Security Act to make improvements in the end stage renal disease program presently authorized under section 226 of that act, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 11713. An act to create a solar energy and energy conservation loan program within

the Small Business Administration, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 1552. An Act for the relief of Oh Soon Yi.

The enrolled bill was subsequently signed by the President pro tempore.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 11713. An act to creat a solar energy and energy conservation loan program within the Small Business Administration, and for other purposes; to the Select Committee on Small Business.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-3521. A communication from the Assistant Secretary for Conservation, Research & Education, Department of Agriculture, transmitting, pursuant to law, a report on the Nation's agricultural research, extension, and teaching activities; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3522. A communication from the Secretary of State, reporting, pursuant to law, on the adequacy of insurance provided by the accredited diplomatic missions to the United States to cover loss or injury arising from the wrongful acts or omissions of the employees of such missions in the United States; to the Committee on Appropriations.

EC-3523. A communication from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with the University of Texas, Austin, Texas, for a research project entitled "Development of Environmentally Attractive Leachants"; to the Committee on Energy and Natural Resources.

EC-3524. A communication from the Assistant Secretary of the Interior, reporting pursuant to law, approval of a form of contract to defer payment of the construction charge installation due March 30, 1978, for the Truckee-Carson Irrigation District, Nevada; to the Committee on Energy and Natural Resources.

EC-3525. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting pursuant to law, a report on changes in the refiner distribution and market shares of the statutory categories of refined petroleum products; to the Committee on Energy and Natural Resources.

EC-3526. A communication from the Federal Cochairman, Four Corners Regional Commission, Department of Commerce, transmitting, pursuant to law, its tenth annual report; to the Committee on Environment and Public Works.

EC-3527. A communication from the Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of a proposed amendment to the Department of State authorization bill for fiscal years 1979 and 1980; to the Committee on Foreign Relations.

EC-3528. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on April 4, 1978, which would authorize the Fire Chief of the District of Columbia to require and regulate the placement and maintenance of fire lanes and fire hydrants on certain private property (Act 2-187); to the Committee on Governmental Affairs.

EC-3529. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on April 4, 1978, which would establish the personal property tax rate for tax year 1979 (Act 2-185); to the Committee on Governmental Affairs.

EC-3530. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on April 4, 1978, which would order the closing of part of public alleys and the dedication of a public alley in Square 3341, bounded by Sheridan Street, N.W., North Dakota Avenue, N.W., 2nd Street, N.W. and Rittenhouse Street, N.W. (Act 2-180); to the Committee on Governmental Affairs.

EC-3531. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on April 4, 1978, which would amend Police Regulation 74-39, governing vending in the District of Columbia, with respect to the licensing and regulation of vendors and the operation of vending businesses (Act 2-179); to the Committee on Governmental Affairs.

EC-3532. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on April 4, 1978, which would order the closing of 45th Street, N.E. between Clay and Dix Streets and a part of a public alley in Square 5135 (Act 2-184); to the Committee on Governmental Affairs.

EC-3533. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on April 4, 1978, which would order the closing of the parts of Third and L Streets, N.W. abutting on Square 556, bounded by 3rd Street, L Street, New York Avenue and New Jersey Avenue, N.W. (Act 2-181); to the Committee on Governmental Affairs.

EC-3534. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on April 4, 1978, which would order the closing of a part of Virginia Avenue, S.E., adjacent to the Virginian Avenue playground at Ninth Street, S.E. (Act 2-183); to the Committee on Governmental Affairs.

EC-3535. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on April 4, 1978, which would amend the D.C. General Hospital Commission Act (D.C. Law 1-134) with regard to audits and procurement (Act 2-186); to the Committee on Governmental Affairs.

EC-3536. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on April 4, 1978, which would order the closing of the public alley system in Square 395, bounded by 8th, R, 9th and S Streets, N.W. (Act 2-182); to the Committee on Governmental Affairs.

EC-3537. A communication from the Director of Administration, Department of Energy, transmitting, pursuant to law, notice of its proposal to alter an existing system of records; to the Committee on Governmental Affairs.

EC-3538. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, a report pursuant to the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC-3539. A communication from the Chairman, National Commission on Libraries and Information Science, transmitting, pursuant to law, its sixth annual report; to the Committee on Human Resources.

EC-3540. A communication from the Chairman, National Diabetes Advisory Board, transmitting, pursuant to law, its first annual report; to the Committee on Human Resources.

EC-3541. A communication from the Acting Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to extend and amend the Rehabilitation Act of 1973, to provide for independent living rehabilitation demonstrations and other innovative programs, to improve the management and administration of programs under such Act, and for other purposes; and a draft of proposed legislation to extend the Developmental Disabilities Services and Facilities Construction Act, and for other purposes; to the Committee on Human Resources.

EC-3542. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders suspending deportation, as well as a list of the persons involved; to the Committee on the Judiciary.

EC-3543. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, an order suspending deportation in the case of Pun Hui Lopez, A14 154 941; to the Committee on the Judiciary.

EC-3544. A communication from the Governor of the Commonwealth of Pennsylvania, transmitting, for the information of the Senate, his veto message of a bill which makes application to Congress to call a convention for drafting and proposing that an anti-abortion amendment be added to the Constitution of the United States; to the Committee on the Judiciary.

EC-3545. A communication from the State Senator representing District IX, Senate of Pennsylvania, relating to the Governor's veto of a bill adopted by the Legislature of the Commonwealth of Pennsylvania proposing an anti-abortion amendment to the Constitution of the United States; to the Committee on the Judiciary.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM—625. A resolution adopted by the 83rd Annual Convention of the Kentucky Federation of Women's Clubs relating to flood control; to the Committee on Environment and Public Works.

POM-626. A resolution adopted by the Legislature of the State of Nebraska; to the Committee on Finance:

"LEGISLATIVE RESOLUTION 237

"Whereas, the State of Nebraska has after careful consideration, study, research, and expense determined that it would make available to its employees the benefits of an unfunded nonqualified deferred compensation plan so that employees would have the opportunity to set aside monies to provide a supplement to state retirement and federal social security benefits; and

"Whereas, pursuant thereto, a plan was adopted by the state and a private letter ruling was requested from the national office of the Internal Revenue Service approving the terms of such plan; and

"Whereas, the Internal Revenue Service issued a private letter ruling with respect to the Nebraska State Employees Deferred Compensation Plan; and in reliance thereon the State of Nebraska made such plan available to its employees; and many employees have elected, on a purely voluntary basis, to participate in such plan for the express purpose of building a supplemental retirement plan; and

"Whereas, the Legislature of the State of Nebraska is of the opinion that the plan as

adopted by the State of Nebraska provides a significant and needed opportunity for the employees of Nebraska to provide a supplemental plan for their retirement; and such plan is deemed by the Legislature to be in the best interest of the employees and the taxpayers of the State of Nebraska; and

"Whereas, the Internal Revenue Service of the United States Treasury Department issued proposed regulations on February 3, 1978, which would have the effect of terminating all unfunded nonqualified deferred compensation arrangements similar to those available to the employees of the State of Nebraska.

"Now, therefore, be it resolved by the members of the Eighty-fifth Legislature of Nebraska, second session:

"1. That the Legislature of the State of Nebraska respectfully memorializes the Congress of the United States to enact legislation which will require the Internal Revenue Service to issue regulations consistent with existing Internal Revenue Service actions.

"2. That Congress enact legislation which will (a) enable states and local governments to continue established deferred compensation plans for their employees and (b) permit public agencies to establish new plans.

"3. That a copy of this resolution be forwarded to the President and Vice President of the United States, the Secretary of the Treasury, the Speaker of the House of Representatives, the Secretary of the Senate and to each member of the Nebraska Congressional Delegation."

POM-627. A resolution adopted by the City Council of the City of Philadelphia, Pennsylvania, relating to the Kiev Agricultural Exhibit in the native Ukrainian language; to the Committee on Foreign Relations.

POM-628. A resolution adopted by the Legislature of the State of New Hampshire; to the Committee on Governmental Affairs:

"HOUSE RESOLUTION No. 2

"Whereas, since 1918, Americans have paid tribute one day each year to those who have fought to preserve our peace and our nationhood. The eleventh of November has been reestablished as the observance date for Veterans Day throughout the Nation; and

"Whereas, collectively honoring the men and women who have fought to preserve our freedom, we reinforce America's strength as a free Nation; and

"Whereas, in honor of the reinstating of November the eleventh as Veterans Day, it would be fitting and proper for the U.S. Postal Service to issue a Veterans Day stamp for the 1978 observance; now, therefore, be it

"Resolved by the House of Representatives:

"That the Congress of the United States be hereby urged to have the United States Postal Service issue a Veterans Day stamp for the November 11, 1978, Veterans Day; and Be It Further

"Resolved, that a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the U.S. House of Representatives, and to each member of the New Hampshire delegation to the Congress of the United States."

POM-629. A joint resolution adopted by the Legislature of the State of Oklahoma; to the Committee on the Judiciary:

"HOUSE JOINT RESOLUTION No. 1049

"Whereas, with each passing year this nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars.

"Whereas, the annual federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the federal government to curtail spending to conform to available revenues

"Whereas, unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit.

"Whereas, knowledgeable planning, fiscal prudence and plain good sense require that the budget reflect all federal spending and be in balance.

"Whereas, believing that fiscal irresponsibility at the federal level, with the inflation which results from this policy, is the greatest threat which faces our nation, we firmly believe that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility.

"Whereas, under Article V of the Constitution of the United States, amendments to the Federal Constitution may be proposed by the Congress whenever two-thirds of both Houses deem it necessary, or on the application of the legislatures of two-thirds of the several states that the Congress shall call a constitutional convention for the purpose of proposing amendments. We believe such action vital.

"Now, therefore, be it resolved by the House of Representatives and the Senate of the 2nd session of the 35th Oklahoma Legislature:

"Section 1. That this body proposes to the Congress of the United States that procedures be instituted in the Congress to add a new Article to the Constitution of the United States, and that the Legislature of the State of Oklahoma makes application and requests the Congress to prepare and submit to the several states an amendment to the Constitution of the United States, requiring in the absence of a national emergency that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year.

"Section 2. That alternatively, this Body requests that the Congress of the United States call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the Federal Constitution requiring in the absence of a national emergency that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year.

"Section 3. That this Body also proposes that the legislatures of each of the several states comprising the United States apply to the Congress requesting the enactment of an appropriate amendment to the Federal Constitution; or requiring the Congress to call a constitutional convention for proposing such an amendment to the Federal Constitution.

"Section 4. That copies of this Resolution shall be sent by the Secretary of State to our members of Congress.

"Section 5. That the Secretary of State of this state is directed to send copies of this Joint Resolution to the Secretary of State and presiding officers of both Houses of the Legislature, the Congress and of each of the other States in the Union."

POM-630. A resolution adopted by the Legislature of the State of Nebraska; to the Committee on the Judiciary:

"LEGISLATIVE RESOLUTION 152

"Whereas, millions of abortions have been performed in the United States since the abortion decision of the Supreme Court on January 22, 1973; and

"Whereas, the Congress of the United States has not to date proposed, subject to ratification, a Human Life amendment to the Constitution of the United States.

"Now, therefore, be it resolved by the members of the Eighty-fifth Legislature of Nebraska, second session:

"1. That the Legislature respectfully petition the Congress of the United States pursuant to Article V of the United States Constitution to call a convention for the sole purpose of proposing the following article as an amendment to the Constitution of the United States. The proposed article to read as follows:

"ARTICLE —

"Section 1. With respect to the right to life, the word person as used in this article and in the Fifth and Fourteenth Articles of Amendment to this Constitution applies to all human beings irrespective of age, health, function, or condition of dependency, including their unborn offspring at every stage of their biological development.

"Section 2. No unborn person shall be deprived of life by any person, provided, however, that nothing in this article shall prohibit a law permitting only those medical procedures required to prevent the death of the mother.

"Section 3. The Congress and the several states shall have the power to enforce this article by appropriate legislation.

"2. That this application shall constitute a continuing application for such convention pursuant to Article V of the Constitution of the United States until the Legislatures of two-thirds of the several states shall have made like applications and such convention shall have been called by the Congress of the United States.

"3. That this resolution shall be submitted to the Governor for signature in the same manner as a legislative bill.

"3. An application for a convention made under this resolution shall be conditioned on (1) Congress establishing clear procedures for such convention including a limitation of the convention to the subject matter contained within this resolution and (2) provision that if such convention departs from the subject matter of this resolution that the convention be immediately dissolved.

"3. An application for a convention made under this resolution shall be conditioned on the convention delegates being selected in a manner determined by the state legislatures.

"4. That copies of this resolution, suitably engrossed, certified, and exemplified in the manner provided by law, be presented to the President of the Senate of the United States, the Secretary of the Senate of the United States, the Speaker of the House of Representatives of the United States, the Clerk of the House of Representatives of the United States, and to each Member of the Congress from the State of Nebraska attesting the adoption of this resolution by the Legislature of the State of Nebraska."

POM-631. A resolution adopted by the City Council of the City of Titusville, Florida, relating to a demographic study of Brevard County, Florida, to confirm the need for a United States Veterans Administration satellite clinic in Brevard County, Florida; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DECONCINI, from the Committee on the Judiciary:

Improvements in Judicial Machinery Annual Report (Rept. No. 95-781).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

Robert D. Thorne, of California, to be an Assistant Secretary of Energy (Energy Technology) (Ex. Rept. No. 95-20).

(The above nomination from the Committee on Energy and Natural Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any

duly constituted committee of the Senate.)

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. HART (for himself, Mr. McGOVERN, and Mr. PAUL G. HATFIELD):

S. 3027. A bill to provide for a program of review of State laws with regard to solar energy; to the Committee on Energy and Natural Resources.

By Mr. DURKIN (for himself and Mr. HATHAWAY):

S. 3028. A bill to amend title XVI of the Social Security Act to provide that support and maintenance furnished by a relative to a recipient of supplemental security income benefits shall not be considered income, and for other purposes; to the Committee on Finance.

By Mr. TALMADGE (by request):

S. 3029. A bill to provide a voluntary self-help program designed to assist producers of agricultural products to protect themselves against loss of production when natural and uncontrollable conditions adversely affect production and to assure consumers that producers will be able to continue to produce food and fiber; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JACKSON (by request):

S. 3030. A bill to amend the Act of June 3, 1960 (74 Stat. 156), to provide additional authority for the Secretary of the Interior to construct the San Luis Unit, Central Valley Project, California, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BROOKE:

S. 3031. A bill for the relief of Style Leather Company, Incorporated; to the Committee on the Judiciary.

By Mr. NUNN:

S. 3032. A bill to amend title 10, U.S. Code, to provide more efficient dental care for personnel of the Army, Air Force and for other purposes; to the Committee on Armed Services.

By Mr. LEAHY:

S. 3033. A bill to authorize and direct the Secretary of Agriculture to provide cooperative forestry assistance to States and others, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 3034. A bill to authorize and direct the Secretary of Agriculture to carry out forest and rangeland renewable resources research, to provide cooperative assistance for such research to States and others, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 3035. A bill to provide for an expanded and comprehensive extension program for forest and rangeland renewable resources; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PROXMIRE (for himself, Mr. WILLIAMS, Mr. CRANSTON, Mr. RIEGLE, and Mr. LUGAR):

S. 3036. A bill to amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PAUL G. HATFIELD:

S.J. Res. 133. A joint resolution to authorize and request the President to issue a proclamation designating September 24, 1978, as "National Good Neighbor Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HART (for himself, Mr. McGOVERN, and Mr. PAUL G. HATFIELD):

S. 3027. A bill to provide for a program of review of State laws with regard to solar energy; to the Committee on Energy and Natural Resources.

SOLAR ACCESS BILL

● Mr. HART. Mr. President, in the last few months an impressive array of solar legislation has been introduced in both Houses of Congress designed to encourage and expand the use of solar energy. Congress has been able to play a major role in focusing the Nation's attention on the advantages of solar energy over conventional power sources, and I hope we will continue to move in this positive direction.

Whether solar energy is used to heat water or space or is converted to electricity, we must recognize that its viability as an alternative energy source ultimately depends upon direct access to the Sun's rays. Although sunlight flows unobstructed through 93 million miles of space, it is often impeded in the final few feet before it reaches the Earth. A homeowner whose solar collector is shaded by a neighboring structure may have no legal redress. A solar energy user's legal right to sunlight varies from State to State and is for the most part, undefined and unclear. A residential solar energy user may well be hindered by building codes, restrictive covenants, and municipal ordinances that prevent or discourage rooftop location of solar collectors.

The legislation I am introducing today, along with my colleagues GEORGE McGOVERN and PAUL G. HATFIELD, will establish a program of matching Federal grants to States for the purpose of conducting solar access reviews, by which States would identify legal alternatives to assure access to direct sunlight, to promote and protect the use of solar energy devices. With the emergence of solar energy as an important and increasingly reliable alternative to oil, gas, and coal for heating buildings, the questions regarding legal access to the Sun cry out to be resolved. If they are not, the prospect of legal tangles over denied access is likely to deter both developers and homeowners from considering solar heating and cooling.

Legislative initiatives in this area have traditionally been the prerogative of State and local governments and should clearly remain so. The Federal Government can, however, provide the crucial support needed by States and municipalties that seek to press forward and address these emerging problems. The legislation I am introducing takes an important first step toward providing such support. More importantly, it gives us an opportunity to examine and evaluate legal problems before they emerge, before they become overly complex and costly to resolve.

This legislation would authorize the Secretary of Energy to make matching grants to States, the total of such grants not to exceed $10 million, for the purpose of conducting solar access reviews. The program would be voluntary and the States would have to meet guidelines established by the Secretary of Energy in order to qualify for Federal funds.

The critical question of how sunlight, upon which solar energy is dependent, is to be allocated, is just beginning to be examined. A number of States across the country have already developed solar access planning studies, but some, unfortunately, have not been able to proceed due to lack of funds. Federal grants earmarked for solar access studies would provide the boost necessary to get many of these State programs off the ground.

I believe this legislation will provide a solid foundation for the growth and expanded use of solar energy throughout our Nation.●

By Mr. DURKIN (for himself and Mr. HATHAWAY):

S. 3028. A bill to amend title XVI of the Social Security Act to provide that support and maintenance furnished by a relative to a recipient of supplemental security income benefits shall not be considered income, and for other purposes; to the Committee on Finance.

SSI AMENDMENT

● Mr. DURKIN. Mr. President, in an attempt to insure that all elderly, blind, and disabled persons in this country are provided with at least a minimum level of income, Congress in 1972 enacted the supplemental security income program. Although the program is designed to provide recipients with basic necessities to enable them to lead decent and respectable lives, the reality today is that it is extremely difficult for many to exist on the small income provided through SSI. The quickening pace of inflation will make a bad situation more difficult tomorrow. We must be sensitive to these realities, and do all that is possible to ease the burdens of those persons who must exist on a fixed income.

One of the burdens created by the present law, and not resolved in H.R. 7200, is that the already small benefit provided the elderly, blind, or disabled individual is reduced by the market value of the in-kind support and maintenance provided by his or her family. Consequently, families are discouraged from trying to help relatives who, despite supplemental income, still lack basic necessities. These families fear that their generosity will result in reduced SSI benefits for the relatives they are trying to help.

A person receiving SSI is forced to choose between the support and maintenance provided by a loving family member and vitally-needed income. What kind of society have we become that we put a dollar value on the kindness and care provided by a relative?

This bill, which I introduce today with Senator HATHAWAY, will do two things in order to resolve this problem and thus make the system a more humane and compassionate one. First, in-kind support and maintenance provided by a relative will no longer be treated as income to be credited against SSI benefits. The desire of a family to help a relative will no longer be discouraged by monetary disincentives.

Second, benefits will no longer be reduced by the full value of in-kind support and maintenance received from nonrelatives. The reason for this change is that a recipient of inkind support and maintenance cannot convert this into cash for other uses or in any way dispose of it and therefore receives less than full value. For example, to the extent that an individual pays less than fair market value for an apartment, the difference in his cost and market value cannot be freely disposed of by him. Our amendment recognizes this restriction and allows the valuation of in-kind support and maintenance to be somewhat reduced. In-kind benefits received from nonrelatives will be valued at one-third of the total SSI benefit or 75 percent of the current market value of the in-kind support and maintenance, whichever is less.

Third, a change is made so that the contribution of an individual toward a specific item of support and maintenance is subtracted from the amount by which his SSI benefits would otherwise be reduced by receipt of such support and maintenance. Currently an individual who pays nothing for an apartment whose market value is $120 a month and an individual who pays $50 a month receive equal reductions in total SSI benefits. This amendment would allow the reduction in benefits to be offset by the actual payment.

Perhaps two examples will illustrate the necessity of this amendment.

A 75-year-old woman with severe arthritis was left alone when her husband died. She decided to sell her house and purchase a trailer in which to live so that she would not have to be alone. Her daughter offered to allow her to place the trailer on a small parcel of the daughter's property without any charge. The Social Security Administration wrote the daughter asking how much she would charge for rental of the small piece of land if someone other than her mother had placed a trailer on the property. Not understanding the purpose of the question or its impact, the daughter responded that she would not allow anyone but her mother to use the land, but, if she did, she would charge $40 a month. The next week the woman received notification that her SSI check would be reduced by $40 due to the fact that the rent-free use of the small plot on her daughter's property constituted in-kind support and maintenance. The loss of this much-needed income has caused the daughter and the entire family extreme distress. Under our amendment, there would be no reduction in SSI benefits.

In another example, an 82-year-old gentleman pays $100 per month rent for an apartment, although the current market value of that apartment is $180. This man's Supplemental Security Income benefit of $177.80 is reduced by one-third, or $59.26. After the SSI benefit is reduced and he pays the $100 rent, the elderly gentleman is left with $18.54 per month for food, clothing, utilities, and personal needs. The one-third reduction in benefits occurs because the difference between rent paid and the market value of the apartment, under current SSI regulations, is deemed "income" in the form of support and maintenance. This provision serves to deprive aged, blind, and disabled of the benefits of any bargains they might strike or charity they might receive.

Under the changes we propose, the agency would determine which is less, one-third of his benefit ($59.26) or 75 percent of the current market value of the support ($60). The actual contribution made by the SSI beneficiary would then be subtracted from this amount ($59.26–$100) for a resultant loss in benefits of $0.

Mr, President, these are only two of the many examples of the inequities existing in the area of inkind support and maintenance which result in severe hardship to the elderly, blind, and disabled population forced to live on a small fixed income. I urge all my colleagues to join me in supporting this amendment in an attempt to alleviate the burdens borne by the elderly, the blind and the disabled, and to protect the integrity of our Nation's families.

I ask that the bill be printed in the RECORD.

The text of the bill follows:

S. 3028

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1612(a)(2) of the Social Security Act is amended by striking out all which precedes clause (ii) of subparagraph (A) and inserting in lieu thereof the following:

"(2) unearned income means all other income, including

(A) support and maintenance furnished in the form of cash or its equivalent or furnished in kind, on a regular basis, and which is available for the support and maintenance of any individual (and his eligible spouse, if any); except that,

(i) in the case of any individual (and his eligible spouse, if any) receiving support and maintenance in kind from a relative (as defined in section 1614(g)), such support and maintenance shall not be included in income,

(ii) whenever support and maintenance furnished in kind is included as income, the value of any contribution furnished in kind to an eligible individual (and eligible spouse, if any) which is to be included in income for any month shall be equal to the lesser of (I) 75 percent of the current market value of such contribution, minus any expense incurred during such month by such individual or spouse in order to secure or continue to receive such contribution, or (II) 33⅓ percent of the amount of the benefit payable for such month to such individual (and eligible spouse, if any) under the provisions of section 1611(b) (including any amount payable by reason of section 211(a)(1)(A) of Public Law 93–66), minus any expense incurred during such month by such individual or spouse in order to secure or continue to receive such contribution.".

(b) Section 1612(a)(2)(A) of such Act is further amended—

(1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv) respectively; and

(2) by striking out "and the provisions of clause (i) shall not be applicable" in clause (iv) (as redesignated by this subsection).

(c) Section 1614 of such Act is amended by adding at the end thereof the following new subsection:

"RELATIVE

"(q) For purposes of this title, the term 'relative' means father, mother, grandfather, grandmother, grandchild, child, brother, sister, stepfather, stepmother, stepbrother, stepsister, stepchild, uncle, aunt, first cousin, nephew, or niece.".

(d) The amendments made by this Act shall become effective on January 1, 1979.●

● Mr. HATHAWAY. Mr. President, I am pleased to join with Senator DURKIN today in offering legislation which is a followup to my bill S. 1181 which I introduced on March 30, 1977.

This proposed bill which has been drafted in conjunction with the National Senior Citizens Law Center is designed to correct a major deficiency in the present law governing supplemental security income (SSI). Under present law, SSI benefits to aged, blind or disabled individuals are reduced by "unearned income."

Under these rules, an individual who is living in the household of another has his or her benefit reduced by one-third because of the inkind support and maintenance provided by that other person.

This provision operates to discourage the home-care of parents and relatives who are unable to care for themselves. The arbitrary application of the one-third rule encourages the dissolution of the extended family and its compassionate home care for the impersonal nursing home, purely and simply for the impact of Federal assistance.

I oppose this inequity.

The HEW Supplemental Security Income Study Group in January 1976 recommended the abolition of this provision.

I have introduced legislation to this effect.

Today, Senator DURKIN and I renew our call to end this insidious discrimination. We are reintroducing legislation and will move this provision as an amendment to H.R. 7200.

I know my colleagues will join with us to renew our pledge to family integrity and income security for the senior citizens of this country.●

By Mr. TALMADGE (by request):

S. 3029. A bill to provide a voluntary self-help program designed to assist producers of agricultural products to protect themselves against loss of production when natural and uncontrollable conditions adversely affect production and to assure consumers that producers will be able to continue to produce food and fiber; to the Committee on Agriculture, Nutrition, and Forestry.

FARM PRODUCTION PROTECTION ACT OF 1978

● Mr. TALMADGE. Mr. President, I am today introducing at the request of the administration a bill designed to permit the administration to meet its goal of a meaningful all-risk, all-county, all-producer plan for protecting producers against loss of production due to natural disaster and certain uncontrollable risks.

Mr. President, I ask unanimous consent that the bill and the accompanying letter from Secretary Bergland be printed in the RECORD.

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

S. 3029

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Production Protection Act of 1978".

DECLARATION OF PURPOSE

SEC. 2. It is the purpose of this Act to promote the national welfare by improving the economic stability of agriculture through

a system of protecting farmers from loss because of natural or uncontrollable conditions adversely affecting production and to provide the means for the research and experience helpful in devising and establishing such production protection.

FARM PRODUCTION PROTECTION

SEC. 3. To carry out the purpose of this Act, the Commodity Credit Corporation (hereinafter referred to as "the Corporation") is authorized and empowered—

(a) Commencing with farm production for 1980, for the purpose of determining the most practical plan, terms, and conditions of protection for agricultural production, if sufficient actuarial data are available as determined by the Corporation, to protect producers of agricultural products under any plan or plans of protection determined by the Corporation to be adapted to any such product. Such protection shall be against losses due to unavoidable or natural causes, or both, including, but not limited to, drought, flood, hail, frost, wind, winterkill, lightning, fire, excessive rain, snow, wildlife, hurricane, tornado insect infestation, animal disease, plant disease, and such other unavoidable or natural causes, or both, as determined by the Corporation. Production protection offered against loss may cover up to 90 percent of the cost of production of the product for a representative period subject to such adjustments as the Corporation may prescribe, to the end that the average cost fixed for farms in the same area, which are subject to the same conditions, be equitable between producers. In addition, the Corporation may offer where deemed practicable lower levels of protection to be selected at the option of each producer. Production protection provided under this subsection shall not cover losses due to the neglect or malfeasance of the producer, or to the failure of the producer to follow established good farming practices and appropriate conservation practices. In determining the products on which such protection is to be offered, the Corporation shall take into consideration the demands of farmers for such production protection, and the extent to which such production protection is available to commercial producers. The Corporation may refuse production protection in any county or area or on any farm not suited to the production of such product. Production protection may be offered to producer-owned and producer-controlled cooperative associations on commodities if the managerial control over the commodity insured is exercised by such association. The Corporation shall report annually to Congress the results of its operations as to each product protected.

(b) To determine the true risk premium which would be chargeable to each participant in this program based on a sound actuarial base.

(c) To determine that share of the true risk premium which shall be borne by the Corporation.

(d) To adjust and pay claims for losses, under rules prescribed by the Corporation. In the event that any claim for indemnity under the provisions of this Act is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of section 4(c) of the Commodity Credit Corporation Charter Act: *Provided*, That no suit on such claim shall be allowed under this section unless the same shall have been brought within one year after the date when notice of denial of the claim is mailed to and received by the claimant.

(e) To issue contracts and regulations, the terms and provisions of which are binding on the contractual parties thereto.

(f) To compromise claims brought by and against the Corporation.

(g) To collect and receive insurance premiums and expend such premiums for payments of indemnities and for such other purposes consistent with this Act as determined by the Corporation.

(h) To conduct research, surveys, and investigations relating to farm production protection and to assemble data for the purpose of establishing actuarial bases for farm production protection.

(i) Under such terms and conditions as the Corporation deems consistent with sound reinsurance principles, to provide reinsurance on any products or plantation insurance provided in the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Marianas by a duly authorized agency of such Commonwealth or Territory: *Provided*, That no application for reinsurance authorized herein shall be approved, unless the Corporation shall have determined that the reinsurance deemed necessary is not available from recognized private sources at reasonable cost.

(j) To offer specific risk protection programs such as, but not limited to, prevented planting, wildlife depredation, and disease and insect infestation programs, under such terms and conditions as the Corporation may determine.

INDEMNITIES EXEMPT FROM LEVY

SEC. 4. Claims for indemnities under this Act shall not be liable to attachment, levy, garnishment, or any other legal process before payment to the insured or to deduction on account of the indebtedness of the insured or his estate to the United States except claims of the United States or the Corporation arising under this Act.

VOIDING OF CONTRACTS

SEC. 5. The Corporation may void the farm production protection provided any producer without affecting the producer's liability for premiums or waiving any right of the Corporation to collect any unpaid premiums if at any time, either before or after any loss, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the production year with respect to the product on which any such act or omission occurred.

ADVISORY COMMITTEE

SEC. 6. The Secretary of Agriculture (hereinafter referred to as the "Secretary") is authorized pursuant to the Federal Advisory Committee Act to appoint an advisory committee consisting of members experienced in agricultural pursuits or insurance in keeping with the development of protection programs. The compensation of the members of such committee shall be determined by the Secretary but shall not exceed the daily equivalent of the rate prescribed for grade GS-18 in section 5332 of title 5, United States Code, while actually employed and actual necessary traveling and subsistence expenses, or a per diem allowance in lieu of subsistence expenses, as authorized by law (section 5703 of title 5, United States Code) for persons in Government service employed intermittently.

APPROPRIATION

SEC. 7. There are hereby authorized to be appropriated such sums as may be necessary to reimburse the Corporation for its net realized loss incurred under this program during each fiscal year, as reflected in its accounts and shown in its financial report of its financial positions as of the close of the fiscal year.

SEPARABILITY

SEC. 8. The sections of this Act and the subdivisions of such sections are hereby declared to be separable, and in the event any one or more sections or parts of this Act are held to be unconstitutional, the same shall not affect the validity of other sections or parts of sections of this Act.

DEFINITIONS

SEC. 9. (a) "Agricultural products" or "products", as used in this Act, shall include, but not limited to, wheat, cotton, flax, corn, dry beans, oats, barley, rye, tobacco, rice, peanuts, soybeans, sugar beets, sugarcane, timber and forests, potatoes and other vegetables, citrus and other fruits, tame hay, livestock and poultry commercially produced for food or fiber, or any other agricultural product determined by the Corporation pursuant to subsection (a) of section 3 of this Act, or any one or more of such products, as the context may indicate.

(b) "Cost of production" means variable, machinery ownership, and general farm overhead costs plus a charge for management and a charge for land as determined by the Corporation for a given area or county.

(c) "General farm overhead" includes costs for recordkeeping, utilities, general farm maintenance, personal property taxes, sales taxes, insurance, and similar items not specifically associated with a specific crop enterprise. Overhead costs are to be allocated to specific crops on the basis of the proportion of the value of total production derived from each crop.

(d) "Land charges" are to be calculated at a percentage (determined by the Corporation) of the current average price or average rental of land for agricultural purposes.

(e) "Machinery ownership" costs include charges for replacement, interest, insurance, and taxes.

(f) "Management charges" are to be allocated to products on the basis of the proportion of the value of total production derived from each product.

(g) "Production protection" means protection of producers against loss of the cost of production of products.

(h) "True risk" is the anticipated amount of loss for a given protection plan.

(i) "Protection plan" is the protection option selected by the insured.

INDEMNITIES EXEMPT FROM INTEREST

SEC. 10. Notwithstanding any other provisions of this Act, the Corporation shall not be liable or obligated to pay interest on payments or claims for indemnity authorized under this Act.

FINALITY PROVISION

SEC. 11. The facts constituting the basis for any payment under this Act, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary or by the Corporation, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government. In case any person who is entitled to any such payment dies, becomes incompetent, or disappears before receiving such payment, or is succeeded by another who renders or completes the required performance, the payment shall, without regard to any other provision of law, be made as the Corporation may determine to be fair and reasonable in all the circumstances, as provided by regulations.

APPLICATION TO OTHER GOVERNMENTAL PROGRAMS

SEC. 12. Notwithstanding any other provision of law, no person shall be eligible to receive low yield disaster payments, emergency loans and payments, indemnity payments, or specific risk protection payments for production losses under any other program for any agricultural product in any county of any State when, under provisions of this Act, product production protection is generally offered for such agricultural product in such county and State.

PERSONS UNDER EIGHTEEN YEARS OF AGE

SEC. 13. Notwithstanding any other provision of law, no person shall be denied insurance under this Act solely on the ground that he or she is under 18 years of age if such

person (1) has a bona fide interest in a crop as an owner-operator, landlord, tenant or sharecropper, and (2) has a co-maker for the contract of insurance executed: *Provided*, That any such person who enters into a farm production protection contract shall be subject to the same legal liability and have the same legal rights with respect to such contract as any person over the age of 18 years.

TRANSFERS OF ASSETS OF FEDERAL CROP INSURANCE CORPORATION

SEC. 14. The assets, funds, appropriations, property, records, and policyholders of the Federal Crop Insurance Corporation shall be transferred to the Commodity Credit Corporation at such times as the Secretary shall direct. The rights, regulations, privileges, and powers, and the duties and liabilities of the Federal Crop Insurance Corporation, in respect to any contract, agreement, loan, account, or other obligation, shall become the rights, privileges, and powers, and the duties and liabilities, respectively, of the Commodity Credit Corporation. The provisions of the Federal Crop Insurance Act which are relevant to current regulations of the Secretary and the Federal Crop Insurance Corporation governing the program operation of the Federal Crop Insurance Corporation shall remain in effect until such regulations are revoked, superseded, amended, or modified by regulations issued pursuant to this Act. The enforceable claims of or against the Federal Crop Insurance Corporation shall become the claims of or against, and may be enforced by or against, the Commodity Credit Corporation: *Provided*, That nothing in this Act shall limit or extend any period of limitation otherwise applicable to such claims against the Commodity Credit Corporation.

OPERATING FUNCTION

SEC. 15. Program development, actuarial, loss adjustment, and such other functions related to the purposes of this Act as may be assigned by the Corporation, shall be conducted by a discrete organizational unit which shall have no duties or functions not authorized by this Act, and which shall be managed by the member of the Board of Directors of the Corporation designated as manager of the insurance program.

DISSOLUTION OF FEDERAL CROP INSURANCE CORPORATION

SEC. 16. The Secretary, representing the United States as the sole owner of the capital stock of the Federal Crop Insurance Corporation, is hereby authorized and directed to institute or cause to be instituted such proceedings as are required for the dissolution of such Corporation under United States law at such time as he deems it appropriate. The cost of such dissolution shall be borne by the Commodity Credit Corporation.

REPEAL OF THE FEDERAL CROP INSURANCE ACT

SEC. 17. Except as provided in section 113 of this Act, title V of the Agricultural Adjustment Act of 1938 (52 Stat. 72) (known as the Federal Crop Insurance Act) is hereby repealed effective December 31, 1982.

AMENDMENTS TO CHARTER ACT

SEC. 18. (a) Section 9(a) of the Commodity Credit Corporation Charter Act is amended by striking "seven" and inserting "eight" in lieu thereof.

(b) Section 10 of the Commodity Credit Corporation Charter Act is amended by adding to the second sentence after the word "experts" the words "personnel paid by the hour, day, or month when actually employed, county representatives and private insurance agents and companies".

DEPARTMENT OF AGRICULTURE,
Washington, D.C., April 28, 1978.

Hon. WALTER E. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for the consideration of Congress is a draft bill known as the Farm Production Protection Act of 1978, which will permit the Administration to meet its goal of a meaningful all-risk, all-county, all-producer plan for protecting producers against loss of production due to natural disaster and certain uncontrollable risks.

This Department recommends that the bill be enacted. It is a direct result of a comprehensive study of the entire question of disaster relief. There is urgency for this enactment in this session of Congress to assure the new program is operational by the 1980 crop year when low-yield disaster provisions expire under the Food and Agriculture Act of 1977.

This bill would establish a program that would make it possible to combine the insurance provisions of the Federal Crop Insurance Act, the USDA low-yield disaster payment programs, the emergency loan programs of the Farmers Home and Small Business Administrations, and some indemnity payment programs to protect producers of agricultural products against loss of production when natural or uncontrollable conditions adversely affect yields. The Commodity Credit Corporation will be utilized to carry out the purposes of this Act and FCIC will be dissolved.

We have long recognized the need for formation of some method of providing a unified program of protection against losses due to unavoidable natural hazards. This bill could permit the accomplishment of this objective beginning with the 1980 crop year. By crop year 1982 it is projected that about $14.9 billion of protection, out of a potential of $33 billion, would be covered by the program. Cost would be comparable to the present ASCS low-yield disaster and Federal Crop Insurance programs combined. The Department estimates about $542 million would be necessary to operate the program in the first crop year of full operation. This compares to $555 million for the existing four programs. The consolidation will increase the protection available to farmers per dollar of federal outlay.

A projection of fiscal year costs is shown in the attached Exhibits I and II.

First-year coverage offered under this Act would be primarily the disaster crops—corn, grain sorghum, wheat, cotton, rice, and barley—together with 12 other programs currently insured by Federal Crop Insurance including sugarcane, sunflowers, citrus, dry beans, soybeans, oats, flax, peanuts, tobacco, raisins, sugar beets, and rye. As rapidly as actuarial data can be developed, when the bill is enacted, it would be the intent to expand nationally into all other commercially grown crops within 10 years. In addition, specialty insurance could be developed on livestock, aquaculture products, prevented planting, etc. These initially would be on an experimental basis.

At a roughly comparable expense to the current FCIC insurance and ASCS disaster payment programs, the government would offer a greater degree of coverage to a much greater number of agricultural producers with more equitable sharing of costs of the program by producers than is the case with the present disaster programs.

The Department feels this legislation would result in a cost-benefit saving to the taxpayer over present disaster, emergency loan, and insurance programs. It is more meaningful for the farmer because of the additional protection offered than compared with present programs. We view this bill as a good cooperative blend between consumer and farmer interests with benefits to both. By assuring an adequate supply of farm products, there will be less price fluctuation for consumers.

An identical letter has been sent to the Speaker of the House.

The office of Management and Budget advises that enactment of this proposal would be in accord with the program of the President.

Sincerely,

BOB BERGLAND,
Secretary.

Enclosure.

EXHIBIT I

BUDGET AUTHORITY AND OUTLAYS UNDER PROPOSED LEGISLATION

[In thousands of dollars]

	Fiscal year—						
	1978	1979	1980	1981	1982 [1]	1983	1984
Assuming passage of legislation, October 1978:							
Budget authority	61,986	[2] 269,061	153,819	141,500	147,000	[3] 433,140	[3] 539,900
Budget outlays	85,923	[2] 54,518	125,699	[3] 416,785	[3] 513,829	[3] 604,554	[3] 686,230
Increase from existing FCIC legislation:							
Budget authority		[2] 257,061	141,819	129,500	135,000	[3] 421,140	[3] 527,900
Budget outlays		[2] 35,000	106,181	[3] 397,267	[3] 494,311	[3] 585,036	666,712

[1] Starting in fiscal year 1982, additional costs for experimental pilot programs will commence. Dollars are not included in these estimates.

[2] Amended to indicate that $1,000,000 added for staffing and additional costs for regional offices. Such increase needed no later than April 1979, to have fully operational in October 1979. The total amount for development costs ($34,000,000) includes $384,000 that will be required the first 6 months of fiscal year 1980.

[3] Includes interest charges to Commodity Credit Corporation for these funds.

EXHIBIT II

BUDGET AUTHORITY AND OUTLAYS UNDER PROPOSED LEGISLATION

[In thousands of dollars]

	Fiscal year—						
	1978	1979	1980	1981	1982 [1]	1983	1984
Assuming passage of legislation, July 1978:							
Budget authority	77,986	[2] 279,377	152,700	141,500	147,000	[3] 433,140	[3] 539,900
Budget outlays	101,923	[2] 64,834	124,580	[3] 416,785	[3] 513,829	[3] 604,554	[3] 686,230
Increase from existing legislation:							
Budget authority	16,000	[2] 267,377	140,700	129,500	135,000	[3] 421,140	[3] 527,900
Budget outlays	16,000	[2] 45,316	105,062	[3] 397,267	[3] 494,311	[3] 585,036	[3] 666,712

[1] Starting in fiscal year 1982, additional costs for experimental pilot programs will commence. Dollars are not included in these estimates.

[2] Includes $192,000 for development costs that will be required the first 3 months of fiscal year 1980.

[3] Includes interest charges on Disaster Relief Fund.

SUPPLEMENTAL STATEMENT OF USDA ON THE FARM PRODUCTION PROTECTION ACT OF 1978

The Farm Production Protection Act establishes a new Federal insurance plan for farmers that will replace the four separate and overlapping insurance and disaster plans in existence now.

Present programs provide no assurance that an individual farmer will be compensated in part or all for crop losses beyond his control. The new plan will allow a farmer to purchase varying amounts of protection and will guarantee that he will be compensated for crop losses (and eventually livestock, when the plan is in full operation) that are caused by weather and other natural hazards.

About 50 percent of the premium for the basic plan available to farmers will be subsidized by the Federal government. Plans offering more complete coverage will be subsidized to a lesser degree.

Farmers may purchase the plan at their local Agricultural Stabilization and Conservation Service county office or through private insurance agents in their local community.

When fully operational, the plan is expected to cover 68 percent of United States crop acreage.

BACKGROUND

In brief the new legislation would—

Consolidate four existing Federal disaster programs into one insurance program. The four programs to be consolidated are the Federal Crop Insurance Corporation, the "low yield" disaster payment program offered by USDA's Agricultural Stabilization and Conservation Service (ASCS), some Farmers Home Administration emergency loans, and the farm disaster loan program of the Small Business Administration.

Provide farmers with a choice of three levels of protection that will roughly cover (1) out-of-pocket production expenses or (2) out-of-pocket plus some machinery ownership expenses or (3) the previous two plus a return for management and a partial return for land.

Result in lower federal expenditures than the four programs it is designed to replace.

Enlarge natural disaster protection to cover 18 crops that account for 89 percent of U.S. planted acreage.

NEED

Current disaster assistance programs need improvement. The programs overlap with some producers eligible for assistance under all four Federal programs, while others are ineligible for any assistance. Present programs are slow, cumbersome and often do not adequately compensate producers who suffer losses.

Government has a legitimate role in providing disaster protection. Agriculture is faced with more uncertainties than almost any other business enterprise. Farm income is more variable than any other national income category: it is 6 times as variable as non-farm proprietors' income. Historically, one out of every twelve acres planted is not harvested because of adverse weather or other reasons.

Disaster protection provides benefits that extend beyond the farm. Agricultural communities are made more economically stable when farmers are assured of repaying at least their cash costs, even if disaster strikes. The compensation they receive will be spent in local communities, strengthening the economy.

HOW THE FPPA WOULD WORK

The insurance would be sold by private insurance agents and at ASCS offices. Funding would be through the Commodity Credit Corporation.

Eighteen crops for which the present Federal Crop Insurance Corporation has actuarial data would be covered originally. They are wheat, cotton, corn, barley, grain sorghum, rice, sugar cane, sunflowers, citrus, dry beans, soybeans, oats, flax, peanuts, tobacco, raisins, sugarbeets and rye. These crops account for 89 percent of U.S. cropland acreage. As more actuarial experience is gained the program will be extended to other crops, livestock and to perils not covered in the original plan.

Farmers will pay a premium based on the level of protection selected, the reimbursement rate per bushel they select, and the risk involved in their operation. Premium is based on an individual farm's historical yield, and the county's weather, and other natural hazard history.

In the first year of a fully-implemented program, the estimated cost to the government for the program and administrative expenses will be $542 million annually. This is slightly less than the three-year average $555 million cost of the present Federal Crop Insurance, ASCS "low-yield" disaster and the emergency loan programs of the Farmers Home and Small Business Administrations.

When in full operation, protection offered farmers under the new program will be an estimated $14.9 billion, or more than twice the $6.4 billion protection available to farmers under the present programs. This is significantly more farm protection benefits per dollar of Federal outlay. For the first crop year of operation, 1980, the new program is estimated to carry a maximum "risk exposure" of about $9.9 billion. It would provide an all-risk, all-county protection for producers of 18 major crops. By the 1982 crop year, estimated "risk exposure" could increase to the $14.9 billion figure.

Three levels of protection will be offered to farmers on major crops with premiums higher for each level: Level A covers about 50 percent of total production costs; cash outlays for seed, fertilizer, etc. Level B covers 70 percent of production costs for major crops; variable costs plus some machinery and overhead costs. Level C covers about 90 percent of production cost; variable costs, machinery and overhead costs, and part of the costs of land and management.

These percentages of protection may vary for different types of agricultural products.

As the farmer's share of the risk increases through payment of higher premium, the government's proportionate share decreases. About 90 percent of the government participation in the premium costs will be at the A Level to help protect the out-of-pocket, variable costs of production.

EXAMPLES

Indemnity payments to farmers are determined by the established average yield for the individual farm and the program level selected by the producer. A corn farmer with an average yield of 100 bushels per acre, at the "A" level, would be guaranteed 50 bushels per acre. Suppose his actual crop yield is 40 bushels; that is, 10 bushels below the guarantee. At a price of $2.10 per bushel, the producer would receive $21 per acre for the 10-bushel loss. In addition, he would have 40 bushels to sell at market price.

Suppose this same corn farmer had elected the "B" program level of 70 percent. His guarantee was 70 bushels per acre. If his actual yield was only 40 bushels per acre, his loss would be 30 bushels per acre and his indemnity is $63 per acre. He still has his harvested crop to sell.

In the third instance, if the same corn farmer had elected the "C" program level, or 90 percent of production costs, his guarantee would be 90 bushels per acre. If his actual yield was only 40 bushels per acre, his loss below guarantee would be 50 bushels per acre, and he would receive $105 per acre, or $2.10 times 50 bushels plus the income from selling his corn at market price.

Premiums: About 50 percent of the premium costs will be borne by the government under Level "A", the minimum level of protection. A small additional subsidy is provided at the medium coverage level and no additional subsidy would be provided at the highest level of protection; the additional coverage will be sold at cost.

Rates have yet to be devised and it is difficult to give estimates, because each individual farmer's rate will vary by the per acre yield of his farm and how prone to disaster his country is according to past history.●

By Mr. JACKSON (by request):

S. 3030. A bill to amend the Act of June 3, 1960 (74 Stat. 156), to provide additional authority for the Secretary of the Interior to construct the San Luis Unit, Central Valley Project, Calif., and for other purposes; to the Committee on Energy and Natural Resources.

SAN LUIS UNIT, CENTRAL VALLEY PROJECT, CALIF.

● Mr. JACKSON. Mr. President, I introduce today, at the request of an Assistant Secretary of the Interior, a bill to amend the act of June 3, 1960, to provide additional authority for the Secetary of the Interior to construct the San Luis Unit, Central Valley Project, Calif.

Mr. President, last year the Congress authorized a 1-year extension of funding authority for the ongoing San Luis Project. We fully expected to consider additional authorizing legislation for fiscal year 1979. The President, in his budget submittal to the Congress this January, included anticipated budget authority and expenditures for the San Luis project for fiscal year 1979. On an informal basis, the Department of the Interior was contacted earlier this year by staff of the Senate Committee on Energy and Natural Resources and advised of the need for a timely submittal of this legislation to the Congress—if it was to receive full consideration. In further anticipation of an administration request, allowance was made for the requested funding, in the Committee on Energy and Natural Resources' budget report to the Senate.

Frankly, in light of the heavy legislative schedule faced by the committee, I have my doubts that we will be able to get this measure to the floor by the May 15 deadline. If not, consideration will require granting of a waiver by the full Senate. There is no excuse for either the late transmittal of the draft bill to the Congress or the need for the budget waiver. The need for the bill has been known by the administration for over a year. I note that in the letter of transmittal, Assistant Secretary of the Interior Martin urges "that the bill be approved expeditiously by the Congress." The committee will consider the bill as its schedule permits.

I ask unanimous consent that the bill and the letter of transmittal be printed in the RECORD.

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

S. 3030

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the San Luis Unit, Central Valley Project, Cali-

fornia, authorized by the Act of June 3, 1960 (74 Stat. 156) is hereby reauthorized as follows:

SECTION 1. Section 1 of the Act of June 30, 1960, is amended to read as follows:

"(a) For the principal purpose of furnishing water for the irrigation of approximately 600,000 acres of land in Merced, Fresno, and Kings Counties, California (hereinafter referred to as the Federal San Luis unit service area) and as incidental thereto of furnishing water for municipal and industrial uses and providing recreation and fish and wildlife benefits, the Secretary of the Interior (hereinafter referred to as the Secretary) is authorized to construct, operate, and maintain the San Luis unit as an integral part of the Central Valley Project. The principal engineering features of said unit shall be the San Luis Dam and Reservoir, the O'Neill Dam and Reservoir, the San Luis Canal, the Coalinga Canal, the San Luis Drain, and necessary pumping plants, distribution systems, drains, channels, levees, flood works, electric transmission and distribution systems, and related facilities. The authorized engineering features are specifically described and limited to those listed in the House of Representatives and Senate Committee reports accompanying this bill and no major changes in design or capacity of such facilities shall be made in the absence of specific additional legislative authority. Further, no specific changes in the Federal San Luis service area as defined herein shall be made in the absence of specific additional legislative authority.

"(b) No facilities shall be constructed for electric transmission or distribution service which the Secretary determines can be obtained at less cost to the Federal Government on the basis of an offer of a firm 50-year contract from a local public or private agency, rather than by construction and operation of Government facilities.

"(c) The works for joint use (hereinafter referred to as joint-use facilities) with the State of California (hereinafter referred to as the State) shall be the San Luis Dam and Reservoir, the O'Neill Forebay-Afterbay, the San Luis pumping-generating plant, the Dos Amigos pumping plants, and the San Luis Canal, and such appurtenant facilities as the Secretary deems appropriate.

"(d) In constructing, operating, and maintaining the San Luis Unit, the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto).

"(e) No water provided by the Federal San Luis Unit shall be delivered in the Federal San Luis service area to any water user for the production on newly irrigated land of any basic agricultural commodity, as defined in the Agriculture Act of 1949, or any amendment thereof, if the Secretary of Agriculture determines that the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is likely to be excessive: *Provided*, That the above restriction shall be effective only if the Secretary of Agriculture advises the Secretary of the Interior of the crops subject to such restriction at least 90 days prior to the date such crops are normally planted."

"(f) Definitions

(1) "Secretary" refers to the Secretary of the Interior, or any person whom he designates to represent and act for him.

(2) "Federal San Luis Service Area" means land, which on April 1, 1978, was included in the Panoche, San Luis or Westlands Water Districts and as of that date had been certified by the Secretary as being irrigable. Broadview Water District is also included for purposes of drainage service only. It shall also include the municipalities of Avenal, Huron, and Coalinga, California. The service area is further defined in a map contained in Committee reports accompanying this bill.

SECTION 2. Section 5 of the Act of June 30, 1960, is amended to read as follows:

"Section 5(a). The Secretary is authorized to construct, operate, and maintain only that portion of the San Luis drain extending from the Kesterson Reservoir south to Kettleman City at a capacity not to exceed 300 cubic feet per second. Said drain may be concrete lined if in the opinion of the Secretary such lining is necessary. Each San Luis Unit contractor shall repay its proportionate share of the costs of construction of said portion of the drain within 40 years from the effective date of this act, including a proportionate share of the annual costs of operation, maintenance and replacement; *Provided*, That the Secretary is authorized to transfer the responsibility for the operation and maintenance of said drain to any or all of the San Luis Unit contractors.

"(b) The Secretary may permit the use of the San Luis drain as authorized by section 5(a) for the disposal or conveyance of agricultural drainage water by individuals or water districts outside the San Luis Unit service area. Such use shall only be permitted pursuant to contracts the terms of which are consistent with section 9(c), (d) or (e) of the Reclamation Projects Act of 1939 as well as with other provisions of Reclamation Law; *Provided*, That water districts within the Federal San Luis unit service area are assured full drainage service necessary for the protection of the lands within the Federal San Luis service area. Any revenues accruing from such contracts are to be credited toward repayment of the San Luis drain.

"(c) Further construction to modify, enlarge, or extend the San Luis drain beyond that described in this subsection (a) above shall not occur until such time as: (1) the report of the Interagency Drainage Program has been completed and agreement has been reached with the State of California regarding the selection of a final point of discharge and any treatment of drainage water necessary to protect the quality of the receiving waters; (2) the Secretary has completed the necessary environmental statements on the San Luis Unit required pursuant to section 102(c)(2) of the National Environmental Policy Act of 1969; (3) the Secretary and the State have entered into an agreement for joint financing, construction, and operation, maintenance and replacement of San Joaquin Valley master drain and have established a fair and equitable method for allocating drainage capacity among participating users and for assuring repayment of such drain by all users within a reasonable period of time and in accordance with Reclamation Law; (4) the Secretary has determined and reported to the Congress the economic and engineering feasibility of completion of the San Luis drain on a master drainage plan pursuant to section 5(d) of this act, and (5) Congress has specifically authorized the modification, enlargement, or extension of the San Luis drain.

"(d) The Secretary is authorized to conduct a study jointly with the State to examine various alternative solutions for the ultimate disposal of agricultural waste water from the San Luis Unit and the San Joaquin Valley, including lands in other Federal (Central Valley Project) and State service areas in the San Joaquin Valley. The Secretary shall submit a report to the Congress no later than January 1, 1981, containing a proposal for ultimate disposal or reuse of San Luis Unit agricultural waste water, or, in the event the State has entered into an agreement with the Federal Government pursuant to section 5(c)(3) of this act, for joint construction of a San Joaquin Valley master drain, for modification, enlargement, and extension of the San Luis drain for the purposes of ultimate disposal or reuse of agricultural waste water in the San Joaquin Valley."

SECTION 3. The Act of June 30, 1960, is amended to add the following new sections and to renumber existing sections to conform:

"Section 6. (a) No further funds shall be appropriated for construction of the San Luis Unit works until such time as valid long-term contracts with all water districts within the San Luis Unit have been executed which contain the following: (1) a water service rate adequate to recover full repayment of actual operation, maintenance and replacement costs annually; (2) a rate adequate to repay an average share of the capital costs of the Central Valley Project allocated to irrigation as determined by the Secretary, which shall be subject to review and adjustment at five year intervals from the date of execution of each contract; such review may be conducted in conjunction with regularly scheduled project rate review and adjustment periods so long as the intervals do not exceed five years; (3) full repayment by appropriate water districts within the Federal San Luis Unit Service Area of such operation, maintenance, and replacement costs as incurred annually and all capital costs within 40 years of the effective date of this Act as have been or will be incurred in conjunction with construction of the distribution and drainage system, including the San Luis Drain as described in section 5(a) of this Act; (4) a provision requiring compliance with all rules and regulations now in effect or hereafter lawfully adopted by the Secretary, regarding implementation of the acreage limitation and residency requirements of the Reclamation Act of 1902, as amended.

"(b) Long-term contractual commitments for firm surface water deliveries to water districts or municipalities in the San Luis Unit shall not exceed 1.1 million acre-feet annually. In dry and critical years, delivery of such firm commitments shall be reduced in accordance with the terms and conditions set forth in the contracts between the water users and the United States.

"(c) The Secretary shall not execute any contract which commits any of the firm surface water supply as limited by subsection (b) above for the San Luis Unit, to provide service to lands outside the Federal San Luis Unit Service Area, as defined in this Act.

"(d) The Secretary may, on an interim basis, enter into contracts with water districts in the Federal San Luis Unit service area for periods not to exceed one year, for the delivery of interim or intermittent water from the Central Valley Project, *Provided* that water districts of the San Luis Unit shall not be given preference for use of such water over other water users in the Central Valley Project. Such interim contracts shall provide that:

(1) regardless of the payment capacity of the contractor, rates in such contracts shall be sufficient to recover the actual costs of operation, maintenance and replacement (including pumping power) and the average share of capital costs allocated to irrigation;

(2) after January 1, 1981, the water districts within the Federal San Luis Unit Service Area have developed a water management and conservation program, approved by the Secretary, as described in section 9 of this Act.

(3) the delivery of such interim or intermittent water does not impair the ability of the Secretary to coordinate the operations of the Central Valley Project with the operations of the California State Water Project, pursuant to any agreement which has been executed in accordance with section 8 of this Act.

"(e) No water service or repayment contract may be executed prior to—

(1) its submission to the respective authorizing committees of the Senate and the House of Representatives of the United States, for a period of 90 days in which each House is in session, provided that either committee may, by passage of a resolution, waive any remaining review days; and,

(2) the publication in newspapers of general circulation in the affected area, of a notice that the draft contract is being considered by the Secretary, and a full opportunity for all affected and interested parties to comment, in a public meeting, on the proposed contract no less than sixty days prior to its approval."

"Section 7. (a) No Federal project water may be delivered, sold or exchanged under any circumstances for use on excess lands within the Federal San Luis Unit service area which are held by one owner in excess of the acreage limitation requirements of reclamation law, unless such lands are under recordable contract.

"(b) No Federal project water delivered to the Unit may be sold, traded, or exchanged for use on lands lying outside the Federal San Luis Unit Service Area, except by the written approval of the Secretary.

"(c) No Federal project water delivered under this Act may be resold by any contractor or subcontractor at a price in excess of that under which it was delivered by the Bureau of Reclamation."

"Section 8. To the extent permitted by existing law, the Secretary shall, through his representatives, immediately initiate negotiations with the appropriate officials and agencies of the State of California, in order to coordinate the management of the Central Valley Project and the State Water Project and to develop on the basis of such negotiations, executed agreements which include water quality criteria for the Sacramento-San Joaquin Delta for the mitigation, protection, and enhancement of beneficial uses of water in the Delta, including fish and wildlife values.

SEC. 9. The Secretary, in cooperation with water users in the San Luis Unit and the State, and other irrigators or parties whom he deems advisable shall cooperatively develop a program for the most efficient use of water within the Unit and adjacent lands and may allow water users to integrate deep wells within the Unit with Federal constructed distribution systems, provided that the Secretary may not expend funds for construction of groundwater integration facilities, including deep wells, except as required solely to interconnect the two systems.

SEC. 4. Section 8 of the Act of June 30, 1960 is renumbered and amended to read as follows:

"SEC. 12(a). There is hereby authorized to be appropriated for construction of the works of the San Luis unit, including joint-use facilities, authorized by this Act, other than distribution systems and drains, the sum of $290,430,000, plus such additional amounts, if any, as may be required by reason of changes in costs of construction of the types involved in the San Luis unit as shown by engineering indexes, said sum of $290,430,000 shall, however, be diminished to the extent that the State makes funds or lands or interests in land available to the Secretary pursuant to sections 2 or 3 of this Act which decrease the costs which would be incurred if the works authorized in section 1 of this Act (including provisions for their subsequent expansion) were constructed solely as a Federal project: *Provided*, That expended funds shall not be indexed for purposes of adjusting the authorized cost ceiling to account for changes in costs of construction."

"(b) There are also authorized to be appropriated, in addition to amounts authorized in subsection (a) above, such amounts as are required for construction of such distribution systems and drains, including the San Luis drain, as are not constructed by local interests, but not to exceed in total cost, including amounts already expended by the Federal government, $342,315,000 plus such additional amounts, if any, as may be required by reason of changes in costs of construction of the types involved in the San Luis unit as shown by engineering indexes, *Provided*, That expended funds shall not be indexed for purposes of adjusting the authorized cost ceiling to account for changes in costs of construction.

"(c) There are also authorized to be appropriated, such funds as necessary to carry out Section 8 of this act, and such funds shall be non-reimbursable.

"(d) All moneys received by the Secretary from the State under this Act shall be covered into the same account as moneys appropriate hereunder and shall be available without further appropriation, to carry out the purposes of this Act."

WASHINGTON, D.C.,
April 27, 1978.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a bill "To amend the Act of June 3, 1960 (74 Stat. 156), to provide additional authority for the Secretary of the Interior to construct the San Luis Unit, Central Valley Project, California, and for other purposes."

The Department recommends that the bill be introduced and enacted.

Public Law 95-46 directed the Secretary of the Interior to create a task force to review and make recommendations to Congress concerning the management, organization and operation of the San Luis Unit of the Central Valley Project in California. One of the specific areas to be investigated involved "the adequacy of present levels of authorization for completing the unit and recommendations for funding such completion, such as indexing of authorization or periodic reauthorization." The enclosed bill represents the Department's position, in view of the findings and recommendation of the task force, with regard to reauthorization requirements of the Unit.

Section 1 of the bill provides authorization for a number of features and facilities now a part of the Unit but for which the task force found inadequate legislative authority. The major change is that this bill provides specific authority for the Unit to furnish irrigation water to a total of 600,000 acres whereas the 1960 Act authorized service to approximately 500,000 acres. In response to the task force findings that numerous design changes had occurred in the Unit facilities and that these changes resulted in substantial cost increases the Department's proposed bill restricts the authorized engineering features to those specifically described in the Committee Reports which will accompany the bill. Similarly, the Federal San Luis Unit Service area is defined in Section 1 of the proposed bill.

The remainder of Section 1 merely restates the original 1960 provisions except for some language changes concerning production of basic agricultural commodities on newly irrigated lands. These changes are needed to accurately reflect the present statutory framework.

Section 2 relates to the San Luis Drain. The Drain was originally authorized as part of the distribution and drainage system but over time costs have increased dramatically and new considerations concerning the Drain have arisen. The proposed bill retains the Drain as a feature of the distribution and drainage system but limits the authority of the Secretary of the Interior to construct, operate, and maintain a drain in excess of 300 cubic feet per second and then only that portion extending from Kesterson Reservoir south to Kettleman City, California.

The proposed bill provides that the Secretary may undertake future construction to modify, enlarge or extend the drain only under certain conditions. These conditions include further technical and environmental studies, execution of an agreement with the State of California for a master drain in the San Joaquin Valley and obtaining additional specific authorization from the Congress.

The Secretary is authorized to allow the use of the drain by users outside the San Luis Unit if such use does not interfere with the provision of full drainage service to districts within the Unit. The use of the drain by persons outside the San Luis Unit would be pursuant to contracts consistent with the reclamation laws.

Section 3 of the proposed bill conditions all future appropriations for construction within the San Luis Unit upon the execution of long term contracts with all districts within the Unit which contain rates adequate to recover annual costs of operation, maintenance, and replacement, and to recover within 40 years, an average share of the Central Valley Project capital costs allocated to irrigation and full repayment of distribution and drainage system costs by the districts which benefit from those systems. Those contracts would also contain provisions to require the contracting districts to comply with future rules and regulations relative to eligibility requirements for receiving Federal project water. Opportunities for public participation and Congressional review would be provided prior to the execution of any contract. Long term contractual commitments for surface water deliveries to the San Luis Unit would be limited to 1.1 million acre-feet per year under the terms of the proposed bill. Additional quantities could be delivered on an interim basis under specified conditions.

Other sections of the proposed bill provide for the initiation of negotiations between the United States and the State of California with respect to the coordination of the Federal Central Valley Project and the State Water Project. In addition, the Secretary would promote cooperative water conservaton efforts and the integrated use of water supplies. This authority, however, would not extend to Federal construction of facilities necessary to integrate ground and surface water supplies, except as required to interconnect the two systems.

Section 4 relates to the authorized appropriation levels for San Luis Unit construction. In the 1960 Act a cost ceiling of $290,430,000 was established for the main storage and conveyance features of the project such as the San Luis Reservoir and Canal, pumping plants and other major facilities. This authorization amount was made subject to indexing for inflation and remains adequate to complete the major project features. Accordingly, no increased appropriation level is provided in the bill for this purpose.

The 1960 Act treated the distribution and drainage systems to be constructed in the Unit separately and authorized appropriations of $192,650,000 for that purpose. That amount was not made subject to indexing and appropriations to date have reached that level. The proposed bill raises this cost ceiling to $342,315,000, and permits the indexing of this amount for purposes of inflation. Under both ceilings, for main features and distribution and drainage systems, indexing will be permitted only on unexpended portions of authorized funds.

On October 4, 1972, the Department of the Interior filed with the Council on Environmental Quality a final environmental impact statement on the San Luis Unit, Central Valley Project, California (FES 72-36).

That statement considered the total impacts of completing the distribution and drainage system, including the San Luis Drain, as envisioned at that time. The system contemplated in 1972 included more extensive works than are provided for in this reauthorization bill, particularly with respect to the San Luis Drain.

In subsequent litigation between the Contra Costa County Water District and the Secretary of the Interior, a stipulation and order was entered requiring a supplemental environmental impact statement to bring the original one up to date. A draft of the supplement is scheduled for completion in June 1978 and the final is scheduled for January 1979. The stipulation and order also provides that the United States and Westlands Water District may negotiate and take all necessary steps to execute and perform any contracts for the continued construction and completion of water distribution and drainage systems and groundwater integration facilities, including wells, within the District.

The clear implication is that the parties to the litigation and the court felt the original statement was adequate with respect to the above facilities.

The enclosed bill reauthorizes the Unit only insofar as construction on facilities expressly exempted from the provisions of the court order requiring the supplemental statement. Moreover, other provisions of the bill specifically condition future construction on Unit facilities, such as the Drain, on the completion of rigorous environmental reviews. Other provisions of the bill relate to contract terms and repayment which we believe do not have significant environmental implications.

Accordingly, we find that the introduction and enactment of this bill will not result in any significant environmental impacts which have not already been adequately addressed or which will not be addressed in more depth as a result of the bill's enactment and implementation.

The draft proposed bill is consistent with the task force recommendations and the Secretary's desire to continue with orderly construction and completion of the San Luis Unit. We recommend that the bill be approved expeditiously by the Congress, as additional appropriations authority is required in order for the construction program to continue in fiscal year 1979, and it is extremely important to implement the task force recommendations in order to clarify uncertainities in the original authorization, to account for changes in plans that have occurred, and to firm up repayment and other terms and conditions for completion and management of the project.

The Office of Management and Budget has advised that there is no objection to the presentation of this draft bill from the standpoint of the Administration's program.

Sincerely,

GUY R. MARTIN,
Assistant Secretary.●

By Mr. NUNN:

S. 3032. A bill to amend title 10, United States Code, to provide more efficient dental care for personnel of the Army, Air Force, and for other purposes; to the Committee on Armed Services.

● Mr. NUNN. Mr. President, I am, today, introducing a bill to change the organizational structure of the military Dental Corps in order to provide more efficient dental care for personnel of the Army and Air Force.

In 1976, the Army began to test a new organizational structure for its dental activities in which these activities were placed under a supervisory dentist who reported to the unit commander. The results indicated a substantial increase in productivity with 12,000 additional dental procedures being performed a day at lower costs and with a reduced staff than the previous organization. Unit commanders also reported their strong approval of the new organizational structure being tested.

Organizational changes that can have these kind of results should be endorsed and welcomed by military members and taxpayers. At a time when military health care is facing severe shortages and problems, I certainly applaud these efforts by the Army.

This bill will amend the current law to require the Chief of the Dental Corps in the Army be responsible for all matters related to dentistry and dental health. It will establish the Chief of the Dental Corps as the chief administrator and adviser to the Office of the Surgeon General on all matters related directly to dentistry. It will also provide direction for the command and staff relationships of dental activities at both the installation and headquarters level. The bill would also establish the position of Assistant Surgeon General for Dental Services in the Air Force.

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

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

S. 3032

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3040(b) of title 10, United States Code, is amended by inserting immediately after the first sentence thereof the following new sentence: "He is Chief of the Dental Corps and is responsible for making and implementing recommendations to The Surgeon General and through The Surgeon General to the Chief of Staff on all matters concerning dentistry and the dental health of the Army.".

SEC. 2. Chapter 307 of title 10, United States Code is amended by adding at the end thereof the following:

"§ 308. Dental Corps: Chief, functions

"(a) The Chief of the Dental Corps shall be an officer of that corps appointed

"(b) Under such regulations as the Secretary of the Army may prescribe, all dental functions of the Army shall be under the direction of the Chief of the Dental Corps. All matters relating to dentistry shall be referred to the Chief of the Dental Corps.

"(c) The Chief of the Dental Corps shall—

"(1) establish professional standards and policies for dental practice.

"(2) initiate and recommend action pertaining to organization requirements and utilization of the Dental Corps and dental auxiliary strength, appointments, advancement, training assignment, and transfer of dental personnel; and

"(3) serve as the advisor to the Office of The Surgeon General on all matters relating directly to dentistry.

"(d) Under such regulations as the Secretary of the Army may prescribe, dental and dental auxiliary personnel throughout the Army shall be organized into units commanded by a designated Dental Corps officer. This officer will be directly responsible to the commander of installations, organizations, and activities for all professional and technical matters and such administrative matters as prescribed in regulations.".

SEC. 3. Chapter 807 of title 10, United States Code is amended by adding at the end thereof the following:

"§ 8081. Assistant Surgeon General for Dental Services

"There is an Assistant Surgeon General for Dental Services in the Air Force, who is appointed by the Secretary of the Air Force upon the recommendation of The Surgeon General, from officers of the Air Force above the grade of major who are designated as dental officers under section 8067(b) of this title. The term of office is four years but may be sooner terminated or extended by the Secretary of the Air Force.".

SEC. 4. The tables of sections for chapters 307 and 807, title 10, United States Code, are amended by adding at the end of the respective table of sections the following:

with regard to chapter 307 add

"3081. Dental Corps: Chief, functions."

and

with regard to chapter 807, add

"8081. Assistant Surgeon General for Dental Services.". ●

By Mr. LEAHY:

S. 3033. A bill to authorize and direct the Secretary of Agriculture to provide cooperative foresty assistance to States and others, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 3034. A bill to authorize and direct the Secretary of Agriculture to carry out forest and rangeland renewable resources research, to provide cooperative assistance for such research to States and others, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 3035. A bill to provide for an expanded and comprehensive extension program for forest and rangeland renewable resources; to the Committee on Agriculture, Nutrition, and Forestry.

● Mr. LEAHY. Mr. President, I am introducing three forestry bills that are identical in purpose to the three forestry bills I introduced earlier this year: S. 2926, S. 2536, and S. 2537. My purpose for introducing these bills today is to bring S. 2926, S. 2536, and S. 2537 in closer conformance with the House companion bills, reported by the House Agriculture Committee on Tuesday, May 2.

These revised bills contain a number of technical amendments that do not change the basic concept of the original bills, presently before the Senate Committee on Agriculture, Forestry, and Nutrition.●

By Mr. PAUL G. HATFIELD:

S.J. Res. 133. A joint resolution to authorize and request the President to issue a proclamation designating September 24, 1978, as "National Good Neighbor Day"; to the Committee on the Judiciary.

NATIONAL GOOD NEIGHBOR DAY

● Mr. PAUL G. HATFIELD. Mr. President, today I introduce a joint resolution to authorize and request President Carter to proclaim September 24, 1978, as "National Good Neighbor Day."

One of our Nation's most priceless treasures is our heritage of being good

neighbors in time of need. Many stories account for deeds of neighborliness, ranging from those of simple courtesy to acts of bravery. Good neighbors come in all races, religious, and ages. It is only right that they should be honored.

This national day does not content itself with honoring those who are already good neighbors. It offers a chance to each of us to recommit our own lives to this goal.

Equally important, it encourages the flow of benefits to countless other Americans who should be the recipients of special attention. Many children could benefit from the guidance and help that a thoughtful, kind neighbor could provide. So, too, do many of our lonely and aged need special attention when friends and family are no longer nearby. One day of the year is not much to ask of America to honor those who make each day brighter for the less fortunate members of our society.

Former Senator Mike Mansfield held this resolution very dear. He introduced it every year and made a personal commitment to its passage.

I am delighted to be able to follow Mike's lead and sponsor "National Good Neighbor Day."

I ask unanimous consent that the resolution be printed in the RECORD.

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

S.J. RES. 133

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating September 24, 1978, as "National Good Neighbor Day", and calling upon the people of the United States and interested groups and organizations to observe such day with appropriate ceremonies and activities.●

By Mr. PROXMIRE (for himself, Mr. WILLIAMS, Mr. CRANSTON, Mr. RIEGLE, and Mr. LUGAR):

S. 3036. A bill to amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SUSAN B. ANTHONY DOLLAR COIN ACT

Mr. PROXMIRE. Mr. President, the administration has recently sent a legislative proposal to the Congress recommending that the present dollar coin be replaced with a smaller, more conveniently-sized one. Since the present coin was first introduced in 1971, it has not been widely accepted by the public primarily because of its cumbersome size. The Treasury believes that a smaller dollar coin can become a useful denomination in our coinage system. Moreover, it claims that this new coin would offer potential cost savings by replacing some of the demand for one dollar bills. The cost of producing the new dollar coin would be approximately 3 cents, compared to 8 cents for the present dollar coin, and 1.5 cents for the one dollar bill. In addition, the Treasury points out that the dollar coin would last approximately 15 years, while the dollar bill has an average life of 18 months before it is taken out of circulation. Needless to say, the Committee on Banking, Housing and Urban Affairs, which has jurisdiction over such legislation, will give serious consideration to all of the arguments for and against introduction of the coin into our coinage system. I, myself, have not made up my mind on the advisability of a new dollar coin. However, if there is to be a new one, I feel strongly that it should commemorate a real American woman.

Accordingly, Mr. President, I am very disappointed over the administration's choice of the stylized Liberty Head design to appear on the obverse side of this coin. I do not wish to denigrate this famous portraiture which first appeared on our early coins. However, I feel the administration is missing an important opportunity to recognize the women of this country by not recommending the portrait of someone who actually lived and who played an important role in changing the lives of American women.

When the Lincoln cent made its initial appearance in 1909, it marked a radical departure from accepted styling, introducing as it did for the first time a portrait on our circulating coinage. A strong feeling had prevailed against the minting of such coinage but public sentiment, stemming from the 100th anniversary celebration of Abraham Lincoln's birthday, proved stronger than the long standing prejudice.

The Thomas Jefferson nickel replaced the Liberty design and went into circulation in 1938; the George Washington quarter replaced Liberty in 1930 to commemorate the 200th anniversary of our first President; Congress authorized the removal of the Liberty design from the dime in 1946 when it commemorated Franklin D. Roosevelt; the Benjamin Franklin half dollar replaced Liberty in 1948. Franklin was subsequently removed from the half dollar in 1963 to make way for John F. Kennedy. And 8 years ago President Nixon signed into law the Eisenhower dollar coin. Since that time, the Liberty concept has remained somewhere in numismatic limbo, waiting in the wings to go on stage whenever there is a change in the cast of characters.

Mr. President, without exception, all of our circulating coins honor real Americans—individuals who have rightly earned their place in this Nation's history. The administration's suggested Liberty design is a step backwards and unworthy of the President who has spoken often of his commitment to the women of this country. He has chosen to remain with the Liberty design created by the Mint's chief sculptor who has stated:

> I have great confidence in this coin portrait. It's traditional and can't hurt anyone's feelings. The design itself goes back to 1795 and shows that we really haven't changed all that much in 200 years.

Last March I wrote President Carter and Secretary Blumenthal, urging that they reconsider their decision to go ahead with the mythical Liberty Head design and, instead, honor a real American woman on the proposed coin. I stated that more than one-half of the American electorate would be shortchanged if Congress were to authorize the Liberty design. The Secretary's indifferent response, also on behalf of the President, is a disappointment. It stated, in part, that:

> The Liberty design has been predominant on our coins until the last few decades when at historically significant opportunities, U.S. Presidents were selected for such honor.

The Secretary's reply went on to state that:

> Benjamin Franklin, who holds a quite unique position in our history, appeared on the half dollar for a time and is the lone exception to the Liberty dollar or Presidential designs.

Mr. President, I suggest to you and my esteemed colleagues that there is another great American who holds a unique position in the history of this country. I am referring to Susan B. Anthony. It was largely through her efforts that the 19th amendment was finally made part of the U.S. Constitution giving the vote—the fundamental act of political life—to American women. Known as the Anthony amendment, it was introduced in 1878 and not ratified until 1920. During that time, women were forced into 56 referendum campaigns, 480 legislative races, 47 campaigns on State constitutional conventions, 277 campaigns to get State party conventions to include it in their platforms, 30 campaigns to get Presidential conventions to adopt it in their planks and 19 successive Congresses It was a continuous chain of activity. Finally, when the dust settled and the amendment was ratified, nationwide celebrations marked the victory. Young women who helped forge the last links of that chain were not born when it began—old women who forged the first links were dead when it ended.

Mr. President, this year marks the 158th anniversary of the birth of Susan B. Anthony. The Anthony dollar coin would be a fitting tribute to the accomplishments of this remarkable American. Accordingly, I am today introducing legislation similar to the administration's proposal but recommending that Miss Anthony's portrait appear on the obverse side of the coin. This legislation is cosponsored by some of my colleagues on the Banking Committee: Senators HARRISON A. WILLIAMS, JR., ALAN CRANSTON, DONALD W. RIEGLE, JR., and RICHARD G. LUGAR.

Finally, Mr. President, I ask unanimous consent that a New York Times article concerning the efforts of Susan B. Anthony be printed in the RECORD together with the proposed legislation, and its accompanying section-by-section analysis.

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

S. 3036

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

SECTION 1. This Act may be cited as the "Susan B. Anthony Dollar Coin Act of 1978".

SEC. 2. Section 101(c)(1) of the Coinage Act of 1965, as amended (31 U.S.C. 391(c)(1)), is amended by striking out "1.500" and inserting in lieu thereof "1.043" and by striking out "22.68" and inserting in lieu thereof "8.5".

SEC. 3. (a) The one-dollar coin authorized by section 101(c) of the Coinage Act of 1965, as amended by section 2, shall bear on the obverse side the likeness of Susan B. Anthony.

(b) Subject to subsection (a) and the limitations contained in section 3517 of the Revised Statutes, as amended (31 U.S.C. 324), the Secretary of the Treasury may prescribe such design for the one-dollar coin authorized by section 101(c) of the Coinage Act of 1965, as amended by section 2, as he deems appropriate.

SEC. 4. Section 203 of the Act of December 31, 1970 (31 U.S.C. 324b), is amended by striking out "initially" and by inserting "(d)" after "section 101".

SEC. 5. Until January 1, 1979, the Secretary of the Treasury may continue to mint and issue one-dollar coins authorized under section 101(c)(1) of the Coinage Act of 1965, as such section was in effect immediately prior to the date of enactment of this Act.

SECTION-BY-SECTION ANALYSIS

Section 1 would require that the bill be called the "Susan B. Anthony Dollar Coin Act of 1978".

Section 2 would amend existing law, section 101(c)(1) of the Coinage Act of 1965, as amended (31 U.S.C. 391(c)(1)), to provide for new specifications for the cupro-nickel clad dollar coin. The current statutory provision provides that the dollar shall be 1.500 inches in diameter and weigh 22.68 grams. This section would reduce the size of the dollar coin to 1.043 inches in diameter and to 8.5 grams in weight.

Section 3 of the bill requires that the obverse side of the coin bear the likeness of Susan B. Anthony. Otherwise it would authorize the Secretary of the Treasury to prescribe whatever design he deems appropriate for the dollar coin authorized by this Act, subject to the limitations contained in section 3517 of the Revised Statutes, as amended (31 U.S.C. 324). This section would authorize the Secretary to adopt a new design for the reverse of the new cupro-nickel clad dollar coin proposed by the draft bill in replacement of the present statutory design consisting of President Dwight D. Eisenhower's likeness on one side of the dollar coin and an eagle symbolozing the Apollo 11 landing on the moon on the reverse side of the coin (31 U.S.C. 324b).

Section 4 would amend existing law in order to enable the Secretary to continue the current Eisenhower-Apollo 11 statutory design on the 40% silver-clad dollar.

Section 5 would authorize the Secretary to continue minting the current cupro-nickel clad dollars for circulation throughout 1978. This provision would assure an orderly transition from the current dollar coin to the new smaller coin.

[From the New York Times Magazine, Apr. 1, 1945]

ARE WOMEN PERSONS?

This year marks the 125th anniversary of the birth of the militant suffragist, Susan B. Anthony. This Quaker maiden who eventually "changed the mind of a nation," was one of the outstanding women of her century—the century that freed American women from their economic and legalistic shackles.

Although she was educated in the proper Quaker manner—studying morality, humility, love of virtue, and modesty—she was not a proper Quakeress, even as a child. She was too curious. She was too logical. She was too passionate.

At 17 she left the small Massachusetts town of her birth and found a job as a school teacher in Canajoharie, N.Y. She was already a violent Daughter of Temperance, an Abolitionist, and her conviction that women were the moral and intellectual equals of men marked her as a social revolutionary even at that early age. Miss Anthony grew up in a period of social reform and represented much of the spirit of that reform.

She was five feet six inches tall, with broad shoulders. Her brown hair was thick and shiny. Her eyes were brilliant, and her lips were soft and red. In those days she was called "a fine figure of a woman"—and she was known as "the smartest woman who had ever come to Canajoharie."

She fought off proposals of marriage, for she already had begun to visualize her career as an organizer of women. Women, at that time, were perpetual minors in the eyes of the law. They existed legally through their husbands. They could be taxed, but they couldn't vote. They could earn money, but they couldn't own it. They were expected to have children, but they had no legal rights over them. And Susan B. Anthony's young soul rebelled against this inequality and the laws and traditions which maintained it.

Thus when the first woman's convention was held in Seneca Falls, N.Y., Susan attended it breathlessly. For five years thereafter she participated in all forms of women's rights demonstrations and meetings, most of which were aimed at minor reforms. She soon realized, however, that ambuscades and limited war on specific injustices were not enough—that women would have to fight for total freedom, and that the ballot was the key to that freedom.

She wrote letters, circulated petitions, begged editors for publicity. She tramped the streets, arguing with apathetic women, and women who slammed the door in her face, saying that they had husbands, thank goodness, to protect their rights. She called meetings and introduced bills into Congress and State Legislatures. She started a newspaper called Revolution, with the motto: "The true Republic—men, their rights and nothing more; women, their rights and nothing less."

The leading men of the nation shuddered to hear an unmarried female "advocate such destructive changes in the protected status of loved and cherished wives."

The women's movement, mocked censured from all sides, continued growing, led by a mature Susan Anthony, who worked at it constantly. With the Civil War, the feminine seekers after the vote fought ardently for Negro suffrage—assuming that when the former slaves received the franchise, certainly all women would too.

They were mistaken. The Fourteenth Amendment to the Constitution was passed—but women did not get the vote.

"Still another form of slavery remains to be disposed of," declared Susan E. Anthony at this time. "The old idea yet prevails that woman is owned and possessed of man to be clothed and fed and cared for by his generosity. The present agitation rises from the demand of the soul of woman for the right to own and possess herself."

At approximately this period, Susan Anthony clashed with Horace Greeley. "Miss Anthony," said Greeley at a suffragist convention, "you are aware that the ballot and the bullet go together. If you vote, are you also prepared to fight?"

"Certainly, Mr. Greeley," lashed out Susan sharply. "Just as you fought in the late war—at the point of a goose-quill."

But words could not do the trick. The Fourteenth Amendment had to be put to the test. It plainly stated that persons born or naturalized in the United States were citizens, and that no law could be passed abridging the privileges of such citizens. Susan realized that her fight depended on the meaning of the word persons. Were women persons?

She put the case to the test. In 1872 she cast a vote in the Presidential election—bullying an election board to whom she read the Fourteenth Amendment into giving her a ballot—and was arrested. Her trial was at least as famous as that of the Dred Scott case. She was denied a jury, and was forbidden to testify in her own behalf. The judge ruled that women were less than persons, that they were not citizens—and at the close of a dramatic session found her guilty and fined her $100. Said Susan: "May it please your Honor, I will never pay a dollar of your unjust penalty." She never did.

For forty years she traveled over the United States, calling women's conventions, lecturing, debating with legislators. She traveled in Europe, her reputation making way before her, and discussed women's suffrage with the crowned heads of Germany and England.

When she died at 86, hundreds of columns were written, praising her work and thought. A few smug editors said: "She was the champion of a lost cause"; "Her peculiar views on this question will soon be forgotten."

But Susan B. Anthony, who had been called both "Saintly Susan" and "Napoleon" by her disciples, could have referred to her favorite motto: "Failure is impossible." Fourteen years later, in 1920, American women were enfranchised. EDITH EFRON.

ADDITIONAL COSPONSORS

S. 2369

At the request of Mr. ANDERSON, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 2369, the Dutch Elm Disease Control Act of 1978.

S. 2388

At the request of Mr. PACKWOOD, the Senator from California (Mr. CRANSTON), and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of S. 2388, a bill to amend the Interial Revenue Code of 1954, to provide for the exclusion from gross income of certain employee educatonal assistance programs.

S. 2436

At the request of Mr. JAVITS, the Senator from Georgia (Mr. TALMADGE) was added as a cosponsor of S. 2436, a bill to amend the Internal Revenue Code of 1954 to provide a tax credit to employers who hire unemployed youths.

S. 2534

At the request of Mr. SCHWEIKER, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 2534, the Health Maintenance Organization Act Amendments of 1978.

S. 2536

At the request of Mr. LEAHY, the Senator from Mississippi (Mr. STENNIS), the Senator from Minnesota (Mrs. HUMPHREY), and the Senator from Alabama (Mr. ALLEN) were added as cosponsors of S. 2536, a bill to authorize and direct the Secretary of Agriculture to carry out forest and rangeland renewable resources research, to provide cooperative forest resources assistance to States and others, and for other purposes.

S. 2537

At the request of Mr. LEAHY, the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Alabama (Mr. ALLEN), the Senator from Kentucky (Mr. MORGAN), and the Senator from Minnesota (Mr. ANDERSON) were added as cosponsors of S. 2537, a bill to provide for an expanded and comprehensive extension program for forest and rangeland renewable resources.

S. 2647

At the request of Mr. RIBICOFF, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 2647, a bill to amend title XVIII of the Social

Security Act for the purpose of including outpatient rehabilitation services among the benefits of the medicare program.

S. 2669

At the request of Mr. NELSON, the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of S. 2669, to amend the Internal Revenue Code of 1954 to provide an equitable tax structure for small and independent companies, and for other purposes.

S. 2699

At the request of Mr. JACKSON, the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 2699, a bill to amend the Act of June 27, 1960 as amended by the Act of May 24, 1974 relating to the preservation of historical and archeological data; to authorize appropriations under section 3(b) and 4(a) for the fiscal years 1979 through 1983, and for other purposes.

S. 2742

At the request of Mr. NELSON, the Senator from Idaho (Mr. CHURCH), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of S. 2742, to reform the depreciation system for small business.

S. 2843

At the request of Mr. HELMS, the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 2843, the Gold Medallion Act.

S. 2926

At the request of Mr. LEAHY, the Senator from Alabama (Mr. ALLEN) was added as a cosponsor of S. 2926, a bill to authorize and direct the Secretary of Agriculture to provide cooperative forestry assistance to States and others, and for other purposes.

S. 2931

At the request of Mr. LUGAR, the Senator from Utah (Mr. HATCH), the Senator from New York (Mr. MOYNIHAN), the Senator from Ohio (Mr. GLENN), the Senator from New York (Mr. JAVITS), and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of S. 2931, a bill to increase the authorization for the urban homesteading program under section 810 of the Housing and Community Development Act of 1974, to improve coordination between the urban homesteading program and the rehabilitation loan program, and for other purposes.

S 2969

At the request of Mr. CHURCH, the Senator from Minnesota (Mr. ANDERSON), the Senator from Michigan (Mr. RIEGLE), the Senator from New Hampshire (Mr. DURKIN), the Senator from Arizona (Mr. DECONCINI), the Senator from North Dakota (Mr. BURDICK), and the Senator from Tennessee (Mr. SASSER) were added as cosponsors of S. 2969, a bill to amend the Older Americans Act of 1965 to provide for improved programs for the elderly, and for other purposes.

SENATE JOINT RESOLUTION 132

At the request of Mr. ANDERSON, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of Senate Joint Resolution 132, to establish a Presidential Commission to develop plans for a memorial to the victims of the Holocaust.

SENATE RESOLUTION 219

At the request of Mr. ROTH, the Senator from Utah (Mr. GARN) was added as a cosponsor of Senate Resolution 219, establishing a senior citizen internship program in the Senate.

AMENDMENTS SUBMITTED FOR PRINTING

DEVELOPMENT ASSISTANCE AUTHORIZATIONS, 1979—S. 2646

AMENDMENT NO. 1847

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. HART (for himself, Mr. CASE, Mr. MCGOVERN, Mr. HASKELL, and Mr. MCINTYRE) submitted an amendment intended to be proposed by them, jointly, to the bill (S. 2646) to amend the Foreign Assistance Act of 1961 to authorize development assistance programs for fiscal year 1979, and for other purposes.

● Mr. HART. Mr. President, I am submitting today, for myself and Senators CASE, MCGOVERN, HASKELL, and MCINTYRE an amendment to S. 2646, the development assistance authorizations for 1979. The purpose of this amendment is to encourage the administrators of the AID housing guaranty program to give consideration to the use of solar energy in financing projects which require the provision of an energy source. I am pleased to report that a similar amendment is being introduced today in the House of Representatives by Congressman JEFFORDS.

Over the years, the AID housing guaranty program has been instrumental in generating resources for improved housing and related services for poor people in developing countries. The principal activities, presently financed through the program, include the provision of electricity, water, and sewerage facilities. Taking electricity as an example, many developing countries are finding it difficult to raise the large amounts of capital which are needed to expand their electric power grids, and meet the increasing demand for electricity. The use of solar photovoltaic cells would be an ideal way to save money in the long run and give more people access to electricity. Another important need is for hot water, which could easily be provided by solar hot water heaters.

While I realize that many poor people are not now able to afford to purchase this equipment, as the costs of solar energy equipment decline and the incomes of poor people increase, they will be better able to afford these items. This amendment is designed to encourage AID administrators and leaders in developing countries to recognize the benefits of using solar energy, and begin to look at ways it can be used to meet energy needs in the homes in developing countries.

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

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

AMENDMENT NO. 1847

On page 13, line 9, strike out the quotation marks and the period at the end of the line.

On page 13, between lines 9 and 10, insert the following:

"(c) In carrying out any activity under this section which requires use of an energy source, consideration shall be given to the use of solar energy, including but not limited to the use of solar hot water systems, solar heating and cooling, passive solar heating, biomass conversion, photovoltaic and wind applications, and community-scale solar thermal applications.".●

LABOR LAW REFORM ACT OF 1978—S. 2467

AMENDMENTS NOS. 1848 THROUGH 1929

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

Mr. HATCH submitted 82 amendments intended to be proposed by him to the bill (S. 2467) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

NAVIGATION DEVELOPMENT ACT—H.R. 8309

AMENDMENT NO. 1930

(Ordered to be printed.)

Mr. MARK O. HATFIELD proposed an amendment to the bill (H.R. 8309) authorizing certain public works on rivers for navigation, and for other purposes.

AMENDMENT NO. 1931

(Ordered to be printed.)

Mr. ALLEN proposed an amendment to the bill (H.R. 8309), supra.

AMENDMENT NO. 1932

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

Mr. GRAVEL (for himself and Mr. MAGNUSON) submitted an amendment intended to be proposed by them to the bill (H.R. 8309), supra.

IMF SUPPLEMENTARY FINANCING FACILITY—S. 2152

AMENDMENT NO. 1933

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

Mr. SCHWEIKER submitted an amendment intended to be proposed by him to the bill (S. 2152) to amend the Bretton Woods Agreements Act to authorize the United States to participate in the supplementary financing facility of the International Monetary Fund.

● Mr. SCHWEIKER. Mr. President, today I am submitting an amendment to S. 2152, a bill which would authorize the United States to participate in the supplementary financing facility of the International Monetary Fund.

My amendment would correct a serious deficiency in the legislation as reported by the Foreign Relations and Banking Committees by insuring that this facility would be subject to the budget and appropriations process.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY CONSERVATION AND REGULATION

● Mr. JOHNSTON. Mr. President, on Thursday, May 11, 1978, the Subcommittee on Energy Conservation and

Regulation of the Committee on Energy and Natural Resources will hold an oversight hearing on emergency sales of electric power. The hearing will commence at 9 a.m. in room 3110 of the Dirksen Senate Office Building.

Questions about this hearing should be addressed to Benjamin Cooper or James Bruce of the subcommittee staff at 224-9894.●

ADDITIONAL STATEMENTS

THOSE WHO APPEASE TERROR WILL DIE BY TERROR

● Mr. GOLDWATER. Mr. President, in today's world, the problem of terrorism is a present and ever-growing danger. It is the final denial of freedom when a small group of fanatics can hold governments hostage by acts of violence and threats. In light of this, it is disheartening to find the Government of the United States supporting terrorist guerrillas in Rhodesia. By our insistence that a small band of Soviet supported guerrillas be given a voice in the Rhodesian Government, we are in effect attempting to appease present and future threats of violence.

Mr. President, columnist Michael Novak treated this whole subject in an excellent article entitled "Those Who Appease Terror Will Die By Terror" published in the April 16 edition of the Washington Star. I ask that this be printed in the RECORD.

The article follows:

THOSE WHO APPEASE TERROR WILL DIE BY TERROR

(By Michael Novak)

The most profitable business in the world these days is terrorism.

Consider the argument that many commentators, including official U.S. spokesmen, are putting forward in behalf of 6,000 guerrillas in the pay of the Soviets on the borders of Rhodesia. "See" these respectable voices say, "we must deal with the guerrillas. Otherwise they will be nasty. They have earned the right to representation since by their terrorism they forced Rhodesia to make concessions." The short version of this pseudo-wisdom is as follows: Terrorism pays.

A mere 50 terrorists in Italy keep 50,000 troops occupied in a search for Aldo Moro. Who can doubt that in a civilized and free world terrorism pays? Faint-hearted democrats are all too willing to go far beyond the requirements of due process. They go much further. They treat terrorism as a legitimate political tool. They hope to appease its appetite. They should learn this proverb well: Those who appease terror will die by terror.

Terrorism is today even more than Hitler made it in the 1930s. It is the moral equivalent of war. Efforts to appease it cannot avail. For if terror works at one stage, it will also be invoked at later stages. If terror can win representation in a democratic government, then later terror can also bring a democratic government crashing down. Such terror will be happily financed by the Soviets.

For the Soviet Union itself has no fear of terrorism. There is no terrorism in the Soviet Union. A totalitarian regime is not threatened by terrorists. Terrorism is a threat only to democratic states and to authoritarian states that are not yet totalitarian. Totalitarian states totally eliminate it, are impervious to it. It can hurt only their enemies. No wonder terrorism has become the number one weapon in the Soviet arsenal.

So those who would appease the terrorists of Rhodesia today will tomorrow bear responsibility for the terrorism these same forces will practice then. Their goal is total mastery. They will kill any black or white, who stand in their way.

Guilty liberals, white and black, may imagine that race is the most potent moral force in the world. They are wrong. Ideology is more potent—and far more destructive—than race. Tribalism has for centuries led human beings of the same race to slaughter one another. Ideology also leads human beings of the same race to slaughter one another. Black skin will not protect African democrats from terror any more than white skin or national patriotism protected Eastern European democrats from terror in 1948.

As in Rhodesia so also in "Palestine." The government of the United States appears to be the only involved government that desires to reward the Palestine Liberation Organization with a "homeland." The Syrians do not wish to do so. The Jordanians do not wish to do so. The Egyptians do not wish to do so. Why should any responsible government in the area wish to reward a form of terror easily turned, within a decade or so, upon its own institutions?

Were the Palestinian cause represented by democratic forces, by a legitimate provisional government, by a sound economic plan—in that case, the Palestinian cause would have a wholly different political meaning. To the shame and disgrace of Palestinians everywhere, only the terrorists now speak for them. Those who think the terrorists will not become inebriates of blood will learn a bitter lesson.

The meaning of recent events in Lebanon is not that Israel is intransigent about complicity in its own destruction. The meaning is that the government of the United States has targeted its "compassion" not upon democratic forces but upon terrorists. By rewarding the PLO for terrorism the United States is blowing life into the agents of its own sworn and resolute enemy.

It is hard to see why anyone believes that terrorism can be appeased by surrendering to it. There is a government—in the USSR—immune to terror at home but willing to pay for it anywhere else. For it, instability and disruption are politically profitable. When your goal is to bring down democracies, terrorism pays.

Let no one be mistaken. We are living in a decade of appeasement. We shall reap a bloody harvest. We will suffer from it soon enough ourselves.

Pious men, innocent as doves, may underestimate the wisdom of serpents. When the bell of terrorism tolls it tolls for them. And for us all.●

THE CRIMINAL CODE REFORM ACT OF 1978

● Mr. ANDERSON. Mr. President, on January 30, 1978, this Chamber voted 72 to 15 to bring the Federal Criminal Code into the 20th century. The overwhelming margin by which we approved S. 1437, the Criminal Code Reform Act of 1978, culminated many years of debate over important philosophical and practical issues which divide persons of good judgment and are not easily resolved.

For more than a decade many Members of Congress could agree only that criminal code reform was urgently needed. For more than a decade we studied, analyzed, drafted, revised, but, in the end, never enacted.

Finally, this year, the members of the Judiciary Committee, under the leadership of Senator KENNEDY and the late Senator McClellan, reported out a bill which incorporated existing law, improvements over current law, and major reforms of the criminal justice administration system.

Recently, however, some have begun a campaign to defeat the Criminal Code Reform Act of 1978 in the House of Representatives. But reference to the actual language in S. 1437, to existing title 18, and to the Judiciary Committee's report No. 95-605 refutes the arguments of the opponents of S. 1437.

Mr. President, my staff has prepared a position paper which, I believe, demonstrates the merits of S. 1437, as passed by the Senate. In order to afford Americans, confused by the rhetoric of S. 1437 opponents, the opportunity to understand the merits of the bill and to see why it is vital for the House to concur in the Senate's recent action, I ask that the text of the position paper be printed in the RECORD.

I also ask that two letters responding to a critique of S. 1437 by Mr. Nat Hentoff be printed in the RECORD. These letters, written by Senator EDWARD KENNEDY and Americans for Democratic Action Vice President Joseph L. Raugh, Jr., appeared in the letters to the Editor column of the Washington Star on April 2, 1978, and April 10, 1978, respectively. The authors appropriately point out that Mr. Hentoff disserves the very cause of civil liberties he professes to represent. I believe the letters' timely and informative contents warrant the attention of the Senate.

The material follows:

THE CRIMINAL CODE REFORM ACT OF 1978: THE LAW, NOT THE RHETORIC

On January 30, 1978, the U.S. Senate passed, by a vote of 72-15, the Criminal Code Reform Act of 1978 (Reform Act). If passed by the House of Representatives, this recodification of 200 years of piecemeal assemblage of federal criminal statutes will represent one of the most important achievements of the 95th Congress. I supported passage of the Reform Act and sincerely hope that the House does not miss this opportunity to say "enough" to the contradictory, confusing, and frequently anachronistic provisions in existing Title 18 of the U.S. Code.

Commentators representing all philosophical persuasions recognize the urgent need for federal criminal code reform and have described the present code as "archaic," "repressive," "unfair," and "a threat to the civil liberties of every American."

No such comprehensive reform has ever been achieved before. Overall, the bill would streamline and restructure the 3,000 separate pieces of criminal legislation passed by Congress over the past 200 years. For example, a single new section would replace more than 70 confusing theft statutes. Existing statutes still make it a federal offense to interfere with the flight of Government carrier pigeons or to write a check for a debt of less than $1. The Reform Act brings the law books into the twentieth century.

Moreover, 50 perjury statutes would be reduced to three provisions, and four specifically defined states of mind (intentionally, knowing, reckless, and negligent) would replace more than 70 undefined, vague terms. Also, the legislation would harmonize and clarify scores of other legal terms to assure uniform interpretation.

Most important, the bill would provide the first comprehensive reform of federal policy of punishing convicted criminals. It would phase out both indeterminate sentencing and parole, which have been criticized by law-enforcement experts and prisoners alike as abusive and unfair, and would establish a commission to provide sentencing guidelines for judges. For the first time,

sentences would be subject to appellate review.

These major improvements over existing law did not come about overnight and, contrary to unfounded assertions, were not "railroaded" through the Senate this session.

In 1966, President Johnson attempted to meet the need for reform by establishing the National Commission on Reform of Federal Criminal Laws. Chaired by former California Governor Pat Brown, the so-called Brown Commission submitted a draft of a new criminal code, highly protective of civil liberties, to President Nixon's Justice Department in 1971. The Nixon Administration, however, rejected the majority report of the Brown Commission and submitted a very conservative version to Congress. Eventually, a bill emerged which reflected the repressive nature of the Nixon Administration's views on law enforcement. Known as S. 1, the bill drew harsh criticism from across the political spectrum and suffered a well-deserved death in the Senate Judiciary Committee.

The fight over S. 1 demonstrated how difficult enactment of criminal code reform would be. Inclusion of controversial provisions on highly divisive issues precluded acquiescence by opposing factions in the Senate Judiciary Committee and prevented any substantive action from occurring.

S. 1437, on the other hand, reflects political realities. Introduced by Senator Kennedy and the late Senator McClellan (with the late Senator Hubert Humphrey as a chief co-sponsor), the bill eliminates the controversial provisions which killed S. 1. The Reform Act returns to the Brown Commission's concern for civil liberties. Unlike S. 1, there is no expansion of the wire-tapping laws or of the death penalty. President Nixon's Official Secrets Act, elimination of the insanity defense, and authorization of a so-called "Ehrlichman defense (by which government officials excuse commission of illegal acts on grounds they were ordered by higher authority)," are also missing from the Reform Act.

The Reform Act prevailed in committee and on the Senate floor because, unlike S. 1, it reflects a compromise between liberals and conservatives. In areas of complete disagreement, potentially fatal to the urgently needed criminal code reform, existing law was maintained in new, understandable language. So, for example, in the area of wiretapping, where liberals on the committee were inclined to restrict or eliminate federal authority but where the conservatives were inclined to expand it, current law was codified. Once the Reform Act becomes law, the issue of wiretapping can, and will, be reexamined on its own merits, without jeopardizing the overall reform.

Anthony Lewis, in a November 14, 1977, New York Times column entitled "Politics of the Possible," recognized the validity of this approach to legislation:

"In effect, Senator Kennedy has come down on the side of the possible in the tactical choice presented again and again in the politics of a democracy: to accept the possible or fight for the perfect. He evidently thinks that some reform of the criminal law is better than none, especially at a time when the country is hardly in a reformist mood."

Since passage of the Criminal Code Reform Act of 1978, I have heard criticism from persons who would reject the possible and have Congress embark on a quixotic search for the perfect. Two points must be raised in response to this criticism. First, there is no chance of passing what the critics see as the "perfect" Criminal Code Reform bill. The Reform Act passed by the Senate was the culmination of 12 years of hard work aimed at achieving the best possible bill acceptable to a majority of the Members. Insistence on the "perfect" bill would destroy the liberal/conservative coalition established by Senators Kennedy and McClellan and free the faction which supported S. 1 to push once again for its version of the "perfect" bill.

The second point which must be raised in response to critics of S. 1437 is that failure to enact the Reform Act leaves the nation with the status quo. Since, in most instances, the Reform Act follows the Brown Commission's version of criminal code reform, civil libertarians who oppose the new legislation do their cause an injustice by their efforts to deny Americans the civil liberty safeguards written into the bill.

No less an authority than Alan M. Dershowitz, Harvard Law School professor and past president of the American Civil Liberties Union has stated,

"A careful comparison of (S. 1437) with existing law has convinced me that passage of the new bill would strengthen our democratic institutions and reinforce our liberty. To be sure, the bill fails to make some changes, which I and other civil libertarians have long advocated. I continue to hope, and will continue to work for, such changes. But the net effect of S. 1437 is a substantial improvement over existing law. . . . (The Reform Act) reflects a net gain for civil liberties, and it does not contain any new provisions that can truly be called repressive. . . . Considering the realities of our political institutions and of current public opinion about crime and justice, I believe that failure to enact these improvements would disserve the interest of civil liberties in the United States."

An examination of some of the controversial provisions of S. 1437 reveals their foundation in current law and illustrates how certain defenses and amendments, added by the Judiciary Committee and the full Senate, tend to improve the status quo by increasing our citizens' safeguards against potential abuse.

In February, 1978, the Minneapolis Tribune sharply criticized the Reform Act in three separate editorials. The editorials, which mention most of the provisions attacked by opponents of S. 1437, serve as a good reference for analyzing the legislation.

STRICT CONSTRUCTION DOCTRINE

According to the Tribune, the Reform Act "would increase the likelihood of abuses by departing from past practice and specifically permitting broad construction of its provisions." The concern, if true, would be entirely justified since it is basic to our criminal justice system that the accused have had fair notice that he was engaging in proscribed conduct. However, the criticism is unjustified since it ignores an amendment by Senator Cranston designed to clarify the Senate's intent that the strict construction doctrine be maintained. I supported this amendment to section 112 of S. 1437 and believe it adequately protects citizens from surprise prosecutions.

CRIMINAL ATTEMPT

The Tribune editorial takes issue with section 1001 of the Reform Act, dealing with criminal attempt. The "substantial step test" is characterized as imprecise and a "dangerous extension of existing law." This is simply untrue.

It is true that this section provides, for the first time in the federal criminal code, a general attempt provision. By doing so there will be, also for the first time, a uniform definition of what constitutes a criminal attempt under federal law. The offense of attempt is not, in itself, new. Common law decisions and state statutes long ago established that conduct which falls short of the commission of a substantive crime may nevertheless be subject to punishment as an attempt (e.g., attempted murder).

In charging a person with an attempted crime, it is important to distinguish between acts which amount to no more than mere preparation and those acts which manifest a serious dedication to the commission of a crime. The "substantial step" test is widely accepted by the courts, recommended by the prestigious American Law Institute in its Model Penal Code, and supported by numerous highly respected legal scholars. The "substantial step" test's appearance in S. 1437 results from acceptance of an A.C.L.U. amendment urging use of the test in the Criminal Attempt provision.

Furthermore, under the Reform Act, a person who voluntarily and completely renounces his prior criminal intent and abandoned the criminal effort cannot be convicted of criminal attempt. To use the Tribune's example, a person who picketed within 100 feet of a federal courthouse during (or within 30 minutes before or after) a judicial proceeding, specifically intending to influence a judicial proceeding, causing unreasonable noise, obstruction of courthouse entries or exits, or threats of bodily harm, kidnapping, or property damage, could be prosecuted for "Demonstrating to Influence a Judicial Proceeding" under section 1328. However, if the person renounced his criminal intent and abandoned his plans to picket the courthouse and "never reached the courthouse or picketed there," there could be no conviction for criminal attempt under section 1001.

CONSPIRACY

Section 1002, Criminal Conspiracy, is criticized attempt, as being an imprecise, dangerous extension of existing law. In fact, the new section on conspiracy offers a renunciation defense not now available which is aimed at preventing abuse.

The crime of conspiracy can be traced back to 14th century England. More recently, in the 1975 Supreme Court case of *United States* v. *Feola*, the Court said,

"Our decisions have identified two independent values served by the law of conspiracy. The first is protection of society from the dangers of concerted criminal activity. . . . (Second) . . . although the law generally makes criminal only antisocial conduct, at some point in the continuum between preparation and consummation, the likelihood of a commission of an act is sufficiently great and the criminal intent sufficiently well formed to justify the intervention of the criminal law."

The conspiracy section is designed to prevent abuse by requiring an overt act in furtherance of the conspiracy before prosecution is possible. The culpability level required of the person charged, i.e., that he "knowingly" agreed to engage in proscribed conduct, was recommended by the American Bar Association.

Section 1002 of the Reform Act does not address the question of when a person may become a member of a conspiracy and the extent of knowledge he must possess with respect to the identity or actions of other members in order to be liable. Instead, the Judiciary Committee and the Senate intended that these issues, for the time being, be governed by current law. Of course, defeat of S. 1437 in the House would maintain current law completely and eliminate the new "renunciation" defense.

CRIMINAL CONTEMPT

The Tribune's characterization of the criminal contempt provision, section 1331, implies that the Reform Act creates new opportunities for repressive tactics by the courts. According to the editorial, section 1331 "would make it a crime not only to disobey a court order, but also to 'resist' it, no matter what form that resistance may take."

Except for the safeguards offered to the press and others in section 1331 of the Reform Act, this provision is not new law. As noted in the Judiciary Committee's report,

this section is intended to codify existing law [18 U.S.C. § 401(3)]. The conduct element of the offense consists of disobeying or resisting a writ, process, order, rule, decree, or command of the court. The offender must be aware that he is disobeying or resisting a court writ, process, etc. In the ordinary case, this will mean that the offender has been served with, or otherwise officially notified of, the existence of the writ, process, etc. This standard is consistent with case law construing 18 U.S.C. § 401(3), in which it has been held that, while knowledge of the order and a deliberate disobedience or resistance of it are essential elements, it need not be proved that the offender had an evil intent. This policy helps assure the integrity and respect due the federal courts.

Furthermore, the Criminal Code Reform section on criminal contempt provides for two defenses not contained in current law. One provides the accused with an affirmative defense where he can show that the order, writ, process, etc. was invalid and that he took reasonable steps to appeal its validity before disobeyance or resistance. This represents an improvement over existing law under which all orders and judgments of courts must be complied with promptly. As noted by the Supreme Court in *Maness* v. *Myers* (1975):

"Persons who make private determinations of the law and refuse to obey an order generally risk criminal contempt even if the order is ultimately ruled incorrect."

Jack Landau, Chairman of the Reporters' Committee on Freedom of the Press, says that the additional defense, against unconstitutional orders, contained in section 1331 for the benefit of newsmen represents the "greatest single contribution Congress has made" to freedom of the press in his lifetime.

MAKING A FALSE STATEMENT

One provision of the Reform Act which has drawn especially harsh criticism is section 1343, Making a False Statement. The Tribune, as well as other critics, worry that no witnesses would be required to substantiate a federal law-enforcement officer's claim that a person had violated this section. "My word against yours" scenarios are repeatedly hypothesized. The Tribune editorial claims "the Senate bill would extend illegality to any false oral statement to any federal law-enforcement officer or noncriminal investigator in virtually any setting."

In fact, the provision is quite a bit more restrictive. The oral statement must be material; it must be made to someone the speaker knows to be a law-enforcement officer or noncriminal investigator acting under authority of statute, regulation, or order from the head of a government agency. Also, if the statement is not volunteered, there can be no prosecution unless the speaker was advised that making a false oral statement is an offense.

Nor does section 1343 trailblaze new law. There is a basic and general false statement provision in current Federal law 18 U.S.C. § 1001. There are, additionally, literally dozens of other specific false statement statutes scattered throughout the U.S. Code, often including within their coverage elements of fraud or theft. Note that conviction under section 1001 of existing Title 18 can bring about a 5-year sentence; conviction under proposed section 1343 results in a maximum of 2 years or 1 year, depending on the nature of the false statement.

As to "my word against yours" problems, these situations arise every day in courthouses across the country. Whether in contract disputes, personal injury cases, criminal prosecutions, or any other type of litigation, the jury has the duty to determine the veracity of the declarants. Our court system has managed to function in the past when there were only two witnesses to an event and each had a different version of what transpired. It can do so under the Reform Act.

To use the example of the Tribune, i.e., making a false statement to an Internal Revenue agent, it is true that under section 1343 a person could be prosecuted for knowingly making a false statement during a tax investigation, either by volunteering the material statement or by responding to a direct question after being warned that making a false material statement is an offense. However, the section represents an improvement over existing law. In *U.S.* v. *McCue* (1975), the Supreme Court let stand a Federal appellate court decision that acts of taxpayers in making false statements and representations to agents of the Internal Revenue Service violated 18 U.S.C. § 1001. Furthermore, under existing law, there is no requirement that the person asking the questions warn the respondent that a false material statement offered as an answer constitutes an offense under the criminal code.

MIRANDA RIGHTS

Another major concern of opponents of the Reform Act is the alleged threat of weakened cognizance of a defendant's *Miranda* rights. Accordinig to the Tribune,

"(T)he bill would weaken the rights of accused persons by making it possible for police and prosecutors to use as evidence certain confessions obtained without Miranda warning; now, the police must inform suspects of their rights before taking a confession. The bill would permit the use of illegally obtained evidence in sentencing proceedings. Neither provision has been shown necessary to effective law enforcement; both could encourage wrongful police practices."

In fact, the bill does not weaken the rights of the accused or lessen the police officer's responsibility as suggested by the Tribune. Rather, the bill carries forward the provisions of existing 18 U.S.C. § 3501. In both section 3713 of the Reform Act (Admissibility of Confessions) and section 3501 of existing Title 18, the primary issue for determining the admissibility of a confession is whether it is a voluntary confession. Both existing and proposed law says the judge should consider several factors to determine voluntariness, including whether Miranda warnings were given. Both versions specifically provide, however, that the presence or absence of any one or more of the listed factors need not be conclusive as to the voluntariness of the confession. The validity of this provision was recently sustained against a claim that it conflicted with the holding in *Miranda* v. *Arizona*.

Similarly, section 3714 of the Reform Act, Admissibility of Evidence in Sentencing Proceedings, does not permit the use of illegally obtained evidence in sentencing proceedings unless it is shown to be reliable. This provision is not new law; it carries forward, in substance, the provisions of 18 U.S.C. § 3577. These existing and proposed provisions recognize the importance of having as much information as possible before the judge when he is considering an appropriate sentence to impose. The use of reliable, though illegally obtained, evidence in sentencing proceedings has been upheld in federal appellate courts. The Supreme Court has declined to overturn these decisions.

COMPLICITY, SOLICITATION, DEMONSTRATING, AND SENTENCING

The Tribune editorialists and other critics convey additional inaccurate portrayals of S. 1437, inaccuracies which could be avoided by referring to the Reform Act, to the Committee report, and to existing law. For example, the Tribune, and others, argue that the Reform Act contains a "new" crime of complicity with a dangerous definition of "aid and abet." In fact, the language in the Reform Act tracks existing 18 U.S.C. § 2 and both provisions use the same terms to define "aid and abet."

Similarly, the new crime of criminal solicitation, needed, for example, to prosecute a person who unsuccessfully offered to pay someone to commit a murder, is not nearly as broad as suggested by opponents of the Reform Act. There must be a specific intent to cause the commission of the crime and there must be evidence strongly corroborative of that intent. This special proof requirement will make prosecution very difficult and a renunciation defense serves as an additional safeguard.

Section 1328, "Demonstrating to Influence a Judicial Proceeding," (discussed earlier in conjunction with criminal attempt) has its counterparts in both 18 U.S.C. § 1503 and in state laws. In fact, in *Cox* v. *Louisianna*, a unanimous Warren Court upheld the constitutionality of a similar statute. Moreover, since, under the Reform Act, this offense is a specific intent crime and affords the accused the "30-minute" defense, section 1328 of S. 1437 represents a significant improvement over existing law.

Sentencing provisions in the Reform Act, hailed by many as the most significant reform in the bill, draw fire from opponents for being too harsh, for placing too much responsibility in the newly created Sentencing Commission, and for abrogating Congress' responsibility for setting sentencing policies.

Sentencing provisions in the Reform Act are designed to eliminate the disparities in sentences given to persons convicted of similar crimes. Amendments accepted during debate of the Reform Act require the Sentencing Commission, the majority of whose membership must be confirmed by the Senate, to set sentence ranges for categories of offenses considering the average length of sentences actually now served. Most maximum sentences set by the Senate in the Reform Act are actually lower than present law. In addition, the Sentencing Commission is directed to insure that its guidelines "reflect the general appropriateness of imposing a sentence other than imprisonment in cases in which the defendant is a first offender who has not been convicted of a crime of violence or an otherwise serious offense."

As to abrogation of responsibilities, note that under present law, Congress' only responsibility is to set maximum sentences. The trial judge makes all additional sentencing decisions within his broad discretion. Under the Reform Act, part of the discretion exercised in the sentencing process is given to the Court of Appeals, part is given to the Sentencing Commission, and part is reserved in the judge. None is taken from Congress. In fact, Congress discharges its responsibility more fully under S. 1437. It sets broad sentencing policies in the Reform Act but not under current law.

LABOR ACTIVITY

Finally, I would like to address the contention that the Reform Act poses a threat to labor's right to picket, demonstrate, and engage in other legitimate labor activity. In addition to the provisions mentioned earlier, which do not, in fact, constitute a threat to legitimate labor activity, the sections on Blackmail, Sabotage, Extortion, Obstructing a Government Function, and Impairing Military Effectiveness are most frequently cited as inhibitions to labor activity.

First, most of the above sections are specific intent crimes, i.e., a person must have actually intended to cause the socially harmful result or he cannot be found guilty. For example, in order to be convicted of sabotage, a defendant must have actually intended to obstruct the ability of the United States to defend the country. Mere picketing in front of a military establishment is insufficient to warrant prosecution.

With respect to the crime of Obstructing a Government Function by Physical Interference, section 1302, demonstrators or picketers whose presence impairs mail delivery cannot be convicted under this provision unless they specifically intended to prevent mail delivery as part of their demonstration. Mere inconvenience suffered by the Postal Service on account of legitimate assembly is an insufficient ground on which to prosecute. Other examples of allegedly proscribed conduct under section 1302 cited by critics are equally abstract. According to former Watergate Special Prosecutor Archibald Cox, "criticism of section 1302 is, in my opinion, a forced and false interpretation which would appear plausible only to one determined to find reasons for seeking to defeat the bill."

Second, with respect to extortion, an amendment prosposed by the AFL–CIO was added to the bill to specify that the section applies not to legitimate labor activity, but only to provable extortion.

Third, an analysis of the support for S. 1437 shows that the "friends of labor" overwhelmingly voted for the Reform Act. Of the 13 Senators on the Labor Subcommittee who voted in favor of the Labor Reform Act, 11 voted in favor of S. 1437. Of the 27 most liberal Senators, as gauged by the Americans for Democratic Action (ADA), who voted on S. 1437, 25 voted in favor of the Reform Act. In December, 1977, even before the bill was amended during floor debate in response to labor concerns, the Executive Council of the AFL–CIO formally adopted a resolution supporting the Reform Act. The Executive Council of the ADA voted 79–3 to endorse S. 1437. The New York Times, The Washington Post, and the Boston Globe all endorsed the Reform Act, as did most major newspapers.

I believe that overly concerned union members have been mislead by groups demanding the "whole pie." As I noted earlier, the "whole pie" is a politically impossible goal to reach immediately in the first general criminal code reform in this nation's history. On the other hand, once the Criminal Code Reform Act of 1978 becomes law, controversial issues can be addressed and debated on their individual merits. Eventually, we might have the "whole pie."

A refusal to compromise, however, will leave us with existing law, deny us the much needed reform of our patchwork quilt of criminal laws, eliminate civil liberties protections written into the Reform Act, and encourage the conservatives who joined the Kennedy-McClellan coalition to push for their own version of Criminal Code Reform, one which will undoubtely attempt to resurrect many of the repressive provisions of the old S. 1.

U.S. SENATE,
Washington, D.C.

TO THE EDITOR OF THE WASHINGTON STAR:

Mr. Nat Hentoff's criticisms of "The Federal Criminal Code Reform Act of 1978" in the March 26 Star are replete with factual inaccuracies and distortions. Invoking the name of civil liberties, his article is actually a disservice to the cause of the liberties he professes to serve. In fact, his attacks are so wide of the mark that it is difficult to believe that he has read the provisions he attacks. Certainly, he does not appear to have understood them.

For example, Mr. Hentoff criticizes the provision of the bill dealing with conspiracy. But he fails to realize that the example he gives, although a crime under current law, would no longer be an offense under the bill; the revised conspiracy provision would have no application to peaceful demonstrations, even if the demonstrations are illegal. Similarly, in criticizing the anti-riot provision of the bill, Mr. Hentoff ignores the fact that the section is significantly narrower than current law, since federal jurisdiction would be sharply curtailed and the conspiracy offense would be inapplicable unless the riot actually occurs.

Mr. Hentoff also asserts that the bill contains "an enormous expansion of federal power." But the fact is that the bill generally carries forward the federal criminal jurisdiction already contained in current law. With one or two exceptions, the provisions which trouble Mr. Hentoff are part of existing law. Perhaps the bill is vulnerable to criticism for failing to roll back these provisions. But it is not vulnerable to Mr. Hentoff's charge of making the current problem worse.

In his haste to prove his points, Mr. Hentoff makes other serious errors as well. He completely ignores major provisions in the bill which offer important new protections for civil liberties. For example, the bill repeals the Smith Act, reduces the penalties for petty marijuana possession, and improves protections for the press against "gag" orders. It also contains a modern rape statute and expands the civil rights laws.

The basic flaws in Mr. Hentoff's attack lie in his unwillingness, or inability, to compare the provisions of S. 1437 with current law and his failure to acknowledge the major improvements that are part of the legislation. More thoughtful observers, well known as defenders of civil liberties, such as Alan Dershowitz, Louis Schwartz, and Anthony Lewis, have rejected this sort of attack from the left. Mr. Dershowitz has said that the bill "constitutes a net gain for the civil liberties of the American people."

It is sad that some who march under the banner of civil liberties are actually among the greatest obstacles to progress. Mr. Hentoff's basic complaint is that we are not building Rome today in our Federal criminal code reform legislation. But if his all-or-nothing philosophy prevails, the result is likely to be nothing for years to come—no reform at all and a continuation of the unsatisfactory and repressive state of existing law. As Alexander Hamilton wrote in The Federalist, "Guardians of liberty should not give themselves up to the rage for objection which disorders their imaginations and judgments."

EDWARD M. KENNEDY,
March 29, 1978.

STILL TIME TO PURGE THIS BILL

Criminal law reform and related aspects of law and order are too important to be left to the untender mercies of conservatives. That is why it is doubly sad, when Sen. Edward Kennedy has the courage and energy to assume a leadership role in the enactment of the Criminal Code Reform Act (S. 1437), that he is unfairly attacked for helping shepherd through the Senate a vastly improved bill that contains some provisions liberals (me included) don't like.

Nat Hentoff's article in The Star two Sundays ago is an example of just such an unfair attack.

Sen. Kennedy needs no defense from me. But I think liberals owe him a debt of gratitude for assuming the burden of an unpopular struggle to reform the criminal code and remedy the old S. 1, rather than just repeating slogans in opposition to any reform bill that's not perfect. If the House of Representatives can make even half the improvements in S. 1437 that Sen. Kennedy made in evolving S. 1 into S. 1437, there will be a new criminal code far better than anyone ever expected.

Mr. Hentoff is one of our great civil liberties writers and I was proud to join him in defending the American Civil Liberties Union against those who decried its representation of the Nazis in Skokie, Ill. But Mr. Hentoff will do more for the cause of civil liberties by lending his talents towards further improving the bill in the House than by attacking those on his side. Indeed, he agrees that some of the worst excesses of S. 1—the Official Secrets part, wire-tapping, for example—have been shunted aside. Real efforts now can bring down some or all of the repressive provisions still left in the bill.

There is one philosophical assumption underlying Mr. Hentoff's piece that must be addressed: that the mere codification of destructive provisions will make it harder to get rid of them in the future. For example, he complains bitterly of the codification of the 1968 Anti-Riot Act which resulted in the absurd Chicago Seven trial. Of course, that is an outrageous provision that never should have been passed in the first place. But I don't see how its chance of ultimate survival is enhanced simply because it's put in a different place in the U.S. code. If we can't beat that provision in the House now, let's repeal it when we can.

And, speaking of repeals, nothing should make liberals happier than finally getting rid of the obnoxious Smith Act which was the base on which McCarthyism flourished. There is a historic logic in Sen. Kennedy helping force this act off the statute books for it was his brother, President Kennedy, on the recommendation of Attorney General Robert Kennedy, who released from jail the last Smith Act defendant in federal prison.●

THE WISE USE OF CREDIT

Mr. DANFORTH. Mr. President, young people are one of America's greatest assets for the future. Therefore, it is vitally important that they have a proper understanding of the role of business, and that they have confidence in business. The work of Missouri's Consumer Credit Association has done much to advance this goal.

Three years ago, Virginia Rutledge of St. Louis (now regional education director of the association), initiated a statewide program for high school seniors to bring about their better understanding of the wise use of consumer credit. As attorney general of Missouri for the past 8 years, I know very well how important an understanding of credit is to persons who are joining the work force.

The results of this statewide essay and speaking contest have been very successful. Students throughout our State have become interested in the consumer credit industry through their independent research on the subject.

The essay contest also is sponsored by the International Consumer Credit Association, under the direction of William Henry Blake, the executive vice president.

It is fitting that the award be made during National Consumer Credit Week, and I am proud to take this opportunity to request that this year's first place essay be printed in the RECORD. It is a tribute not only to the consumer credit industry, but also to Mr. Joe Crudden, a student at St. Louis University High School of St. Louis, who was inspired by his teacher, Mr. Joseph Vitale and by what these men and women of business had to say.

The essay follows:

THE WISE USE OF CREDIT

Every family in today's society is in one way or another using credit. Whether through utility bills, or a credit card he is contributing to the United States' constantly improving standard of living. The consumer

who is able to use his credit wisely will be living his life to the fullest and, the wise use in acquiring the good things of life entails the knowledge of what consumer credit is and how it works.

Credit stimulates and supports the American economy. Without consumer credit a manufacturer of consumer goods would not be assured of the size of a market, and therefore would not engage in mass production. But, because we do have consumer credit, and the manufacturer is assured of a mass market the economies of mass production lower the unit costs of goods and services and this has led to the United States having the world's highest standard of living.

Credit also brings satisfaction and security to the American family. Once the household has a steady income, it can, using credit wisely, acquire many necessary houshold appliances that will make life easier and more convenient. Credit allows a household to immediately begin accumulating possessions which will make life more convenient and will give more time for recreational activities for the younger consumer. These many material advantages can be acquired early in life, and paid for out of future earnings. The time, drudgery, and expenses saved from these household appliances can be better utilized for better living.

There are many forms of consumer credit, each having its own advantage. There is service credit, charge accounts, bank cards, instalment credit and personal loans. Service credit is used, in some way or another, by virtually everyone. It is extended by utility companies, and we use it every time we flick a light switch, or turn the water faucet on, or use the phone, or even turn on our heat. Medical bills are also a form of service credit because we get billed at the end of the month, and it is up to our faith to pay it off. Prompt payment of utility bills is expected and delinquency in making payments affects a credit record. Charge accounts are very convenient because they allow one to walk into most any store and buy merchandise such as clothing and housewares without having to carry around abundances of cash. Bank cards are used by consumers to purchase durable and non-durable goods, and to obtain cash loans. Instalment credit must be used by practically everyone who wishes to buy any large durable good. It is used to purchase autos, household appliances, and houses. Not many people can acquire large enough savings accounts to buy a house, so instalment credit is handy to someone with a good credit record and who is in a good financial position to make a down payment on a home. A fifth and final type of credit is a personal loan which may be used to obtain cash to buy necessities and to pay for unforseen expenses. But, this is instalment credit, though it is used to buy other than durable goods, goods like vacations, pay off other bills or an education. All of these types of credit are used by consumers who wish to obtain the material, intellectual, and spiritual satisfactions of life, earlier in life when there is more of a need for them.

But despite all of the advantages which are apparent, and the many people who depend on it, consumer credit is not for everyone. Those that cannot budget and manage their family income will not benefit from it. Using credit wisely entails steady employment and only budgeting a percentage of the take home pay for credit. It is also not something that one would just go out to the corner credit agency and take out a loan. Shopping carefully has many advantages. Another essential factor in the wise use of credit is will power. Do not obtain a credit card if one cannot pass up a bargain, because it is essential that payments are on time. If one goes into a department store and comes out with a product that he did not intend to purchase he did not use his credit wisely. A last important point to remember before signing any contract is to know the finance charge, annual percentage rate and all other costs of credit, and to know all the terms of credit.

Consumer credit has been developed so people can enjoy today's luxuries today. Anyone with a good credit record, established by maintaining steady employment and always making payments on time, can go out and purchase the essentials to meet his needs whether they be luxuries or necessities. Credit is man's trust in mankind.●

THE BOOK OF GOLDEN DEEDS

● Mr. GOLDWATER. Mr. President, on May 6, the Exchange Clubs of Tucson will pay special tribute to a very special person when they bestow their Book of Golden Deeds Award on Fan Kane—a woman who has worked for almost 50 years with handicapped children throughout the Nation. Because of her distinguished services, I ask to have the award citation printed in the RECORD.

The citation follows:

THE BOOK OF GOLDEN DEEDS AWARD
RECIPIENT—1978: FAN KANE
Presented by the Exchange Clubs of Tucson

Fan Kane, born March 3, 1902, to Sall and Samuel Morgenstern, was the oldest of four children. At the age of sixteen she purchased a Steinway baby grand piano for herself with earnings from teaching the piano. She studied at the Juilliard School of Music in New York. Her brother, Dr. Morton Morgenstern, was a violinist and they gave many concerts together. It was through her brother and his associates at Johns Hopkins Hospital that Mrs. Kane was exposed to the field of medicine. In 1922 she married Marvin Kane in Cleveland, Ohio. They had two children, Mrs. David Vactor and Jud Kane. Mrs. Kane has six grandchildren and one great grandchild.

Fan Kane has worked with handicapped children for almost fifty years. She was instrumental in founding the Cerebral Palsy Foundations in Cleveland, Ohio, and the Nation of Israel. Through her untiring efforts the Cerebral Palsy Foundation of Southern Arizona came into being in 1949.

For many years Mrs. Kane had recognized a need for special handling of the high I.Q. brain-injured child. Through long experience she had become convinced that carefully selected children with high I.Q.'s could attain a great degree of physical, mental and vocational development if their treatment was individualized.

As a result of her convictions, the Fan Kane Research Fund for Brain Injured Children was founded by Mrs. Kane in 1950 and was incorporated in 1962. It is a non-profit, tax exempt organization. At the request of its first Board of Directors, it was named in honor of Mrs. Kane. It is believed to be the only fund in the world that works solely with high I.Q. brain-injured childred and sees them through their entire period of schooling, including college and beyond.

Any brain-injured child may be recommended to the Fund by an agency, physician or the child's parents. There is no criteria of race, religion, creed or place of residence. The only criteria is that in the opinion of the Fund's Medical Advisory Board, the child is potential college material and the requested help is not available from other agencies.

After a child has been accepted by the Fund, the necessary financing is provided for whatever habilitation program is indicated. These programs have included highly specialized brain surgery in the Cleveland Clinic, Columbia Presbyterian Hospital and St. Barnabas Hospital in New York City. The Research Fund is associated with the U of A Medical School, Department of Neurology, in which it established the Human Motor Laboratory. This laboratory is doing important fundamental research in the areas of neurology and muscle control.

In March, 1978, the Fund opened a program which will take specialists to Hermosillo, Sonora, and bring brain-injured Mexican children to Tucson on a regular basis. In addition there have been programs of orthopedic surgery, psychiatric counseling, physiotherapy, speech therapy, and private specialized schooling and tutoring when appropriate.

It would take a book to enumerate the children who have been helped to fruitful adult lives by Mrs. Kane and her foundation. Perhaps a few examples would be appropriate, however.

1. One of the first children to be given assistance by the Fund was a young black boy from Tucson. At the present time, many years later, the Fund is proud to be helping him earn his degree in law.

2. A blind girl whose only activity was destroying mattresses before Fan Kane found her went on to major in Russian at the University of Arizona. Later this year she will visit Moscow.

3. A young girl, a cerebral palsy victim, was not only habilitated to schooling, but graduated fourth in her class of 4,000 at the U of A. She went on to acquire a master's degree, became a special education teacher in Tucson School District One, and is now on the staff at the University.

The Fan Kane Fund makes every attempt to keep a watchful eye on the progress of its former charges, until they have reached maturity and a degree of independence. If further help is required, every effort is made to provide it. Mrs. Kane commits herself to a personal interest in each child who comes to the Fund, often giving personal therapy and counseling.

In addition to her love and concern as expressed through the Research Fund, Mrs. Kane also gives private music lessons to retarded children. She privately confides that this is the area which gives her greatest joy, but such is her modesty that even most of her close friends are unaware of this activity.

As if her activity with handicapped children was not enough, Mrs. Kane has extended her helping hand to foreign children who "just need a friend." Three such children, from Poland, Israel and Japan, lived with her for periods ranging from two to ten years.

She helped to organize Hospitality International, of which she is vice-president. This group is a civic organization in Tucson which welcomes visiting foreigners from all over the world and extends through its membership contacts with people speaking their language. The group works in collaboration with the Tucson Chamber of Commerce.

Fan Kane could have been a socialite. Instead, with selfless love she has expended her time, her money and her health in bringing hope and the opportunity to those without either. Perhaps she can be best summarized in the words of Dr. E. W. Eberling, who himself has worked as a consultant to the program for 27 years. In a recommendatory letter he said: "I can most assuredly state that many, many children who otherwise would have been consigned to a life of hopeless inactivity have been improved in countless ways and some have graduated from our own University of Arizona, and others are gainfully employed leading lives of hope and usefulness because of her efforts in their behalf."●

SMALL BUSINESS EFFECTIVE TAX RATE STUDY RELEASED

● Mr. NELSON. Mr. President, there has been a continuing controversy over the impact of the tax system on business of various sizes.

In 1975, the Senate Small Business Committee collected and published several studies on this subject by various public agencies and private parties, as follows:

Federal Trade Commission data showed that for manufacturers in five asset categories under $50 Million, effective tax rates exceeded 50 percent;

A study by Merrill Lynch, in 1974, on the basis of Securities and Exchange Commission statistics from "several hundred industrial companies," found that one out of every five firms paid an effective tax rate of 43 percent, or less;

A study by Congressman Charles Vanik indicated that the largest 100 to 150 companies paid effective tax rates of between 25 percent to 30 percent.

The materials from which these conclusions were drawn follow this statement.

(See exhibit 1 and exhibit 2.)

Mr. NELSON. In December of 1975, a formal request was made by the Senate Small Business Committee, the Joint Economic Committee and the Joint Tax Committee,* asking the Treasury Department to initiate a Government-wide study which would reconcile the differences in approaches, methods, and data bases from these studies, and hopefully to develop some generally accepted information in the area.

*Joint letter of December 2, 1975.

In February of this year, Forbes magazine obtained an unfinished draft of Treasury's work, which they summarized in an article on February 20, 1978. The article was critical of the 1975 materials and announced a conclusion that:

The larger the corporation, the *higher* its effective tax rate. (Emphasis original.)

The Forbes article states that it is based upon this Treasury study. The article compares the effective tax rates of only 4 asset categories, compared to 12 such categories used by the Treasury, as follows:

COMPARISON OF FORBES ARTICLE AND TREASURY DATA

Asset categories covered		Effective tax rates (percent)		Difference (percent)	
Forbes	Treasury	Forbes	Treasury	Points	Margin
×	$1 to $50,000	17.0	21.0	−4.0	−24
—	$50,000 to $250,000				
×	$250,000 to $1,000,000	17.0	36.0	−19.0	−112
—	$1,000,000 to $5,000,000				
—	$5,000,000 to $10,000,000				
—	$10,000,000 to $25,000,000				
—	$25,000,000 to $50,000,000				
—	$50,000,000 to $100,000,000			−1.5	
×	$100,000,000 to $250,000,000	37.4	38.9		−4
—	$250,000,000 to $500,000,000				
—	$500,000,000 to $1,000,000,000				
×	Over $1,000,000,000	43.8	28.3	+15.5	+35

Furthermore, as the chart shows, the effective tax rates figures reported by Forbes for these categories vary substantially from the final figures developed by the Treasury in three of the four categories, in one case exhibiting a margin of difference of over 100 percent.

The progression which the Forbes article finds in the Treasury data to support their conclusion—that effective tax rates are a simple rising slope—are not borne out by the final Treasury's figures based on taxable income and the actual tax burdens, which show roughly a bell-shaped curve.

The Treasury Department has now transmitted to the three committees concerned a new set of tables together with an extensive explanatory text.

Treasury's own statistics in their lead chart (table 1) on their face support the position taken by the Senate Small Business Committee in 1975 that the effective rates business taxes are not progressive. This table shows the tax burden on medium-sized and even smaller businesses are higher than for many of the largest businesses.

The following chart (part I of table 1) shows effective tax rates of all corporations on a world-wide-basis:

EFFECTIVE CORPORATION TAX RATES, BY WORLDWIDE TAXES PAID AND WORLDWIDE INCOME, BY VARIOUS ASSET SIZES, 1972

Asset sizes	Number of corporations	Effective tax rates (in percent)
$1 under $50,000	716,647	(1)
$50,000 under $250,000	604,393	32.9
$250,000 under $1,000,000	232,789	41.0
$1,000,000 under $5,000,000	58,267	51.8
$5,000,000 under $10,000,000	6,161	51.9
$10,000,000 under $25,000,000	3,606	51.4
$25,000,000 under $50,000,000	1,363	47.2
$50,000,000 under $100,000,000	732	45.7
$100,000,000 under $250,000,000	585	43.0
$250,000,000 under $500,000,000	247	41.4
$500,000,000 under $1,000,000,000	148	39.2
$1,000,000,000 or more	175	29.2
All sizes	1,625,113	38.8

[1] Negative percentage based upon an aggregate worldwide income (loss) figure for this category of $253,000,000.

Note: All corporations, with and without basic worldwide taxable income.

In the part II of table 1, which the Treasury believes is preferable to part I, Treasury has excluded the income of subchapter S and DISC corporations and loss firms. The resulting effective Tax rates (again on the basis of worldwide taxes paid and worldwide income) are as follows:

EFFECTIVE CORPORATION TAX RATES (EXCLUDING SUBCHAPTER S AND DISC CORPORATIONS), BY WORLDWIDE TAXES PAID AND WORLDWIDE INCOME, BY VARIOUS ASSET SIZES, 1972

Asset sizes	Number of corporations	Effective tax rates (in percent)
$1 under $50,000	235,978	21.0
$50,000 under $250,000	320,396	26.4
$250,000 under $1,000,000	149,151	36.3
$1,000,000 under $5,000,000	38,008	42.4
$5,000,000 under $10,000,000	3,989	43.4
$10,000,000 under $25,000,000	2,417	43.2
$25,000,000 under $50,000,000	928	42.5
$50,000,000 under $100,000,000	532	41.3
$100,000,000 under $250,000,000	451	38.9
$250,000,000 under $500,000,000	198	37.7
$500,000,000 under $1,000,000,000	129	34.4
$1,000,000,000 or more	164	28.3
All sizes	752,331	34.5

Again, we see the bell-shaped pattern, whether companies with losses are included or excluded from the data.

The Treasury has noted in its explanatory materials that several refinements should be made to this data, and in a letter dated April 11, 1978, we have requested that those refinements and others be performed. For example, we have suggested that the data should be processed by the computer again using 1974 data, which has recently become available. I ask that a copy of this correspondence, and attachments printed as exhibit 3.

(See exhibit 3.)

Mr. NELSON. In the remainder of its material, the Treasury Department argues that there are other factors which should be taken into consideration, such as whether "economic income" should be the basis for the study rather than "taxable income"; whether the investment credit should be treated as a subsidy, which should then be added back into income; how tax loss carryovers should be treated; the effect of municiple bond interest; and foreign tax items. The Treasury contends that its concepts of these items change the figures and the relationships involved.

However, each of these concepts is subject to wide differences of opinion. The committees concerned wish to take the time to fully analyze the pros and cons of Treasury's assertions in these matters.

A careful analysis of this material is presently going forward with an aim of publishing a final study at the earliest opportunity.

In the meantime, these statistical materials and the research of the Treasury should be available to the public. Our procedure in this matter is similar to the committee's study of the 1978 tax proposals, which was released

in draft form on February 28, 1978, with the updated and finalized committee print published on April 17.

This study is valuable because it is the first research of its kind that uses actual figures on tax liabilities from individual business tax returns. This information can be fed into the computers on magnetic tapes without identifying any of the individual firms. The three committees concerned are presently evaluating this material, examining the methodology used by the Treasury Department and making several suggestions for additional computer work, definitions, and use of up-dated materials, all of which will improve the study and advance it toward completion.

The committees would welcome any additional comments and reactions from experts in government, in business, the universities, research institutions, and from among the general public, which would help us to improve the final version of the published report.

EXHIBIT 1

FEDERAL TRADE COMMISSION[1]

EFFECTIVE RATES OF FEDERAL TAXATION MANUFACTURING CORPORATIONS BY ASSET SIZE, 1971

Asset size	Profits before Federal taxes	Profits after taxes	Effective tax rate
All manufacturing corporations	16.5	9.675	41.36
Under $1,000,000	14.975	7.30	51.25
1,000,000 to $5,000,000	17.375	8.575	50.64
$5,000,000 to $10,000,000	18.075	8.70	51.86
$10,000,000 to $25,000,000	16.325	7.95	51.30
$25,000,000 to $50,000,000	15.875	7.825	50.70
$50,000,000 to $100,000,000	16.075	8.225	48.83
$100,000,000 to $250,000,000	17.20	9.275	46.07
$250,000,000 to $1,000,000,000	17.675	9.85	44.27
$1,000,000,000 and over	16.00	10.375	35.15
Over $1,000,000,000			24.4

Sources: FTC "Quarterly Financed Report," 4th quarter, 1971, p. 11 table 5. Profit rates based on percentage of stockholders equity; except last line, testimony of Hon. Charles Vanik before the Joint Economic Committee, July 1972.

MERRILL LYNCH/SEC[2]

MERRILL LYNCH, PIERCE, FENNER & SMITH, INC.
SECURITIES RESEARCH DIVISION,
June 7, 1974.

THE IMPACT OF LOWER TAX RATES ON EARNINGS GROWTH DURING THE 1969–73 PERIOD

This is a statistical analysis only. Investment decisions should be based upon underlying fundamentals of the individual issue as given in the QRQ system.

Due to a unique set of circumstances, many U.S. corporations have been able to reduce their effective tax rates in each of the last few years. With the 10% surtax in effect, the statutory rate for corporations was 52.8% in 1969. But the surtax was reduced to 5% for the first half of 1970, and was eliminated thereafter. Congress went a step further and introduced new corporate tax incentives in 1971, including the Domestic International Sales Corporation (DISC) and the reinstatement of the investment tax credit. In the last couple of years, though, the political winds have shifted, as the 1973 Burke-Hartke Bill attempted to remove the foreign tax credit and, the House Ways and Means Committee voted to phase out one of the longest standing tax incentives, the oil depletion allowance. Because this is an election year and talk of tax reform is again in the air, we felt that this would be an opportune time to discuss the principal tax incentives available and to identify companies whose earnings have been significantly enhanced by such tax advantages.

In December of 1973, the Securities and Exchange Commission issued a guideline on the disclosure of tax rates. Effective December 28, 1973, any company whose effective tax rate is five or more points below the statutory rate must reconcile the difference and state in its annual report the impact of each tax benefit. We examined the reports of several hundred industrial companies and found that one out of every five firms is in this category, paying an effective tax rate of 43% or less. We selected the following ten companies for closer scrutiny, because they reported lower tax rates in each of the last three years.

Company	Effective tax rate (percent) 1969	Effective tax rate (percent) 1973	Recent price (May 30, 1974)
Caterpillar Tractor	47.8	38.2	$60
Del Monte Corp	51.1	38.4	20
Digital Equipment	45.7	36.8	113
Distillers Corp	46.2	38.0	38
Honeywell	51.9	41.2	68
McDonnell Douglas	51.2	37.1	16
Owens Illinois	48.3	39.4	39
Perkin Elmer	49.5	41.5	31
Philip Morris	49.5	41.9	[1] 109
Smith Kline	52.9	32.2	50

[1] Does not reflect 2-for-1 stock split effective June 3, 1974.

VANIK STUDY (1969–76)[3]

TABLE IV.—EFFECTIVE FEDERAL INCOME TAX RATES BY SECTOR, 1969–76

[168 corporations (108 largest industrial companies); U.S. tax rate on worldwide income]

	1969	1970	1971	1972	1973	1974	1975	1976
Industrials and mining	NA	NA	NA	29.2	24.8	24.8	24.3	18.8
Transportation	0	0	18.9	12.8	15.1	16.3	22.4	14.2
Utilities	41.7	36.2	29.3	36.5	18.0	14.1	4.8	8.3
Retailing	44.6	40.6	39.2	41.5	33.5	33.0	37.7	36.9
Commercial banks	31.7	27.4	31.4	14.4	9.6	11.7	11.2	8.0
Oil and gas	5.8	10.1	6.1	7.9	9.6	7.6	8.95	9.3
Average—oil companies	26.9	25.8	24.4	28.6	24.9	22.6	21.3	13.04

[1] "Small Business Tax Needs", hearings of the Senate Small Business Committee, Feb. 4, 5, and 20, 1975, p. 345.

[2] "Small Business Tax Needs", loc. cit., p. 346.

[3] "Annual Corporate Tax Study, Tax Year 1976," remarks by Representative Charles A. Vanik, Congressional Record, Jan. 26, 1978, p. 1161.

EXHIBIT 2

EFFECTIVE INCOME TAX RATES PAID BY U.S. CORPORATIONS IN 1972

PREFACE

This publication of estimated effective income tax rates paid by U.S. corporations in 1972 is an outgrowth of work initiated in December, 1975 at the joint request of the Chairmen of the Joint Economic Committee and the Senate Select Committee on Small Business. Pursuant to that request, and following a meeting among interested parties, a Steering Committee comprised of representatives of the aforementioned Committees, along with others from the Joint Committee on Internal Revenue Taxation and the Federal Trade Commission, was established to help guide the Treasury in its assembly of information, the decision having been reached that tax return data afforded the best source of income and tax measures.

Through the course of this endeavor, the Treasury staff have benefited from the exchange of views and technical assistance made possible by this arrangement. Needless to say, the Treasury is wholly responsible for the content of this report. The release of this report to the Congress and the public is made in the interest of furthering understanding of the difficulties and ultimate ambiguities in the construction and interpretation of effective tax rates.

I. INTRODUCTION

There is a persistent popular interest in "effective tax rates" paid by two classes of income taxpayers, persons and corporations. There is also widespread misunderstanding about the ambiguities of effective tax rate computation. This report is concerned only with corporation income taxes and is intended to shed light on the taxability of income, by size of corporation and by industrial class, and to set out logical rules for the construction of effective tax rates.

The data relied upon here for measures of income and of its taxability have been derived from individual corporation income tax returns selected by the Internal Revenue Service for statistical processing and for reporting in its annual publication, "Statistics of Income: Corporation Income Tax Returns, 1972." For this report, foreign income and tax items from Form 1118 not included in the IRS publication have been extracted and collated with the previously published tax return information. The asset size classification employed in this report also differs from that in "Statistics of Income." Here the total assets of a corporation as reported in its tax return, and which are the basis for size classifications in "Statistics of Income," have been adjusted by netting-out trade credit to better represent assets actually employed in its business by the corporation.

II. EFFECTIVE TAX RATES, 1972; NONFINANCIAL CORPORATIONS

An "effective tax rate" is simply the ratio of some measure of "taxes paid" to some measure of before-tax "income." Much mischief may be done in such a computation by mismatching of the numerator and denominator. The denominator, being an income measure, is generally computed on the basis of accrual rules: the "income" of a year is determined by elaborate accounting procedures which attempt to match the costs of earning the sales receipts during a year, regardless of the timing of actual revenues or expenditures. On the other hand, "taxes due" is basically a "cash accounting" concept under which only the net liability for tax due to the U.S. Treasury during a year is

customarily accounted for. If the use of the tax account to clear other years' transactions, such as refunds, is neglected, "taxes due" becomes inappropriate as a measure of tax liability generated by the "income" shown in the denominator.[2] Moreover, "income" reported and used as the denominator of an effective tax rate calculation for U.S. taxpayers is invariably worldwide income, for the Internal Revenue Code subjects to tax income from all sources, both foreign and domestic. Obviously, if only the net tax due the U.S. Treasury is shown in the numerator while worldwide income taxes is shown in the denominator, there is an overt understatement of the taxability of any taxpayer with worldwide income.

Indeed, failure to consistently match numerator and denominator is entirely responsible for the common misconception that "small businesses" pay higher tax rates than "big businesses." The following sequential presentation of various ways of computing "effective tax rates" is intended to put to rest this misrepresentation of fact.

A. Misrepresentation of effective tax rates due to improper aggregation of corporations.

In 1972 more than 1.6 million nonfinancial corporations filed income tax returns (see Row I(a) of Table 1).[3] Altogether, these nonfinancial corporations reported $75.15 billion of taxable income, as measured by the rules of the Internal Revenue Code and from all sources, domestic and foreign. In the tables, this measure of income is referred to as "basic worldwide taxable income" (BWTI). On the basis of BWTI of $75.15 billion, nonfinancial corporations owed net income tax to the Treasury, after all credits, of $29.13 billion. These figures yield an apparent effective tax rate of 38.8 percent overall, the rates ranging from infinity for the smallest size class, which reported a net loss of $253 million while owing $211 million in tax, to 29 percent for the very largest. The occurrence of "effective tax rates" computed from BWTI in excess of 48 percent, the maximum statutory rate in taxable corporate income in 1972, is a clear indication that something is amiss in this calculation. The reasons for these incongruous results are that corporations have been aggregated which do not permit comparisons of income and tax liability for the same year.

Corporations reporting losses. Large numbers of corporations, particularly those at the small end of the size spectrum, will frequently report negative taxable income (losses) in a given year. Algebraically adding negative and positive incomes produces a smaller total income in the denominator of effective tax rate calculations; indeed, as we have seen, the smallest corporations in the aggregate report more losses than gains. But, since the tax returns of loss corporations do not show the refund, or "negative tax" for the year due to the net operating loss carryback or carryover, the aggregate "tax due" in the numerator of the effective tax rate calculation is undiminished. The net result is that we have incomparable numbers in the numerator and denominator of the effective tax rate calculation that produce overstatements of apparent effective tax rates.

Corporations not subject to tax. Certain corporations may elect to be taxed essentially as partnerships under provisions of Subchapter S of the Internal Revenue Code. Some of these corporations report losses, others positive taxable incomes; but although their BWTIs are (algebraically) included in the denominator of the effective tax rates we have just reviewed, their tax liabilities are never in the numerator.[4] Their inclusion in the calculation necessarily confuses the meaning of corporation effective tax rates. Similarly domestic international sales corporations (DISCs) file income tax returns but are not, directly, subject to income tax. Instead, half their income is taxable to parent corporations. Obviously DISCs should not be included as separate corporations; rather they should be consolidated with their parents.

Result of reclassification. The dramatic effect of careful aggregation may be observed by comparing Sections I and II of Table 1. In Section II, corporations without BWTI, those electing to be taxed under Subchapter S, and DISCs have been eliminated.[5] For nonfinancial corporations, this has involved dropping nearly 900,000 corporate entities, but increasing BWTI by more than $9 billion. As a consequence, the overall effective tax rate is reduced to 34.5 percent, and the range of "effective tax rates" now begin to approximate the statutory rates prevailing in 1972, 22 percent on taxable income up to $25,000, 48 percent on the excess.[6]

B. Improving the content and better matching of numerator and denominator.

To this point, we have continued to use U.S. tax due, after credits, in the numerator of the effective tax rate calculation and BWTI in the denominator. This is clearly unsatisfactory. So long as any measure of worldwide income is used in the denominator, worldwide taxes should be included in the numerator. More importantly, the denominator in the calculation is taxable income and we are all aware that this magnitude is overtly understood for tax purposes as a device to subsidize particular economic activities engaged in by corporations—and unincorporated enterprises as well. Moreover, the tax accounts are used to clear refunds pertaining to other years' transactions, a source of distortion which must be removed.

(1) Adjustments to income (denominators):

Restoration of preferential deductions. Subsidies are provided certain specific economic activities in the form of special deductions from gross inome in arriving at taxable income. Among those available in 1972 we might list:[7]

(a) Special 5-year amortization privileges, in lieu of normal tax depreciation deductions, for childcare facilities, railroad rolling stock, rehabilitation of low- and moderate-income housing, coal mining safety equipment, and pollution control investment;

(b) Percentage depletion allowances for production of minerals, including oil and gas;

(c) A special deduction for U.S. corporations at least 90 percent of whose gross income originated in trade outside the United States, but within the western hemisphere.

Clearly, the excess of these deductions over those which would be regularly allowed in the measurement of pre-tax income is is merely an intentional understatement of taxable income. The excess of these deductions should be restored if the denominator in an effective rate calculation is to substantially represent a corporation's (or any taxpayer's) before-tax income for the year.[8]

Restoration of excluded income. Many corporations hold bonds issued by state and local governments the interest on which is exempt from tax. By law, this interest income is excluded from the holders' taxable incomes. Restoration of this exclusion to income yields a better measure of before tax income for the year.[9]

(2) Adjustments to taxes (numerators):

Foreign taxes. Under longstanding international conventions observed by the United States, foreign governments are accorded the "first chance" to tax income of U.S. corporations earned within their political jurisdictions. Mechanically, this is accomplished by requiring U.S. corporations to report as taxable income in their U.S. tax returns the income they earn abroad (but in the case of foreign subsidiaries, only when dividends are remitted to the parent), to compute U.S. tax which would be due on that income, and then take as a credit against this tax otherwise due the amount of tax paid to foreign governments.

If foreign taxes paid are less than the amount computed under U.S. tax laws, the difference must be paid to the Treasury. If foreign taxes paid exceed U.S. tax liability, the excess may be carried back or forward to other years to be credited against the U.S. tax liability, but only against the U.S. tax attributable to foreign source income. Clearly, if worldwide income appears in the denominator, worldwide taxes generated by that income, both those paid abroad and to the Treasury, should appear in the numerator.[10]

Effect of loss carryforward. In any year many corporations that had suffered a loss in prior years but were unable to secure a refund because they had insufficient taxable income in the 3 carryback years will obtain their refund by simply deducting a carryforward of unrequited losses against the otherwise taxable income of the current year. This is an eminently sensible and efficient way to accomplish the refund: it avoids the payment of all its current year's tax by such a corporation to be followed by application for a refund. Clearly, then, the deduction from this year's taxable income of a loss carryforward leads to an understatement of this year's pre-tax income and should be restored. Similarly, exclusion from tax due of the amount refunded with respect to the loss carryforward is an understatement of tax generated by this year's income; this, too, should be restored. This adjustment parallels the adjustments for current year's losses described above.

(3) Effective tax rates after adjustments.

Section III in Table 1 shows the outcome of making these necessary adjustments to the numerator and denominator of the effective tax rate calculations. On the one hand, expanding BWTI to include overt understatements and exclusions has added nearly 120,000 nonfinancial corporations to the tabulation and has increased the denominator (income) by over $9 million. On the other hand, restoration of refunds due to prior year losses and inclusion of foreign income taxes paid and deemed paid has added $9 billion to the nonfinancial corporations' numerator (taxes). As a consequence, the 1972 effective tax rate for all nonfinancial corporations becomes 40.9 percent, 6.4 percentage points higher than before. There is also apparent now a clear upward progression of effective tax rates by size of corporation.[11]

It is noteworthy that the adjustments to tax and income involved in going from Section II to III have little impact on computed effective tax rates of corporations at the low end of the spectrum but a large impact on those at the high end. This is not unexpected: smaller corporations rarely have foreign income and tax and they less frequently engage in the kinds of economic activities favored by preferential deductions or exclusions from taxable income. Their major preference (in 1972) is the $25,000 exemption from surtax which holds their effective tax rates near the 22 percent normal tax level.

The Section III figures are recommended as the best single indicator of effective tax rate because the numerators (worldwide taxes) and denominators (worldwide income) are most closely matched. However, Sections IV and V of Table 1 present separate computations of domestic and foreign effective tax rates. The domestic income effective tax rates in Section IV were derived by subtracting taxes paid foreign governments from worldwide taxes to obtain the numerator of the ratio and by subtracting foreign source income from worldwide income to obtain the denominator. This leaves in the numerator

Footnotes at end of article.

some tax attributable to foreign source income and causes the effective tax rates on U.S. income to be slightly overstated. Similarly, the foreign source income effective tax rates in Section V involve some mismatching of numerators and denominators, since the former does not include some taxes paid the U.S. Treasury with respect to some of the before-tax income included in the denominator. This causes a slight understatement of these effective tax rates. Nevertheless, the following observations are warranted:

Whether with respect to domestic or foreign source pre-tax income, effective tax rates rise with income. In the case of domestic income, the drop-off of the U.S. effective tax rate in the $1 billion and over asset class, from 40.7 in the preceding class to 37.7, is accounted for entirely by the dominance of utilities and companies with mineral income in that largest size class, as will be evident in the industry breakdowns to be reviewed below.

Although the taxability of foreign source corporate income appears to be substantially above domestic rates, 56.1 as compared with 37.8, this appearance is due almost entirely to the confounding of oil taxes and other payments to host countries. When the oil company foreign income and tax items are eliminated, the effective foreign rate is 40.0 percent, only slightly above the U.S. effective rate on domestic income.

III. EFFECTIVE TAX RATES, BY INDUSTRY

Reference has already been made to a number of causes for the departure of effective tax rates from those specified in the Internal Revenue Code. Over the years, remission of tax has been used as a means for effecting non-revenue Federal policy objectives. We have noted the several preferential deductions from pre-tax income to arrive at taxable income; when these are restored to better measure before tax income, effective tax rates fall. Additionally, two credits against income tax otherwise due that year were available in 1972. One was a 7 percent investment credit (4 percent for regulated utilities) for the purchase of certain kinds of depreciable assets; the other was a credit of 20 percent of certain expenses incurred in the employment of welfare recipients (usually unemployed mothers with dependent children), commonly referred to as the "work incentive program" (WIN). Since both these subsidies are paid via a reduction of tax otherwise due, the earning of these subsidies naturally reduces the numerator in effective rate calculations and, hence, apparent effective tax rates.

The magnitude of the effect of clearing subsidies through the tax system on computed effective tax rates among industries will depend on the degree to which the activities subsumed in the industries are favored by tax subsidies. Moreover, most of these subsidies are capital related, i.e., in the form of extra deductions connected with the acquisition and use of certain kinds of equipment, or as an investment credit for other kinds of capital equipment. Consequently, they tend to be of relatively less importance to smaller businesses, for, in any industry, small businesses are typically more labor, less capital, intensive. Tables 2 (for worldwide income) and 3 (domestic income) illustrate these differentials in tax subsidies by type of activity and size of enterprise.

In Table 2, effective worldwide tax rates for corporations in 19 industries are listed in descending order of tax rate. The highest industry tax rate, 59.4 percent, is that for corporations engaged in all stages of the petroleum and natural gas industries, except natural gas distribution; the lowest worldwide tax rate is that for banking, 19.4 percent. The low rank of banking simply reflects the magnitude of their tax subsidy in the form of artificial bad debt deductions and their institutional capacity to hold bonds yielding tax-exempt interest.

However, as noted earlier, the petroleum and natural gas worldwide effective tax rate is swollen by the ambiguous character of most of the payments they are required to pay host countries: since the host country is both the taxing power and the original owner of the mineral resources, the host country is able, under its tax laws, to extract from oil companies a share of the companies' income from oil and gas discovery that, in a property system like that of the United States, would accrue to the companies or to co-owners of the mineral rights. Under the tax laws and regulations prevailing in 1972, a large volume of these ambiguous "taxes" were regarded as shares of before-tax income paid as taxes and this had the effect of producing a 59.4 percent effective worldwide rate. Since there is no analytical basis for disaggregating oil company payments to foreign governments into those which might legitimately be called an income tax and those that represent an allocation of before-tax income to the mineral owner, we may obtain a more reasonable measure of the taxability of income in this industry under U.S. tax laws by excluding the confounding foreign items from both numerator and denominator. This is done in Table 3. Arrayed by size of effective tax rate on U.S. income, (see Table 3) petroleum and natural gas companies rank 17th among the 19 industry groups with an effective tax rate of 24.7 percent.[12]

Excepting this difference in ranking in the two tables of effective tax rates, the other industries' rankings are quite stable. "Other manufacturing," which includes the manufacture of motor vehicles, chemicals, electrical and electronic equipment, among others (See Appendix), is subject to the highest rate of tax, 41.9 percent on worldwide income, 42 percent on U.S. source income. The median industry worldwide rate of tax, 33.1 percent, was experienced by the ferrous metals group (iron mining, steel manufacture, etc.); the median tax rate on U.S. source income, 31.6 percent, was experienced by the services industries.

Banking is consistently taxed at low rates, 19.4 percent worldwide, 18.6 percent on U.S. source income.

Within industry groups, effective tax rates by size of corporation generally reveal the expected pattern: small corporations experienced lower effective tax rates than did the larger. This may be seen in Tables 2 and 3 by comparing the industry-wide effective tax rates with those in the adjoining column that represent the effective tax rates for all corporations in that industry grouping with less than $1,000,000 of assets. In Table 2 (worldwide tax rates), small corporations experienced lower effective tax rates than the industry average in each category, save ferrous metals and banking; in Table 3 (U.S. tax rates), the same condition prevails, except in banking alone.

Tables 2a and 3a present the detailed effective tax rates on worldwide and U.S. source income, respectively, by asset size of corporations. The patterns in these latter tables, due to the variance necessarily introduced by smaller numbers in the larger size classes, are far less regular. For example, in Table 3a, the 5 largest corporations in the nonferrous group experienced an 11.2 percent effective tax rate on U.S. source income because, in 1972, in addition to tax subsidies in the form of percentage depletion allowances in excess of cost (which expends the denominator), these firms earned maximum amounts of investment and WIN credits (which diminish the numerator). Smaller firms in this industry group, being less likely to both engage in mining and to make comparatively large volumes of investment in qualified property, experience lesser reductions from statutory rates.

Nevertheless, except in banking, the two smallest size classes, which overall encompass 75 percent of all corporations subject to income tax, invariably experience effective tax rates well below the industry average in any industry group. In banking the exception to this rule reflects the fact that inclusion of tax-exempt bonds in bank portfolios and the ability to form nonbanking subsidiaries that engage in equipment leasing, and hence earn investment credits, is a function of bank size.

IV. CONCLUDING AND PRECAUTIONARY COMMENTS

The effective tax rate tabulations reviewed in this report are the most comprehensive set of such computations prepared by the Treasury Department. As later years' data become available, they will be processed and published as resources permit. In this first release of such material it is appropriate to add some brief comment on comparisons between these effective tax rates and others which are published from time to time that are derived from corporations' published financial statements. It is also appropriate to conclude this report with some observations on the limitations of effective tax rates as guides to an appraisal of the characteristics of the tax system.

A. Comparisons with effective tax rates based on published financial statements.

Effective tax rates here presented have been derived from income tax returns. These will not be directly comparable with superficially similar effective tax rates computed from data extracted from financial statements published by the same corporations for the same year. The reasons for this state of affairs have to do both with measures of "taxes" in the numerator and of before-tax "income" in the denominator. We may summarize these differences as follows:[13]

(1) Consolidation rules.

The rules for consolidating subsidiaries are different for tax and financial reporting. For tax purposes, the criteria for consolidation include the requirement that only corporations chartered in the United States may be consolidated and that there be ownership by the parent corporation of at least 80 percent of the subsidiaries consolidated. For financial reporting, any corporation wherever chartered may be consolidated by another corporation if the latter corporation maintains at least 50 percent ownership of the former. In general, this means that neither the worldwide tax nor the worldwide income reported on tax returns and financial statements will be the same because the reporting entities do not correspond.[14] There is no practical way to reconcile these differences.

(2) Income measurement rules.

Since there is no set of universal rules for income measurement, even in those cases where the reporting entity is the same for both tax and financial accounting, before-tax incomes in tax returns and financial statements will differ. Accepted financial accounting principles afford one (nonuniversal) measure of before-tax income; the Internal Revenue Code another measure. Although there are many differences between tax and financial accounting rules, the most significant have to do with accounting for capital consumption—depreciation and depletion. In Section II, above, we noted that tax rules for these allowances incorporate features intended to provide a subsidy for specific kinds of investment and economic activity, and, where possible, we adjusted "taxable income" accordingly. Nevertheless, there is in many instances a remaining difference between the "adjusted income" reported here and the before-tax financial income which would be reported by the same corporations due to their use of financial accounting depreciation formulas that recover depreciable capital

Footnotes at end of article.

costs more slowly. On this account, more often than not, before-tax financial, or "book," income will exceed the "adjusted" income measure used in this report and this will raise a reconciliation issue, to which we now turn.

(3) Accounting for "taxes."

"Deferred Taxes."

When financial accounting for depreciation differs from that used for tax purposes, the accepted accounting procedure for reconciling the differnce between the two measures of before-tax income, often referred to as "normalization," gives rise to a quantity called "deferred income taxes." This item, of course, never appears in a tax return, for tax accounting merely requires the derivation of taxable income. When the method for determining the allowance for depreciation for financial accounting purposes differs from that allowed in tax accounting so that the current year financial allowance is less than that used in computing taxable income, say because financial accounting employs less "accelerated" methods and/or longer lives, then the before-tax financial income measure will exceed taxable income. Inasmuch as this difference between financial and tax accounting procedures essentially involves the time distribution of depreciation allowances which ultimately must aggregate to the same quantity, namely the cost of the depreciable assets, the difference between financial and taxable income, and hence the tax liability, must logically be treated as a "deferral" of taxable income and a corresponding tax liability generated by this year's before-tax income.[15] Thus the accepted acounting procedure requires that the amount of tax "deferred" be included with the net tax due the current year as "tax expense" the total of which when subtracted from before-tax (financial) income yields "net" or after-tax (financial) income.

If one is to compute an effective tax rate from financial statements, then, the observer must decide whether he believes the financial statement measure of depreciation is more nearly correct, in a given year, than the tax return measure of depreciation.

If he concludes the tax measure of depreciation is more nearly correct, then he should reduce before-tax (financial) income by the apparent understatement of depreciation and ignore "deferred tax." He should compute the effective tax rate from the financial statement by dividing income taxes due that year by the adjusted measure of before-tax income.

If he concludes the financial statement of depreciation is more nearly correct, he must then estimate the probability that the "deferred tax" will ever be paid, and he must adjust the numerator, and/or denominator accordingly. There are two procedures that might be used for the adjustment: one follows a cash accounting approach, the other accrual methods.

Cash accounting:

Permanent deferral: If the observer believes that the corporation will continue to replace its depreciable capital indefinitely, then he will conclude the probability of repayment of "deferred tax" is zero. In this event, under "cash accounting" rule, "deferred tax" may be ignored since it will never be repaid; and an effective tax rate would be computed by dividing the remaining tax due by the before-tax income reported in the financial statement.

Temporary deferral: If the observer believes that the corporation will experience a contraction in the near future, the "deferral" of tax reported in the current year is only temporary, for when failure to replace occurs, the relationship between financial and tax accounting depreciation allowances reverses and "deferred tax" will be repaid. It is the present value of this future payment of tax which, when added to tax due for the year, enters the numerator of an effective tax rate calculation, with financial before-tax income in the denominator. This involves some accrual procedures to account for the likelihood of future events.

Accrual accounting: Under this approach, the adjustments entail consistent accrual of tax expense for the year regardless of the form in which the tax is "paid" and corresponding adjustments to financial before-tax income.

Permanent deferral: If the probability that the tax will ever be repaid is zero, in effect the Treasury is making a nontaxable grant of the "deferred tax" to the corporation. Then this amount should be added to the reported financial before-tax income to signify the accrual of this income to the corporation during the report year. Since the tax generated by the corporation during the year is the sum of "deferred tax" plus tax otherwise due, this sum should be the quantity divided by the adjusted financial before-tax income to compute an effective tax rate. Altogether, permanent deferrals entails two transactions: generating a tax liability during the year, part of which is "paid" in the form of a noninterest-bearing IOU; the other is recognizing that the future payment of the IOU is unlikely to occur, an implicit increase in the year's income resulting from the corporation's investment in property accorded preferred tax treatment.

Temporary Deferral: In this event the observer must again compute the present value of the tax to be paid in the future. The difference between this amount and the "deferred tax" for the year is a gain to the corporation. Then the amount of this gain, which is less than the total "deferred tax" should be added to the reported financial before-tax income for use as a denominator in computing an effective tax rate. The numerator in this case, as in the case of permanent deferral above, includes both tax otherwise due and (total) "deferred tax."

(b) Other years' transactions in the current year tax account.

We have already noted that the tax account is used to clear refunds and subsidies in the form of credits in tax returns. The same usage occurs in financial accounting. However, the problems posed by this usage in financial statements are more severe because the current year's tax account will include refunds due to the carryforward of unrequited losses and credits attributable to prior years.[16] The effects of these non-current-year transactions need to be removed from the financial statement measure of tax in order to obtain the amount of tax attributable to this year's pre-tax income.

* * * * *

B. Interpretative precautions.

The divergence between effective tax rates and statutory rates and the wide disparities in tax rates experienced by corporations in different industries exhibited in this report cannot be viewed as surprising. Since 1918, when Congress enacted the progenitor of percentage depletion in order to stimulate the discovery of additional petroleum reserves because gasoline supplies were then in dangerously short supply, the income tax has been utilized as a vehicle to modify resource flows in the private sector of the economy. Some of these uses of the tax laws, like percentage depletion, have been intentional: artificial bad debt deductions have been provided to facilitate the expansion of banking services; capital gains treatment was afforded timber production as a conservation measure; the investment credit was aimed to subsidize growth of the private capital stock to increase productivity per man-hour; the WIN credit was intended to encourage the employment of welfare mothers; the Western Hemisphere Trade Deduction was intended to foster greater participation of U.S. companies in the development of this part of the world; exemption of interest paid by state and local governments is intended to enable these governmental units to borrow more cheaply; and rapid write-offs of depreciable assets have been provided to subsidize a wide range of particular kinds of investment perceived to be in the public interest, ranging from childcare facilities to pollution control equipment. Others, like intangible drilling cost deductions and similar treatment of other preproduction expenses, have crept into the tax laws inadvertently but were subsequently either sanctioned by explicit enactment or by refusal to amend the tax laws to eliminate the inadvertent preference.

(1) Implications of below statutory corporate effective tax rates.

In view of this history, it is important that the existence of low effective tax rates not be misinterpreted to mean only that some owners of corporations are not paying their fair share of tax and thereby enjoy higher after-corporate-tax rates of return. Indeed, as indicators of after-corporate-tax returns, effective tax rates are grossly misleading. If one compares the industry categories shown in Tables 2 and 3 as paying above average effective rates with those paying below average rates, he would be hardpressed in terms of general knowledge of the size, rate of growth and stockmarket status of their shares, to determine which group of stockholders was enjoying the highest after-corporate-tax rate of return. Does one suppose the stockholders of automobile, chemical, computer and electrical machinery manufacturing companies eke-out a lower after-corporation-tax rate of return than do stockholders of banks and coal companies because the latter experience less than half the effective tax rates of the former? The answer clearly is negative. Because capital owners are concerned with after-corporation-tax rates of return, not with before-tax incomes, it is after-tax rates of return that are equalized through the mobility of capital. Flows of capital between industries ensures that the only difference between high- and low-tax rate industries will be higher pre-tax rates of return in the former, lower rates in the latter. The subsidized industries will have lower pre-tax profits because their expansion in response to the subsidies they have received either depresses market prices of their output or causes them to bid-up the costs of labor and materials they use.

The variances in industry effective tax rates are thus not indicators of shareholder benefits. Rather they are crude indicators of the ways in which the tax laws have been used to influence the pattern of economic activity in the private sector. Resources have been pushed into the low effective tax rate industries and away from high tax rate industries.

(2) Effects on fairness of the tax system.

In effect, tax subsidies substitute for payments to producers they would normally receive in the form of market prices. Inasmuch as tax subsidies are in the form of tax-exempt income, they also permit taxpayers with above average incomes to escape paying their fair shares of tax. For example, because the interest on state and local bond issues is tax-exempt, the bonds sell to yield returns that are below the yields of taxable issues; this is the subsidy element of the tax preference accorded state and local bond issues. Historically, the spread between taxable and nontaxable bonds has hovered around 30 percent—if 10 percent is the yield on taxable securities, the comparable tax-exempt yield would be about 7 percent. Thus a purchaser of tax-exempt bonds pays, in this example, an "effective tax" of 30 percent, and he "pays" this tax when purchasing tax-exempt bonds no matters what his income status otherwise would be. In this sense holders of tax-exempt bonds who would be sub-

Footnotes at end of article.

ject to tax at more than 30 percent are not paying their fair share of tax.[17]

Similarly, the investment credit is a form of tax-exempt subsidy which happens to be cleared through the tax system. As such, $1 of credit is clearly worth less to a small corporation subject to tax at 22 percent than to a larger corporation subject to tax at 48 percent. For the 22 percent taxpayer, $1 of credit substitutes for a market (pre-tax) income receipt of only $1.28; for the 48 percent taxpayer, the credit substitutes for $1.92 in market income.[18] Again, in this sense, recipients of the investment and WIN tax credits fail to pay their fair share of tax.

In sum, the pernicious aspect of tax subsidies is not so much that they substitute for explicit subsidies regarded by the Congress as serving the public interest and thereby cause effective tax rates to appear low, but that subsidies provided through remissions of tax almost invariably provide subsidy benefits in nontaxable form.[19] This has two highly undesirable effects. First, in an economy such as the United States, market prices serve to value resources. Gross National Product, for example, is measured in market prices. But market prices are generally in pre-tax terms. Thus, when the government wishes to carry out a procurement or other expenditure program, the dollars it budgets must be in pre-tax terms; and this fairly measures the economic significance of the programs. However, if government carries out its programs either by the expenditure of nontaxable funds, as in the case of unemployment compensation and social security payments, or by remission of tax—a nontaxable "tax expenditure"—the budgetary impact understates the economic magnitude of the government program: if the same program that is financed by tax-exempt expenditures or nontaxable tax subsidies were financed by normal expenditure programs, the dollar cost would be properly seen to be higher. By appearing to be "cheap," tax subsidies may be overused.

Second, in a tax system that imposes progressive rates, implementation of government programs by nontaxable expenditures and tax subsidies confers benefits that are proportional to the income status of the taxpayer. Put another way, such programs enable taxpayers to legally avoid paying their fair, statutory, share of taxes to support the activities of government, including the activities subsidized.

FOOTNOTES

[1] If accounts and notes receivable exceed accounts and notes payable, the latter is subtracted from both sides of the balance sheet. In this case, the net trade credit extended is capital employed which must be financed by long-term debt and equity. If accounts and notes payable exceed receivables, the receivables are subtracted from both sides of the balance sheet. The excess of payables is then a source of finance for the remaining assets employed in the business.

[2] To illustrate the pitfalls of dealing with cash payments of tax relative to incomes that have generated tax liability, consider that many taxpayers finish paying their tax liability for a given year sometime during the first third of the succeeding year; other taxpayers overpay their tax liability during a given year and receive a refund the following year. In either case, the taxpayer's "effective" tax rate for the given year is the tax liability generated by his income for that year, divided by the year's income not the taxes actually remitted.

[3] Financial corporations, banks, insurance companies, investment companies, etc., are not reported as a group because size classifications among these heterogeneous enterprises have little meaning. In the case of insurance companies, the measure of taxable income provided in the Internal Revenue Code is so highly specialized it cannot be adjusted to reflect normal concepts of enterprise income; and in the case of investment companies, if they elect to operate as regulated holding companies and distribute currently at least 90 percent of their before tax income, they are not subject to corporation income tax. Banks (commercial and savings), on the other hand, do report income and other data which permit a sensible approximation of before tax income and corresponding tax liability. Thus, while banks are excluded from the figures reported in this section, they will be reported as an industry category in the next.

[4] Subchapter S corporations may generate corporate tax liability in connection with certain capital gain transactions, but this is invariably a trivial amount of tax.

[5] Although DISCs were excluded, they were "statistically" consolidated with their parent corporations by doubling DISC dividends reported by parent corporations. Because DISC dividends reported by parent corporations may refer to prior years, this procedure tends to understate DISC income of the parents, taxation of which is deferred, particularly in 1972 when DISC formation was rapid due to novelty of the program.

[6] Exclusion from the tabulation of corporations without taxable income for 1972 in order to maintain comparability of numerators and denominators in effective tax rate calculations has no effect on results if, and only if, tax losses are ultimately refunded. If some losses in 1972 are never requited by carry-back or forward to other years, then these losses should be detained in 1972 denominators. And if these losses were retained, the 1972 effective tax rates would be slightly elevated. Unfortunately, there is presently insufficient empirical evidence on which to base an estimate of the amounts of any year's reported losses which will not generate a refund.

[7] In addition to the preferential deductions listed which apply generally to financial and nonfinancial business, are those extra "bad debt" deductions allowed commercial banks and thrift institutions. The effect of bad debt deductions is dealt with in the following section presenting effective tax rates for banking.

[8] Due to the existence of the minimum tax on preferences, it was possible to identify the magnitudes of these excesses of preferential deductions which might be restored to income for 1972. The minimum tax generated by these preferences, if any, is already included in the U.S. tax element of the numerator. Another significant preference for which no adjustment to the income denominator could be made is the expensing of intangible drilling costs and related preferential treatment of exploration costs for other minerals activities. For these preferences the necessary data, taxpayer by taxpayer, are totally lacking in tax return records.

A case could be made that at least part of the ordinary allowances claimed for depreciation are preferential in that they are in excess of the amounts that would be required to measure income appropriately. This has been particularly documented in the case of tax depreciation allowances for real property. However, this study has generally not attempted to adjust reported deductions for tax depreciation due to the unavailability of sufficiently detailed information on the tax return. Nevertheless, preferences for "accelerated depreciation" deductions taken with respect to certain properties subject to a net lease and which are also part of the minimum tax base have been added back to taxable income.

[9] It should be noted that this mode of correction for the exclusion of tax-exempt interest exaggerates the effect of this subsidy to state and local government debt financing in reducing "effective tax rates" of holders of these securities. See discussion of this point in Section IV.

[10] Foreign income taxes restored to the numerator are those reported in Form 1118 as taxes paid and accrued and deemed paid.

[11] The high effective tax rate in the over $1 billion asset class is due to the peculiar problems associated with foreign taxes reported by oil companies. See the discussion of that industry's effective tax rate in the section following.

[12] The effective tax rate does not reflect the benefit of expensing intangible drilling costs of wells that later prove to be productive. As previously noted, the information required to adjust taxable income for this preferential deduction is not available.

[13] For a more detailed exposition of the problems in deriving effective tax rates from corporations' financial statements, see *Pitfalls in the Computation of "Effective Tax Rates" Paid by Corporations;* OTA Paper No. 23; U.S. Treasury Department (July, 1977).

[14] Note should also be taken of differences between the reporting of foreign source income. In financial reports, all income of consolidated subsidiaries is reported on the same accrual basis. In tax returns, only the foreign source income of subsidiaries chartered in the United States is presented on an accrual basis; the income of subsidiaries chartered in foreign countries is reported only to the extent "repatriated" or paid as dividends to the U.S. parent corporation.

[15] Since the preparer of a financial statement must certify the "correctness" of reported before-tax income, he is obligated to use his measure of depreciation for the year as "correct." The departure from this by the Internal Revenue Code is, from this point of view, an aberration.

[16] Problems posed by the financial accounting treatment of the investment credit should also be noted. There is no prescribed accounting standard for presenting the impact of the investment credit earned during a report year. Under one approach, the investment credit is simply treated as a "reduction of tax" in the year earned. Since the arithmetic of this procedure merely reduces the provision for income tax that is subtracted from income before-tax to derive "net income", this is called "flow-through." An alternative procedure treats the investment credit as a subsidy received from the government, the value of which is distributed over the life of the qualified investment. Provision for income tax is reduced only by the amount of the subsidy expiring during the year, not by the credit earned that year. Since this method distributes the "reduction in tax" over the life of the assets rather than all in the year the credit is earned, the procedure is called "normalization." Obviously, one needs to know how a corporation treats the credit if he is to use the "taxes" reported as the numerator of an effective tax rate calculation.

[17] In the effective rate calculations in this report, tax-exempt interest was simply added to the denominator. This procedure has the unfortunate effect of exaggerating the nontaxability of this form of income. An analytically correct way to deal with tax-exempt interest would be to include in the denominator the taxable equivalent of tax-exempt interest and include in the numerator the "implicit tax" associated with the spread between the taxable and nontaxable yields. For example, assume $10 would be the taxable yield for a security held by a bank and the tax-exempt interest it actually earns is $7. If we merely express actual taxes paid, $0, as a percentage of the actual income earned, $7, we obtain an effective tax rate of zero. But, if we add the $3 spread to $7 to derive $10 of income in the denominator and then place the $3 as an implicit tax in the numerator, we ob-

tain the correct effective tax rate, 30 percent. This analytically superior treatment of tax-exempt interest could not be used for lack of necessary data in tax returns.

[18] In the effective tax calculations, the investment and WIN credits are treated as "reductions in tax." Another way to view these credits, which are almost indistinguishable from tax-exempt cash grants, is simply to treat them as such. In this event the before-credits tax would appear in the numerator of the effective tax rate calculation, and the credits earned would be added to the denominator. The result of this alternative calculation would be a higher effective tax rate than that computed by the procedure used in this report.

[19] One recent exception to this generalization is the New Jobs Credit enacted in 1977. This credit is structured so that it enters the taxable incomes of employers (if wages do not rise) or employees, just as would an equivalent wage subsidy paid in cash by the Department of Labor.

EXHIBIT 3

SELECT COMMITTEE ON SMALL BUSINESS,
Washington, D.C., April 11, 1978.

Mr. SEYMOUR FIEKOWSKY,
Associate Director, Office of Tax Analysis, Department of the Treasury, Washington, D.C.

DEAR MR. FIEKOWSKY: We appreciate the Treasury's cooperation in completing the Effective Tax Rate Study requested by the Senate Small Business Committee, the Joint Economic Committee, and the Joint Tax Committee.

The staff informs me that the following tabulations should be performed so that the Study can be advanced toward publication:

1. Retabulation on a condensed and expanded scale, by existing asset categories, of the effective tax rates on economic income, including loss firms, but excluding Subchapter S and DISC firms for: (1) Worldwide income and (2) Domestic income.

2. Retabulation on a condensed and expanded scale, by existing asset categories, of the effective tax rates on taxable income, after special deductions, including loss firms, but excluding Subchapter S firms and DISC. Retabulation of the above tables, but excluding loss firms.

We would also feel it desirable to have the major Effective Tax Rate tables rerun, using 1974 corporate data when it is available. The Committee staff will be pleased to continue its discussions with you on these and related matters.

Sincerely,

GAYLORD NELSON,
Chairman.

THE SECRETARY OF THE TREASURY,
Washington, April 26, 1978.

Hon. GAYLORD NELSON,
Chairman, Senate Select Committee on Small Business, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your letter of April 21, I am forwarding herewith five copies of a draft of the Report on Effective Tax Rates of Corporations: 1972. The report has just been completed. In view of the current consideration of corporate tax proposals by the House Ways and Means Committee, it is necessary that the materials be released next Monday.

For this reason, I would greatly appreciate the forwarding of any comments and suggestions you and the Committee staff might provide to Acting Assistant Secretary Lubick by close of business Friday, April 28.

As soon as the availability of computer personnel permits, our staff will make arrangements with your Committee staff to furnish the additional breakdowns of loss corporations, by asset size and industry, requested in your April 11 letter. There being no feasible method for associating refunds of tax with 1972 losses, the Report excludes these cases from the final computations of effective tax rates, as the text carefully explains.

Sincerely,

W. MICHAEL BLUMENTHAL.

APRIL 28, 1978.

Hon. W. MICHAEL BLUMENTHAL,
Secretary of the Treasury, Washington, D.C.

DEAR MR. SECRETARY: This will acknowledge your letter of April 26, 1978, enclosing the draft of the effective tax rate study and inviting our comment. We have had an opportunity to look briefly at the draft today, and appreciate the opportunity to review the Treasury Department to complete this important study.

I understand that the Ways and Means Committee mark-up will not resume until at least Wednesday, May 3. This will make it possible to insert the material in the *Congessional Record* on Monday, which is the first such opportunity to do so since the Senate is not in session today.

This would appear to accommodate the need to have the material available during consideration of relevant tax legislation in the House Committee to which you referred.

We will look forward to developing with you the further material referred to in the last paragraph of your letter. In my judgment, the study would also be improved if it were to be accompanied by a glossary of terms, including the definitions of terms such as "total income", "economic income", and "taxable income" as they relate to the study.

Sincerely,

GAYLORD NELSON,
Chairman.

TABLE 1.—INCOME MEASURES, UNITED STATES AND FOREIGN TAX LIABILITIES; FOR NONFINANCIAL CORPORATIONS FILING INCOME TAX RETURNS, BY SIZE OF ADJUSTED ASSETS; 1972

[Dollar entries in millions]

	Asset size												
	All sizes	$1 under $50,000	50,000 under 250,000	250,000 under 1,000,000	1,000,000 under 5,000,000	5,000,000 under 10,000,000	10,000,000 under 25,000,000	25,000,000 under 50,000,000	50,000,000 under 100,000,000	100,000,000 under 250,000,000	250,000,000 under 500,000,000	500,000,000 under $1 billion	$1 billion or more
I. All corporations, with and without basic worldwide taxable income:													
Number (a)	1,625,113	716,647	604,393	232,789	58,267	6,161	3,606	1,363	732	585	247	148	175
U.S. tax, after credits (b)	29,130	211	1,254	2,738	3,643	1,400	1,691	1,373	1,514	2,285	2,190	2,336	8,498
Basic worldwide taxable income (c)	75,150	−253	3,810	6,670	7,028	2,699	3,287	2,907	3,317	5,313	5,289	5,952	29,130
Effective tax rate (d)	38.8	.....	32.9	41.0	51.8	51.9	51.4	47.2	45.7	43.0	41.4	39.2	29.2
II. Corporations with basic worldwide income taxable as such (excludes subchapter S and DISC corporations):													
Number (a)	752,331	235,978	320,396	149,151	38,008	3,989	2,417	928	532	451	198	129	154
U.S. tax, after credits (b)	29,100	211	1,253	2,736	3,641	1,399	1,688	1,372	1,512	2,283	2,189	2,333	8,481
Basic worldwide taxable income (c)	84,280	1,003	4,741	7,537	8,585	3,221	3,904	3,227	3,660	5,870	5,803	6,779	29,950
Effective tax rate (d)	34.5	21.0	26.4	36.3	42.4	43.4	43.2	42.5	41.3	38.9	37.7	34.4	28.3
III. Corporations with adjusted worldwide income:													
Number (a)	871,865	300,486	357,612	162,049	41,940	4,451	2,707	1,038	593	494	203	134	159
Worldwide tax liabilities, net of U.S. investment and WIN credits (b)	38,220	269	1,348	2,811	3,725	1,443	1,761	1,454	1,638	2,632	2,538	2,985	15,620
Adjusted worldwide income	93,440	1,305	5,315	8,186	9,382	3,543	4,303	3,542	4,036	6,449	6,251	7,342	33,780
Effective tax rate	40.9	20.6	25.4	34.3	39.7	40.7	40.9	41.0	40.6	40.8	40.6	40.7	46.2
IV. Corporations with U.S. source adjusted income:													
Number (a)	871,548	300,435	357,571	161,992	41,856	4,430	2,692	1,029	579	485	199	128	152
U.S. tax liability, after investment and WIN credit (b)	29,610	268	1,347	2,808	3,696	1,419	1,719	1,391	1,533	2,313	2,218	2,374	8,521
Adjusted U.S. source income (c)	78,330	1,302	5,310	8,174	9,298	3,473	4,177	3,375	3,760	5,676	5,348	5,830	22,600
Effective tax rate (d)	37.8	20.6	25.4	34.4	39.8	40.8	41.2	41.2	40.8	40.8	41.5	40.7	37.7

TABLE 1.—INCOME MEASURES, UNITED STATES AND FOREIGN TAX LIABILITIES; FOR NONFINANCIAL CORPORATIONS FILING INCOME TAX RETURNS, BY SIZE OF ADJUSTED ASSETS; 1972—Continued

[Dollar entries in millions]

	Asset size												
	All sizes	$1 under $50,000	50,000 under 250,000	250,000 under 1,000,000	1,000,000 under 5,000,000	5,000,000 under 10,000,000	10,000,000 under 25,000,000	25,000,000 under 50,000,000	50,000,000 under 100,000,000	100,000,000 under 250,000,000	250,000,000 under 500,000,000	500,000,000 under $1 billion	$1 billion or more
V. Corporations with foreign source income:													
Number (a)	4,240	141	423	659	1,111	377	443	276	221	266	123	94	106
Foreign tax liabilities (b)	8,530.7	0.4	0.5	2.6	23.9	23.7	39.9	61.4	102.2	308.9	319.4	594.0	7,053.9
Foreign source income (c)	15,210.0	3.6	3.2	11.2	85.6	69.4	126.9	172.4	305.8	819.9	889.6	1,527.3	11,190.0
Effective tax rate (d)	56.1	11.3	14.3	23.1	28.0	34.2	31.4	35.6	33.4	37.7	35.9	38.9	63.0

TABLE 2.—EFFECTIVE TAX RATES ON WORLDWIDE INCOME, ALL CORPORATIONS WITH INCOME, AND CORPORATIONS WITH UNDER $1,000,000 OF ASSETS, BY INDUSTRY; 1972

Industry	All corporations		Corporations with under $1,000,000 of assets	
	Industry rank	Effective tax rate (percent)	Effective tax rate (percent)	Corporations included (percent)
Petroleum and natural gas	1	59.4	23.8	85.1
Manufacturing, not elsewhere classified	2	41.9	32.3	86.2
Wholesale and retail trade	3	38.8	32.0	94.9
Credit dealers, brokers, insurance agents	4	38.1	29.1	95.1
Paper and allied products	5	37.4	32.4	79.5
Communications	6	35.7	27.6	79.6
Electric, gas, and sanitary services	7	35.4	28.0	89.8
Lumber and wood products (nonfurniture)	8	34.2	32.2	87.5
Contract construction	9	33.7	28.4	95.2
Primary metals: Ferrous	10	33.1	33.2	75.7
Primary metals: Nonferrous	11	32.4	25.4	72.4
Services	12	31.6	26.5	97.5
Transportation	13	30.3	26.6	94.3
Real estate	14	28.9	26.2	94.7
Agriculture, forestry and fisheries	15	28.0	23.6	94.4
Unclassifiable businesses	16	27.0	25.4	98.8
Coal mining	17	26.7	24.7	84.3
Mining, not elsewhere classified	18	26.2	22.4	76.8
Banking	19	19.4	26.8	6.7

TABLE 2a.—EFFECTIVE TAX RATES ON WORLDWIDE INCOME, ALL CORPORATIONS WITH INCOME, BY INDUSTRY AND SIZE OF ASSETS; 1972

Industry, item	Asset size												
	All sizes	$1 under $50,000	50,000 under 250,000	250,000 under 1,000,000	1,000,000 under 5,000,000	5,000,000 under 10,000,000	10,000,000 under 25,000,000	25,000,000 under 50,000,000	50,000,000 under 100,000,000	100,000,000 under 250,000,000	250,000,000 under 500,000,000	500,000,000 under $1 billion	$1 billion or more
Petroleum and natural gas:													
(a)	3,896	1,154	1,443	718	392	60	41	31	13	16	5	4	19
(b)	6,154,972	1,234	7,169	9,435	32,160	11,957	15,689	35,676	12,693	30,385	70,566	106,697	5,821,312
(c)	10,370,000	6,460	32,363	36,108	104,081	46,976	60,184	103,280	56,873	115,072	180,802	205,800	9,424,943
(d)	59.4	19.1	22.2	26.1	30.9	25.4	26.1	34.5	22.3	26.4	39.0	51.8	61.8
Manufacturing not elsewhere classified:													
(a)	101,120	24,565	37,698	24,860	10,300	1,547	1,008	434	265	234	96	65	49
(b)	17,740,000	24,674	176,949	661,313	1,369,089	682,593	914,479	797,999	997,162	1,709,830	1,819,956	2,026,364	6,559,199
(c)	42,340,000	118,784	712,213	1,843,761	3,330,523	1,595,464	2,145,554	1,891,828	2,331,000	4,056,048	4,303,458	4,783,185	15,230,000
(d)	41.9	20.8	24.8	35.9	41.1	42.8	42.6	42.2	42.8	42.2	42.3	42.4	43.1
Wholesale and retail trade:													
(a)	302,573	84,828	139,258	62,953	13,560	1,020	570	196	90	62	18	10	8
(b)	5,600,293	75,918	569,761	1,208,577	1,208.778	322,161	333,525	283,117	192,095	243,916	181,670	227,769	753,006
(c)	14,420,000	351,246	2,119,501	3,331,895	2,904,028	756,139	799,710	641,879	464,011	574,360	442,469	560,317	1,477,513
(d)	38.8	21.6	26.9	36.3	41.6	42.6	41.7	44.1	41.4	42.5	41.1	40.6	51.0
Credit dealers, brokers, insurance agents:													
(a)	49,186	22,228	18,414	6,124	1,836	224	201	77	41	23	9	4	4
(b)	848,433	20,381	74,579	85,942	113,380	50,480	74,247	41,409	87,376	54,318	38,034	87,926	120,362
(c)	2,225,536	96,013	275,261	251,113	288,879	119,061	176,133	100,215	212,911	135,045	92,116	197,713	81,077
(d)	38.1	21.2	27.1	34.2	39.2	42.4	42.2	41.3	41.0	40.2	41.3	44.5	42.8
Paper and allied products:													
(a)	2,284	177	780	859	312	50	43	11	22	15	4	6	4
(b)	586,804	78	3,284	21,485	36,527	19,494	22,767	15,437	86,186	73,254	32,681	57,272	218,340
(c)	1,567,136	862	15,354	60,566	87,668	48,119	58,622	38,938	210,008	194,573	101,572	199,643	551,211
(d)	37.4	9.0	21.4	35.5	41.7	40.5	38.8	39.6	41.0	37.6	32.2	28.7	39.6
Communications:													
(a)	3,841	633	1,686	739	619	66	44	15	15	10	5	----	6
(b)	1,258,969	407	7,215	10,248	40,406	14,450	28,429	7,793	15,163	38,787	32,211	----	963,451
(c)	3,528,297	2,318	29,270	33,065	108,091	37,280	68,940	20,079	44,598	96,046	87,472	----	2,763,893
(d)	35.7	17.6	24.6	31.0	37.4	38.8	41.2	38.8	34.0	40.4	36.8	----	34.9
Electric, gas, and sanitary services:													
(a)	4,534	1,700	1,755	615	173	35	60	29	25	41	34	26	42
(b)	1,363,293	646	7,350	2,989	9,556	6,146	19,124	23.933	26,716	107,901	164,417	204,901	779,613
(c)	3,853,979	3,802	31,632	39,506	27,497	17,011	49,756	60,486	69,042	282,289	426,003	577,831	2,269,124
(d)	35.4	17.0	23.2	32.9	34.8	34.8	38.4	38.4	38.7	38.2	38.6	35.5	34.4
Lumber and wood products (nonfurniture):													
(a)	5,871	913	2,641	1,586	591	74	39	10	6	8	----	----	----
(b)	437,308	865	10,809	47,571	95,913	41,148	30,270	13,829	20,068	39,535	----	----	----
(c)	1,279,036	4,352	47,516	132,257	242,519	102,758	77,234	39,097	55,877	117,125	----	----	----
(d)	34.2	19.9	22.8	36.0	39.6	40.0	39.2	35.4	35.9	33.8	----	----	----
Contract construction:													
(a)	73,223	28,613	29,438	11,648	3,036	250	132	34	22	11	----	----	----
(b)	901,312	30,711	133,760	219,186	258,879	64,414	63,567	22,851	40,199	62,951	----	----	----
(c)	2,676,493	150,467	542,022	656,713	678,637	167,594	157,361	60,580	102,979	142,199	----	----	----
(d)	33.7	20.4	24.7	33.4	38.2	38.4	40.4	37.7	39.0	44.3	----	----	----

TABLE 2a.—EFFECTIVE TAX RATES ON WORLDWIDE INCOME, ALL CORPORATIONS WITH INCOME, BY INDUSTRY AND SIZE OF ASSETS; 1972—Continued

Industry, item	All sizes	Asset size: $1 under $50,000	50,000 under 250,000	250,000 under 1,000,000	1,000,000 under 5,000,000	5,000,000 under 10,000,000	10,000,000 under 25,000,000	25,000,000 under 50,000,000	50,000,000 under 100,000,000	100,000,000 under 250,000,000	250,000,000 under 500,000,000	500,000,000 under $1 billion	$1 billion or more
Primary metals—Ferrous:													
(a)	1,730	405	496	408	282	53	33	19	11	10	5		7
(b)	447,086	519	2,514	11,139	46,441	22,205	28,828	25,621	21,680	72,722	25,337		189,926
(c)	1,351,713	2,348	10,208	30,184	110,452	53,547	65,761	63,698	59,472	176,901	83,837		682,800
(d)	33.1	22.1	24.6	36.9	42.0	41.5	43.8	40.2	38.4	41.1	30.2		27.8
Unclassifiable businesses:													
(a)	2,865	2,154	487	189	29								
(b)	8,698	2,390	2,188	1,933	1,531								
(c)	32,185	9,269	7,765	8,637	3,513								
(d)	27.0	25.8	28.2	22.4	43.6								
Coal mining:													
(a)	737	177	248	196	70	19	10	10	3				
(b)	52,752	126	1,438	3,026	6,798	5,458	4,410	4,176	4,414				
(c)	197,596	577	5,655	12,315	24,831	19,836	17,651	21,656	16,723				
(d)	26.7	21.8	25.4	24.6	27.4	27.5	25.0	19.3	26.4				
Mining not elsewhere classified:													
(a)	1,863		752	679	248	47	21	11					
(b)	67,420		2,702	9,899	15,268	11,234	7,435	8,586					
(c)	257,395		14,121	42,058	57,260	41,272	26,299	33,279					
(d)	26.2		19.1	23.5	26.7	27.2	28.3	25.8					
Banking:													
(a)	17,947		385	832	5,787	3,774	3,528	1,578	897	601	227	117	78
(b)	1,646,672		1,562	3,282	76,063	100,677	157,800	133,218	134,872	220,569	182,813	152,624	483,090
(c)	8,495,566		4,895	13,180	365,883	530,487	869,165	697,609	675,026	1,042,793	901,414	882,036	2,512,773
(d)	19.4		31.9	24.9	20.8	19.0	18.2	19.1	20.0	21.2	20.3	17.3	19.2

Key: (a)=Number; (b)=worldwide tax liabilities net of U.S. investment and WIN credits; (c)=adjusted worldwide income; (d)=effective tax rate.

TABLE 3.—EFFECTIVE TAX RATES ON U.S. SOURCE INCOME, ALL CORPORATIONS WITH INCOME AND CORPORATIONS WITH UNDER $1,000,000 OF ASSETS, BY INDUSTRY; 1972

Industry[1]	All corporations: Industry rank	All corporations: Effective tax rate (percent)	Corporations with under $1,000,000 of assets: Effective tax rate (percent)	Corporations with under $1,000,000 of assets: Corporations included (percent)
Manufacturing not elsewhere classified	1	42.0	32.3	86.2
Paper and allied products	2	38.4	32.4	79.5
Credit dealers, brokers, insurance agents	3	38.3	29.0	95.1
Wholesale and retail trade	4	38.0	32.0	94.9
Communications	5	36.1	27.6	79.6
Electric, gas, and sanitary services	6	35.3	28.0	89.8
Lumber and wood products (nonfurniture)	7	34.6	32.2	87.5
Primary metals: Ferrous	8	33.7	33.2	75.8
Contract construction	9	33.4	28.4	95.2
Services	10	31.6	26.5	97.6
Transportation	11	30.1	26.6	94.3
Primary metals: Nonferrous	12	29.4	25.4	72.6
Real estate	13	28.9	26.2	94.7
Agriculture, forestry and fisheries	14	28.1	23.4	94.4
Unclassifiable businesses	15	27.7	26.1	98.8
Mining not elsewhere classified	16	25.6	22.4	76.9
Petroleum and natural gas	17	24.7	23.8	85.5
Coal mining	18	19.4	24.7	84.3
Banking	19	18.6	26.8	6.7

[1] See appendix for detailed industry categories in groupings shown here.

TABLE 3a.—EFFECTIVE TAX RATES ON U.S. SOURCE INCOME, ALL CORPORATIONS WITH INCOME, BY INDUSTRY AND SIZE OF ASSETS; 1972

Industry, item	All sizes	Asset size: $1 under $50,000	50,000 under 250,000	250,000 under 1,000,000	1,000,000 under 5,000,000	5,000,000 under 10,000,000	10,000,000 under 25,000,000	25,000,000 under 50,000,000	50,000,000 under 100,000,000	100,000,000 under 250,000,000	250,000,000 under 500,000,000	500,000,000 under $1 billion	$1 billion or more
Manufacturing, not elsewhere classified:													
(a)	101,026	24,565	37,683	24,852	10,276	1,534	1,002	429	255	228	93	62	47
(b)	15,290,000	24,674	176,244	660,443	1,359,798	669,408	889,302	764,692	921,756	1,490,247	1,546,463	1,606,829	5,182,941
(c)	36,430,000	118,784	709,889	1,840,506	3,303,413	1,557,431	2,071,128	1,789,779	2,134,216	3,497,982	3,499,338	3,688,296	12,220,000
(d)	42.0	20.8	24.8	35.9	41.2	43.0	42.9	42.7	43.2	42.6	44.2	43.7	42.4
Paper and allied products:													
(a)	2,284	177	780	859	312	50	43	11	22	15	4	6	4
(b)	521,669	78	3,284	21,465	36,523	18,810	22,530	15,378	75,360	72,670	30,312	48,620	176,639
(c)	1,357,882	862	15,354	60,475	87,460	46,370	58,014	38,387	181,414	192,972	95,916	170,936	409,722
(d)	38.4	9.0	21.4	35.5	41.8	40.6	38.8	40.1	41.5	37.7	31.6	28.4	43.1
Credit dealers, brokers, insurance agents:													
(a)	49,164	22,228	18,399	6,122	1,836	224	199	76	40	23	9	4	
(b)	822,426	20,381	74,560	85,596	112,952	50,057	71,710	40,989	83,169	52,145	36,736	87,630	
(c)	2,147,277	96,010	275,231	250,443	287,627	117,377	168,472	98,760	201,965	127,998	86,854	192,559	
(d)	38.3	21.2	27.1	34.2	39.3	42.6	42.6	41.5	41.2	40.7	42.3	45.5	
Wholesale and retail trade:													
(a)	302,511	84,828	139,258	62,923	13,545	1,013	567	195	88	61	18	9	7
(b)	5,290,425	75,841	569,760	1,207,296	1,202,369	317,498	328,907	269,661	189,843	220,127	167,395	183,030	558,698
(c)	13,920,000	350,117	2,117,564	3,327,509	2,882,017	740,177	785,031	617,861	457,985	525,114	406,158	448,136	1,267,055
(d)	38.0	21.7	26.9	36.3	41.7	42.9	41.9	43.6	41.4	41.9	41.2	40.8	44.1
Communications:													
(a)	3,841	633	1,686	739	619	66	44	15	15	10	5		6
(b)	1,232,402	407	7,215	10,248	40,406	14,450	28,429	7,793	13,762	38,464	31,948		948,321
(c)	3,413,691	2,318	29,270	33,065	108,091	37,280	68,940	20,079	40,729	92,032	86,831		2,694,345
(d)	36.1	17.6	24.6	31.0	37.4	38.8	41.2	38.8	33.8	41.8	36.8		35.2

TABLE 3a.—EFFECTIVE TAX RATES ON U.S. SOURCE INCOME, ALL CORPORATIONS WITH INCOME, BY INDUSTRY AND SIZE OF ASSETS; 1972—Continued

Industry, item	Asset size												
	All sizes	$1 under $50,000	50,000 under 250,000	250,000 under 1,000,000	1,000,000 under 5,000,000	5,000,000 under 10,000,000	10,000,000 under 25,000,000	25,000,000 under 50,000,000	50,000,000 under 100,000,000	100,000,000 under 250,000,000	250,000,000 under 500,000,000	500,000,000 under $1 billion	$1 billion or more
Electric, gas, and sanitary services:													
(a)	4,534	1,700	1,755	615	173	35	60	29	25	41	34	26	42
(b)	1,354,513	646	7,350	12,989	9,556	6,146	19,124	23,727	26,716	107,058	164,417	204,187	772,597
(c)	3,835,767	3,802	31,632	39,506	27,497	17,011	49,756	60,064	69,042	280,523	426,003	574,492	2,256,438
(d)	35.3	17.0	23.2	32.9	34.8	36.1	38.4	39.5	38.7	38.2	38.6	35.5	34.2
Lumber and wood products (non-furniture):													
(a)	5,871	913	2,641	1,586	591	74	39	10	6	8			
(b)	431,952	865	10,809	47,571	95,856	41,036	30,256	13,821	20,033	39,480			
(c)	1,248,761	4,352	47,516	132,257	242,087	102,434	76,850	39,044	55,710	116,733			
(d)	34.6	19.9	22.8	36.0	39.6	40.1	39.4	35.4	36.0	33.8			
Primary metals: Ferrous:													
(a)	1,727	405	496	408	281	53	32	19	11	10	5		7
(b)	390,370	519	2,514	11,130	45,459	22,204	28,503	25,009	20,281	61,842	22,768		149,985
(c)	1,157,523	2,348	10,208	30,108	108,399	53,546	64,866	60,904	55,498	152,213	76,480		530,446
(d)	33.7	22.1	24.6	37.0	41.9	41.5	43.9	41.1	36.5	40.6	29.8		28.3
Contract construction:													
(a)	73,215	28,613	29,438	11,684	3,032	250	131	33	21	10			
(b)	871,266	30,711	133,760	219,186	255,134	64,303	62,490	21,177	38,136	41,731			
(c)	2,604,656	150,467	542,022	656,396	668,216	167,152	152,765	54,633	97,644	98,851			
(d)	33.4	20.4	24.7	33.4	38.2	38.5	40.9	38.8	39.1	42.2			
Services:													
(a)	151,288	90,470	43,321	13,803	3,034	331	194	69	30	27	5	4	
(b)	1,059,348	78,803	164,799	214,528	177,509	81,642	81,849	77,600	43,842	61,430	15,470	61,876	
(c)	3,352,128	395,608	666,824	664,049	493,694	215,332	209,466	193,124	132,563	179,077	54,903	147,487	
(d)	31.6	19.9	24.7	32.3	36.0	37.9	39.1	40.2	33.1	34.3	28.2	42.0	
Transportation:													
(a)	26,521	9,864	10,518	4,630	1,077	174	122	50	29	21	17	7	13
(b)	781,512	7,360	38,693	78,065	91,698	49,223	76,922	54,164	49,504	49,979	134,060	63,360	88,485
(c)	2,593,240	39,677	180,174	247,572	245,013	128,497	192,055	150,823	148,349	149,903	371,861	188,415	550,901
(d)	30.1	18.6	21.5	31.5	37.4	38.3	40.0	35.9	33.4	33.3	36.0	33.6	16.1
Primary metals: Nonferrous:													
(a)	1,243	177	442	283	238	43	22	7	15	6			5
(b)	221,149	387	2,496	4,574	33,402	14,248	13,592	7,922	37,486	21,994			17,932
(c)	752,563	4,003	9,057	16,284	80,911	35,163	34,835	19,610	113,431	69,869			160,048
(d)	29.4	9.7	27.6	28.1	41.3	40.5	39.0	40.4	33.0	31.5			11.2
Real estate:													
(a)	133,189	31,081	65,292	29,714	6,218	499	257	82	26	27			
(b)	695,230	19,663	136,041	195,139	169,307	40,094	48,480	34,963	19,107	27,416			
(c)	2,402,425	95,309	553,351	689,793	518,543	137,291	156,492	103,653	51,681	81,442			
(d)	28.9	20.6	24.6	28.3	32.6	29.2	31.0	33.7	37.0	33.7			
Agriculture, forestry and fisheries:													
(a)	18,421	5,324	7,311	4,756	906	74	37	8		4			
(b)	177,472	7,145	21,478	48,623	47,798	15,693	13,196	7,993		10,184			
(c)	631,835	36,016	110,356	181,193	151,184	42,945	45,603	22,823		28,712			
(d)	28.1	19.8	19.5	26.8	31.6	36.5	28.9	35.0		35.5			
Unclassifiable businesses:													
(a)	2,864	2,154	487	189	29								
(b)	8,420	2,112	2,188	1,933	1,531								
(c)	30,368	7,452	7,765	8,637	3,513								
(d)	27.7	28.3	28.2	22.4	43.6								
Mining not elsewhere classified:													
(a)	1,862		752	679	248	47	21	11					
(b)	61,855		2,622	9,899	15,268	11,233	6,628	8,586					
(c)	241,699		13,778	42,058	57,260	41,269	25,104	33,276					
(d)	25.6		19.0	23.5	26.7	27.2	26.4	25.8					
Petroleum and natural gas:													
(a)	3,878	1,154	1,443	718	379	60	40	30	13	15	4	4	18
(b)	714,643	1,234	7,169	9,406	31,026	11,956	12,069	29,609	11,826	25,727	55,172	20,957	498,491
(c)	2,893,401	6,460	32,363	36,050	101,678	46,973	50,104	89,239	53,004	100,517	157,061	118,183	2,101,769
(d)	24.7	19.1	22.2	26.1	30.5	25.4	24.1	33.2	22.3	25.6	35.1	17.7	23.7
Coal mining:													
(a)	737	177	248	196	70	19	10	10					
(b)	35,739	126	1,438	3,026	6,798	5,457	4,410	4,176					
(c)	184,017	577	5,655	12,315	24,831	19,834	17,651	21,656					
(d)	19.4	21.8	25.4	24.6	27.4	27.5	25.0	19.3					
Banking:													
(a)	17,938		384	823	5,787	3,774	3,527	1,578	897	599	227	117	72
(b)	1,413,574		1,562	3,282	76,063	100,676	157,735	133,208	134,803	217,336	181,236	147,283	260,287
(c)	7,616,205		4,895	13,180	365,883	530,457	868,841	697,541	674,652	1,029,589	892,091	853,489	1,685,280
(d)	18.6		31.9	24.9	20.8	19.0	18.2	19.1	20.0	21.1	20.3	17.3	15.4

Key: (a)=number; (b)=worldwide tax liabilities net of U.S. investment and WIN credit; (c)=adjusted worldwide income; (d)=effective tax rate.

S. 2791, THE RENEGOTIATION ABEYANCE ACT

● Mr. LUGAR. Mr. President, on March 22, the Senate Banking, Housing, and Urban Affairs Committee reported S. 2791, the Renegotiation Abeyance Act of 1978. This bill dismantles the Renegotiation Board until such time as the President determines, during a national emergency, that such provisions would be in the best interests of the United States. The committee also reported out on that date S. 2790, the Renegotiation Exemption Act, which, by retroactively raising the small business exemption from the current $1 million to $5 million, effectively eliminates 58 percent of the existing filings before the Renegotiation Board.

On June 10, 13, 14, and 17 of last year, the committee held hearings on S. 1594, a bill to revise and extend the Renegotiation Act of 1951, the last temporary extension of which had expired on September 30, 1976. On September 15, a full committee markup was held and S. 2791 was ordered reported as an original bill after an amendment in the nature of a substitute offered by myself and Senator CRANSTON was adopted. S. 2790 also was ordered reported as an original bill on that date.

I am hopeful that my colleagues will have an opportunity to vote in the near future on these two important bills.

Mr. President, I ask unanimous consent that an article from the Septem-

ber 16, 1977 issue of the Washington Post concerning the committee's action on this legislation be printed in the RECORD at this point.

The article follows:

COMMITTEE VOTES END TO BOARD

(By T. R. Reid)

The Senate Banking Committee voted yesterday to abolish the Renegotiation Board, the federal agency that guards against excessive profits on space and defense contracts.

In a vote described by Sen. Richard Lugar (R-Ind.) as "a litmus test of sunset legislation," the committee accepted, by an 8-6 margin, arguments by Lugar and Sen. Alan Cranston (D-Cal.) that the board's value to the government is too small to justify the paperwork burden it imposes on business.

The committee action was a major victory for defense contractors, who have been lobbying steadily against the board since it was created in 1951 to review weapons contracts generated by the Korean war.

But the vote was a setback for President Carter, who has actively supported a contrasting bill that would extend the board's life and enhance its authority.

A bill to strengthen the Renegotiation Board was approved by a House committee last spring, and had been scheduled to come up on the House floor next week. But chances of House passage were never certain, and supporters of the House bill said yesterday they may put off the vote because of the Senate committee action.

Cranston, the second-ranking member of the Senate's Democratic leadership, said yesterday his bill to kill the board would have "a pretty good chance" of passage on the Senate floor.

But Banking Committee chairman William Proxmire (D-Wis.), who was on the losing end of yesterday's vote, told Cranston that "you won't get action on the floor; it might be filibustered." Proxmire is the chief Senate sponsor of legislation to strengthen renegotiation.

Reflecting their own uncertainty about the prospects of the Lugar-Cranston measure, the committee members yesterday approved two different bills dealing with the board.

One was the Lugar-Cranston termination bill. The other, passed as a fallback in case the first bill loses on the floor, would leave the board in a sort of limbo pending a six-month General Accounting Office study of its cost and benefit.

The measure pushed by Lugar and Cranston would put the board in "mothball" status, so that it could be reactivated by the President under emergency conditions. It would permit the board to keep operating for an indefinite period, but only to complete work on its considerable backlog of old cases.

The termination bill would cut the backlog by eliminating, retroactively, the board's jurisdiction in past cases involving firms with an annual sales under $5 million. The board says about 58 per cent of its work involves such firms.

The Renegotiation Board is a small agency (about 300 employees) that reviews federal contracts after they have been completed to gauge the contractor's final profit on the job. If the board concludes that a firm's profit on all its government work in a given year is "excessive," it can order the firm to refund the money.

In fiscal year 1976, the board reviewed $41 billion in federal contracts and recovered $40 million in profits.

Supporters of renegotiation say the board is a necessary check against profiteering in the space and defense industry, where most equipment is bought on a non-competitive basis.

They argue that Proxmire's bill, which would strengthen the board, would lead to a quantum leap in the amount of defense profits recovered by the government.

Opponents see renegotiation as a fount of red tape and government harassment that deters many firms from bidding on government contracts.

They also say that by concentrating on profits rather than costs, the board penalizes efficient, high-profit producers but passes over less efficient contractors whose profit margins are low.

The board has been the target of intense lobbying all year by large and small defense contractors. Since there is at least one defense contractor or subcontractor in almost every congressional district, the industry has been able to mount an effective person-to-person lobbying campaign.

Yesterday's committee's vote, though, surprised even the lobbyists. They had expected to have enough votes to defeat Proxmire's tightening legislation, but they did not expect passage of a bill terminating the board.

Mr. LUGAR. Mr. President, the Renegotiation Act of 1951 has been extended on a temporary basis 13 times in the past 24 years. The authority of the Renegotiation Board, which administers the act, was finally allowed to expire on September 30, 1976. Without authorizing legislation, the Board has no authority to review contracts concluded after the date. Nevertheless, the Board continues to review contracts concluded before the expiration date and, in fact, has a backlog of cases dating as far back as 1971.

I testified recently before the Senate Appropriations Subcommittee on State, Justice and the Commerce Departments during its hearings on appropriations for the Renegotiation Board. I would like to share that testimony with my colleagues. I ask that my testimony be printed in the RECORD.

TESTIMONY OF SENATOR RICHARD G. LUGAR

Mr. Chairman and members of the Subcommittee, I appreciate this opportunity to testify on the Fiscal Year 1979 appropriation of the Renegotiation Board.

Last June, the Senate Banking Committee held four days of hearings on the question of whether to extend and expand the power of the Renegotiation Board. I think that the 1008-page record of those hearings shows that they were among the most extensive and intensive reviews of the renegotiation process ever held. Representatives of the Administration, Members of Congress, Renegotiation Board Members and defense industry spokesmen all had ample opportunity to present their opinions. The General Accounting Office was asked to do the first comprehensive study of the cost to the defense industry of compliance with the Renegotiation Act, and it subsequently presented its findings. Since jurisdiction over the Renegotiation Board had just that year been transferred from the Finance Committee to our Committee, my colleagues and I had few preconceived notions about this issue and kept an open mind on the subject throughout. But I must say that the Renegotiation Board and its supporters simply failed to make a convincing case that the Board was any longer necessary in today's procurement environment, or that it could be improved to the point that it would be a useful and productive entity.

The simple fact is that the Renegotiation Board is a bureaucracy which has outlived its usefulness. During the 1950s, the Board was an important part of the procurement process, serving as a watchdog that saved the taxpayers millions of dollars. In recent years, however, it has become a superfluous and counterproductive bureaucracy, which spends more money auditing defense contractors than it collects in the form of excess profits. It also has frustrated efforts to administer our defense industrial base in an efficient and effective manner. Recent studies by the General Accounting Office, the Conference Board, and others have indicated that there are indeed significant incremental costs associated with compliance with the Renegotiation Act. For example, in the case of Hewlett-Packard, the firm most closely audited by the General Accounting Office, the costs associated with compliance amounted to one-half of one percent of renegotiable sales. If one were to assume that compliance costs on an industry-wide basis were only half that of Hewlett-Packard, the costs would still amount to over $100 million annually. This estimate excludes Justice Department and court costs, which are substantial in view of the fact that the majority of the excess profit determinations are appealed to the Court of Claims where they are heard de nova, nor does it include the annual cost of operating the Renegotiation Board itself. Based on this estimate, it is reasonable to assume that it has been costing the Government in the range of $3 to $10 for every dollar recovered by the Board in excess profit determinations over the past two years. Needless to say, our Committee felt that it did not make sense for the Govment to continue to engage in such a losing enterprise.

Mr. Chairman, I know that you have repeatedly said that you would like to see the issue of renegotiation settled by the authorizing committee and not the appropriating committee. That is precisely what the Banking Committee did at our mark-up last September. The two bills which were reported out of our Committee definitively resolve the issue of the future of the Board.

The first bill, S. 2790, would establish a floor of $5 million retroactively to September 30, 1972 in order to remove, by the Renegotiation Board's own estimate, 58 percent of the current backlog of filings. It would, however, only remove 3 percent of the aggregate dollar amount from Renegotiation Board jurisdiction. This bill would go a long way towards expediting the processing of filings, while at the same time lifting the burden of renegotiation from the shoulders of small businesses who have borne the brunt of excess profit determinations in recent years.

The other bill, S. 2791, would put the Renegotiation Board into mothballs until such time as the President feels that it would be necessary to cope with a national emergency.

These are harsh but, I feel, appropriate measures to deal with the question of renegotiation. In the age of sunset legislation and zero-based budgeting, the burden of proof was on the Renegotiation Board and its backers to demonstrate the necessity for reauthorizing this anachronistic bureaucracy. This they did not do.

Before I go on to my recommendations, there is one final point which I would like to discuss, and that is the behavior of the Renegotiation Board since losing its authorization to review new cases on September 30, 1976.

Recent actions by the Board seem to be arbitrary and capricious and in total disregard of Congressional will. I refer specifically to three actions taken by the Board under Mr. Chase's leadership.

On June 10, 1977, the day on which Chairman Chase was scheduled to testify before the Senate Banking Committee's authorized hearings, serious allegations against the Lockheed Corporation coincidentally appeared in the news media. Mr. Chase and his assistant, Mr. Driscoll, made reference to the allegations during their testimony that day, that the Navy had been charged for steel for 20 ships but Lockheed built only 12, and,

therefore, that 117.4 million pounds of steel with a value of $10.2 million were unaccounted for. Two months later, Chairman Chase issued a partial retraction of his accusations after an independently verified internal audit by Lockheed showed that the unaccounted for steel could be explained by the waste factor involved in ship fabrication and by a misreading of Lockheed books by Renegotiation Board investigators. But, of course, the damage had been done by the initial irresponsible leaks to the media. I understand a full report on this matter is due to be issued in the near future by the GAO at our Committee's request.

The other two actions which I would like to call to your attention, Mr. Chairman, are the issuances of new regulations to apply retroactively to the Board's backlog.

The first, and most onerous of those regulations, is the one which would bring Foreign Military Sales under the Renegotiation Board's jurisdiction. At the request of seven of my colleagues and myself, the GAO was asked to comment on the wisdom and propriety of this regulation. I would like to enter their report into the record at this time. Briefly, the Comptroller General concluded that while the Board has the authority on narrow legal grounds to write such regulations, he could find no precedent for their contention that the renegotiation of Foreign Military Sales had been the policy of the Board historically. Moreover, he went on to question the policy implications of claiming excess profits for the United States Treasury from sales to foreign governments in which the U.S. Government had acted as agent. The Comptroller General also questioned the legal sufficiency and equity of the retroactivity provision.

Finally, the proposed regulations which would expand the Board's authority to renegotiate contracts on the basis of segmentation of a corporate entity seem to me to be an attempt to accomplish by regulation what the Board was unable to do by legislation. S. 1594, the bill which the Banking Committee rejected at its mark-up, would have provided for segmented renegotiation. Until this issue is resolved by Congress, it would seem incumbent upon the Board to continue to operate within its present regulations and not try to do by administrative fiat what it was unable to obtain legislatively.

In conclusion, Mr. Chairman, I would like to offer the following recommendations for consideration by your Subcommittee:

(1) The Renegotiation Board ought to be instructed to expedite clearance of the remaining contracts on its backlog. Based on the 1977 Renegotiation Board Report, it would appear that the pace of clearance under Chairman Chase has slowed down rather than speeded up during the past year.

(2) Some deadline for completion of the review of the backlog ought to be imposed to encourage the Board not to drag its feet. I would think that a one-year time limitation would be appropriate, and that the review could be accomplished with the present staff and resources.

(3) In view of S. 2790, the pending legislation which would establish a $5 million retroactive floor under renegotiable business, the Board should be advised that to the extent feasible, they should clear the 97 percent of the dollar value of their backlog which encompasses aggregate contracts above that $5 million floor before reviewing those below that dollar level. This would eliminate needless effort on the part of the Board and small contractors in the event that S. 2790 is signed into law during the 95th Congress.

(4) The Board ought to be prohibited from spending appropriated funds to enforce regulations promulgated after the expiration of their authorization and applied retroactively to their backlog. I would hope that this Subcommittee would see fit to write restrictive language to that effect into the appropriations legislation, or at the very least into the Report. As the recent General Accounting Office report indicated, there is no reason for the Renegotiation Board to waste time and money trying to enforce retroactive regulations which are not only inequitable but likely to be reversed by Court review●

THE MERIT SELECTION OF FEDERAL JUDGES

● Mr. GARN. Mr. President, the junior Senator from Indiana (Mr. LUGAR) is one of the most ardent supporters of merit selection for Federal judges. He has been a leader in the effort to require merit selection for the dozens of new judgeships that will be created by the omnibus judgeship bill, and he has spoken out strongly for merit selection of not only Federal district judges but also U.S. attorneys and Federal marshalls. On January 19, 1978, Mr. Lugar introduced Senate Resolution 353 calling upon the President and Senate to work together to establish the principle and fact of merit selection among Federal judicial and law enforcement officers. I have been pleased to join Senator LUGAR as a cosponsor of this resolution and to work with him on other matters of merit selection. For example, I joined Senator LUGAR and 18 other Senators in urging the conferees on the judgeship bill to adopt the language of the House on merit selection.

Mr. LUGAR is a leader in this area and I have been pleased to join with him on many occasions to help insure that only the best men and women obtain the life tenure of a Federal judgeship. When a person obtains a position for life, and when that position has such power that others' life, liberty and property hangs upon the decisions of the judge, then it is absolutely necessary that the most competent and temperate people be appointed to the bench. I have been gratified with Senator LUGAR's interest in the current Utah experiment with merit selection; I believe Utah's merit selection panel will prove to be a model for the Nation.

Fortunately, Senator LUGAR's efforts have not escaped the attention of some members of the press, and I ask that Bob Wiedrich's column from the Chicago Tribune of April 28, 1978, be printed in the RECORD.

The article follows:

[From the Chicago Tribune, Apr. 28, 1978]

SEN. LUGAR'S FIGHT WITH A PORKBARREL

(By Bob Wiedrich)

Sen. Richard Lugar must feel like a hog caller with weak lungs as he tries to eliminate porkbarrel politics in the selection of federal judges.

Lugar is convinced that President Carter wants to do the right thing and keep his campaign promises to end political patronage on the federal bench.

But he also is persuaded that the Carter White House is scared to ruffle senatorial feathers because of the long-standing tradition that United States senators get their own way in picking the federal judiciary.

So Lugar, Indiana's junior Republican senator, believes President Carter has failed to exert the strong leadership needed to get the Senate to change its ways.

And because of that, Lugar's efforts to convince Congress to take a firm stand favoring merit selection of federal judges, marshals, and prosecutors have virtually come to naught.

Back on April 13, a joint House and Senate conference committee so watered down a merit selection proposal tied to a bill creating a batch of new federal judgeships that Lugar had to concede defeat. At least for the moment.

However, he swears that unless Congress changes its mind this session he'll be back later for another try. And meanwhile, he intends to press the Justice Department to formulate merit selection procedures that would accomplish the same end.

Specifically, Lugar wants each senator to establish a merit selection commission with a free hand to pick nominees to be presented to the President.

He also wants assurances written into the procedures that will prevent any senator from attempting to control or interfere in the commission's work.

"If a senator can control the commission's work from start to finish, the transparent political domination involved defeats the purpose of merit selection," Lugar declared.

The language of the Lugar plan was gutted when the boys from both sides of Capitol Hill got their heads together to compromise.

The proposed merit plan procedures would not have been binding on the President. But they would have conveyed the sense of Congress on the issue.

They also would have furnished the President with a lever to help him overcome hidebound Senate desires to cling to their prerogatives.

But, with its watered-down language, the Congress will only be calling on Carter to establish qualifying standards for judges instead of asking him to write procedures for their selection.

That probably means that unless Carter takes the initiative himself and flies in the face of the senatorial ire, the country will be left with the same old system of selecting its federal judges by clout.

Actually, 20 Republican senators including Charles Percy of Illinois signed a letter drafted by Lugar calling on Sen. James Eastland [D., Miss.] to support merit selection. Eastland is conference committee chairman on the omnibus judgeship bill.

The House had earlier registered a 321 to 19 vote insisting on the merit selection language which was subsequently scuttled in committee. So there is a chance, although highly unlikely, that the bill could later be rejected by the full House.

That, however, would mean sending the bill back to committee. And it is almost unreasonable to expect that to happen.

This is a congressional election year and some on Capitol Hill fear that the legal community might turn on them if they don't act expeditiously on the bill creating 140 new federal district and appellate judgeships.

All this seems quite sad for the country. It indicates that the administration and too many congressmen don't really mean what they say when they publicly declare their support for judicial merit selection.

As Lugar emphasized in introducing a resolution calling for the revised procedures last January:

"It is time to assist the President in keeping his own promise. If 140 new judges are appointed to lifetime tenures on the basis of political partisanship, any hopes for a merit judiciary will be effectively eliminated for the balance of the century."

Lugar is absolutely right. The Senate should be capable of rising above self-interest. And the President should have the guts to lend Congress a helping hand in doing the right thing.

Right or wrong, Carter already has taken the jacket for the appearance of impropriety

in the dumping of former U.S. Atty David Marston in Philadelphia.

And Carter's attorney general, Griffin Bell, put his foot in his mouth by reminding the voters that the Democrats won the election and are entitled to the political spoils of that victory.

Earlier this month, Bell told the Senate Juriciary Committee that he was as concerned as his critics about the "appearance of justice" in the Carter administration.

A good way to end that concern would be for Carter to show the Senate how to clean up its own patronage act.●

MAHON, BROWN AND THE DEFENSE BUDGET

● Mr. GOLDWATER. Mr. President, the state of the Nation's preparedness is more and more becoming a question of great concern to the American people. And I might add that we have had sufficient warning from our military leaders. However, it strikes me that not enough attention has been given to the statements and testimonies of men like Gen. George Brown, Chairman of the Joint Chiefs of Staff. Let me quote a statement he made last February in testifying before the House Appropriations Committee:

In looking back over my previous reports to you, I am struck by the fact that in nearly every area of military strength, there has been a relative decline over the years in relations to the Soviet Union. In light of the extensive growth in military capabilities of Russia, it is questionable whether what has been done is enough to assure the security and well-being of our country in the coming years. Thus, the military risk to the nation—already relatively high—would increase.

In a defense posture report to Congress, General Brown underscored his warnings with this conclusion,

Decisions and actions are required of Congress and the American people to reverse the trend of our declining military strength.

Mr. President, these warnings were treated recently in an article written for the April issue of Officer Review by Lt. Gen. Ira C. Baker, USAF (Ret.). I ask that this article be printed in the RECORD.

The article follows:

MAHON, BROWN AND THE DEFENSE BUDGET

(By Lt. Gen. Ira C. Eaker, USAF (Ret.))

Last February 8th, General George Brown, Chairman of the Joint Chiefs, appeared before the House Appropriations Committee to present his Military Posture Statement, and support the Defense Budget for FY 1979. His opening remarks included these disturbing statements: "In looking back over my previous reports to you, I am struck by the fact that in nearly every area of military strength there has been a relative decline over the years in relation to the Soviet Union. In light of the extensive growth in military capabilities of Russia, it is questionable whether what has been done is enough to assure the security and well being of our country in the coming years. Thus, the military risk to the Nation—already relatively high—will increase."

The Committee Chairman, George Mahon (D.-Texas), replied, "Congress has appropriated during your stewardship, $330.9 billion for national defense. It's rather discouraging to learn from you that this did not buy us the security we need and that the risk has increased."

This exchange brought back for me nostalgic memories over an interval of 33 years. In the Summer of 1945, the Speaker of the House, Sam Rayburn, said to Army Air Corps leaders, "You will inevitably have to close many wartime air bases. If it becomes a question of closing my base at Sherman, Texas or Mahon's base at Lubbock, close mine. Mahon is a young congressman; closing his air base might jeopardize his reelection. He is a levelheaded, hardworking member. I have put him on the very important Appropriations Committee. I have great hopes for him. He may one day be its Chairman."

Captain George Brown, only a few months before Speaker Rayburn's expression of confidence in George Mahon, had led the shattered remnant (only 6 out of 18 planes survived) of his Bombardment Group from the heavily defended Ploesti oil refineries, supplying much of the Luftwaffe's fuel. His outstanding courage and able leadership on that mission won for him the Distinguished Service Cross.

Now, 33 years later, Mahon, as Mr. Rayburn had predicted, is Chairman of the Appropriations Committee of the House and George Brown, having progressed through all the ranks on merit, is Chairman of the Joint Chiefs of Staff.

They were discussing the number one issue before the U.S. and its people, the survival of our country and its continued leadership of the Free World, now in jeopardy because of the growing power of the USSR.

General Brown's Report to the Congress on the Defense Posture of the United States, January 20, 1978, provides the factual answers to his concerns and Mr. Mahon's discouragement.

This report provides evidence that Russia exceeds the U.S. in nearly every measurement of military power and is presently, after having reached parity, spending much more than the U.S. on military forces and armaments.

It then states, "It appears that the Russians intend to have the means, both conventional and nuclear, not only to fight and survive war, but to emerge the stronger side as well. As the Soviet's military capability grows, they may be inclined to take greater risks in testing U.S. resolve."

As Brown concludes in this, his last Posture Statement, "Decisions and actions are required of Congress and the American people to reverse these trends of our declining military strength."●

THE TRIUMPH AND TRAVAIL OF THE PANOVS

● Mr. JACKSON. Mr. President, I wish to bring to the attention of my colleagues the recent story by Alan Kriegsman in the Washington Post on Valery and Galina Panov and their struggle to emigrate from the Soviet Union.

Mr. Panov was dismissed as a principal dancer in Leningrad's Kirov Ballet Co., after he applied to go to Israel. His wife, Galina Rogozina, a ballerina, was demoted and later left the company. The Panovs, after cruel harassment, and a worldwide effort on their behalf, finally were permitted to emigrate in mid-1974.

Mr. Panov has written an impressive book about his experience. As Alan Kriegsman says:

What is especially moving about Panov's ordeal, as he recounts it, is his slow, tortuous awakening to the imperviousness of the tyranny he tried vainly first to placate, then to implore and finally to escape.

I ask that the Kriegsman article be printed in the RECORD.

The articles follow:

[From the Washington Post, Apr. 30, 1978]

DANCING THE KGB TWO-STEP

(By Alan M. Kriegsman)

The story Valery Panov tells in his just-published autobiography, "To Dance," is no diatribe—it's a touching, amusing, disarmingly honest account of an artist's triumph and travail, as treasurable for its amorous episodes and backstage glimpses of ballet intrigue as for its revelations of Soviet oppression. Nevertheless, it's also trenchant proof that an artist, no matter how single-mindedly devoted to his calling, can never escape his societal role and circumstances.

Valery Panov and his dancer wife Galina were permitted to resettle in Israel in 1974 after two years of persecution. In Washington recently, Panov noted that the book was composed in those two years of enforced idleness, during which he was forbidden to dance.

"I spent my days playing tag with the KGB," he said, "and my nights writing." The resulting chronicle is a poignant reminder of the inseparability of art and politics.

In our occasional eagerness to view the arts as a "universal language," capable of erasing barriers between peoples and nations, we may be led to the fallacy that art or artists can be insulated from mundane partisan strife.

Events within recent memory, ranging from the withdrawal of a Woody Allen special from public TV a few years ago and the polemical brouhaha at this year's Academy Award ceremonies, to the spate of defections by Soviet dancers like Nureyev and Baryshnikov, the retraction of Mstislav Rostropovich's Soviet citizenship, and the Panov's emigration struggle, are illustrations to the contrary.

The fact is that the notion is refuted at every turn by the history of the arts from ancient times. Plato counseled in "The Republic," for example, that an ideal society would be wise to encourage only those musical modes conducive to such virtues as fortitude and manly vigor, and should proscribe others that might inculcate effeteness or sloth.

Throughout the ages, the arts have been pressed into service by those two most powerful agents of human divisiveness—the state and established religion. The price exacted for patronage was obsequious homage to the patron. Plays, operas and ballets, from the Renaissance to the industrial revolution, were often thinly disguised genuflections to ruling potentates or regimes. Masters and gifted renegades could circumvent such limitations and produce great works of art, some of a seditious nature, but they were the exception and did not always escape "official" wrath or vengeance.

Political or ethical content in art may be purposeful or inadvertent, authorized or clandestine, implied or explicit, but it is scarcely ever entirely absent, as the censors, book-burners and inquisitors have always been quick to demonstrate.

Sometimes a shift of cultural perspective converts the innocent to the suspect—Mozart's "Cosi fan tutte" was posthumously classified as morally degenerate by a society scandalized by extramarital finagling. Many creative spirits have plunged willfully into the fray—Beethoven, for one, whose convictions about human rights provoked his celebrated angry obliteration of Napoleon's name from the dedication of the "Eroica" symphony.

Sometimes the arts have profited from "lucky" associations; classical ballet owes much of its early advancement to the accident of Louis XIV's fondness for dancing. But there's also that long list of artists who have uprooted themselves to escape repression or vilification, as such names as Isadora Duncan,

James Joyce, Paul Robeson or Alexander Solzhenitsyn impart to mind.

What is especially moving about Panov's ordeal, as he recounts it, is his slow, tortuous awakening to the imperviousness of the tyranny he tried vainly first to placate, then to implore and finally to escape. Born in war-torn Vitebsk in 1938 to a Jewish father and a gentile mother, Panov was a teenager before he had any concept of what "being a Jew" actually meant. By the time he did, he had learned to accept it as something "shameful," best kept hidden.

His father, Matvei Shulman, who had risen from delivery boy to electrician to industrial supervisor, pretended to himself that he wasn't Jewish, but Russian, and what's more, a good Communist—in the period of Valery's crisis, he was even to denounce his son to the KGB. At one point, Panov feels constrained to say of him: "He had developed into a genuine anti-Semite who hated all Jews, including himself."

Though he was largely alienated from his father even as a child, Panov too for a long while attempted to ignore and slither past his heritage. Upon his first marriage to a young dancer, Liya Panova, he adopted his wife's name—an act he unflinchingly calls "my own solution to the Jewish problem." Only gradually did he realize the futility of self-deception, and afterward, his bond with other Jewish pariahs.

The last portion of the book is a painfully vivid but amazingly clear-eyed and unembittered résumé of the sufferings he and his second wife, Galina (who isn't Jewish), had to endure after their application for an exit visa—their dismissal from the Kirov Ballet at the height of his preeminence as the company's leading male virtuoso and character dancer, denial of any work as a dancer; the rejection and treachery by colleagues; harassment, imprisonment, threats, (e.g., to break his legs) and even an attempt at poisoning amid much else.

With the help of an international campaign on their behalf by celebrities, artists, Western statesmen and other supporters, the Panovs saw their plight ended when Soviet authorities, for whatever complex reasons of policy or expedience, allowed them to leave for Israel. In addition to the physical and emotional punishment they both had sustained, Galina also had a miscarriage shortly before their exit, spurred by the shock of the attempt to poison her husband, and the pair lost irreplaceable years in their artistic development.

Their recovery, and courageous resumption of their careers—they'll be seen in Washington at Wolf Trap in June, and will make their New York debut with the Berlin Opera Ballet in July—is a testament to the indomitability of the human spirit. But a further lesson of their lives is that there are no such things as ivory towers—not in art, not in life.●

SUN DAY 1978: A PIVOTAL MOMENT FOR THE EARTH'S FUTURE

● Mr. WILLIAMS. Mr. President, today might more aptly be called Day One of the Solar Age, for today the world celebrates Sun Day. Thanks to the determined efforts of a small but growing band of solar energy pioneers, millions of Americans—from President Carter to our Nation's schoolchildren—have set aside this day, May 3, to study the benefits and the potential of using the Sun for our energy needs. Like the enormously successful Earth Day of 8 years ago which gave everlasting strength to the ecology movement, I believe the world's first Sun Day will prove to be a pivotal moment in American history and for the future of the planet. At long last, we are launching a worldwide demand for and conversion to cheap, inexhaustible solar energy.

Sunlight is abundant, dependable, free, and available to all nations. Each day the Sun provides 10,000 times more energy than all conventional fuels combined. The sunshine which reaches our country alone provides twice as much energy as the fossil fuels currently used by the entire world. Solar energy is environmentally benign. The technology for heating water and for keeping houses warm is fully developed and commercially available. Although solar generation of electricity is not quite so far along, it is progressing rather well. In short, sunshine is everybody's favorite answer to the dilemmas of energy policy. But there is one drawback, solar energy is comparatively expensive.

This need not always be so, however, and with the United States currently paying $45 billion annually for oil imports, it will cost Americans more not to develop solar energy. What is needed now is an array of solar demonstration projects far beyond the present modest scale. We must disseminate knowledge of solar equipment and acquire broad experience with its performance and reliability. Every collector panel installed will mean a little less foreign oil coming into this country and a little less coal going into the atmosphere. Those seem like excellent reasons to start spending money—both public and private—on solar equipment.

Mr. President, in my own State of New Jersey, it has been estimated that 17 percent of the solar rays that fall on the State during one cold January day could provide enough thermal energy to heat all of the homes in New Jersey for the entire month of January. We were fortunate in New Jersey this past winter, that despite the extremely heavy snows and cold weather, we did not experience the critical shortages of natural gas and petroleum that have marked other recent winters. But the very real possibility that these shortages will almost definitely recur has seriously jeopardized the growth of certain New Jersey industries. The development of solar energy will help guarantee a supply of energy to the residential, commercial, and industrial sectors, while allowing more efficient use of fossil fuels.

Solar energy itself has already begun to produce an industry, create jobs and boost my State's economy since the design, construction, installation and service of solar equipment requires professional and technical labor.

The technology for solar thermal water and space heating is available, but its widespread implementation has thus far been inhibited by economic and educational barriers. The high initial cost of installing a solar system discourages many homeowners from considering this option. The relative youth of the solar industry and the lack of consumer education in this field are other impediments. Institutional barriers include building and land use practices which do not accomodate solar energy.

In addition, there is the problem of accommodating solar users within the current utility rate structure for gas and electricity. I am pleased that New Jersey, through its board of public utility commissioners, has recognized the rate disadvantages faced by solar customers, and most State utilities are now redesigning their rate structures to eliminate this unfair and unwise discrimination.

Solar research traditionally has been given a small allotment by both Government and industry. Total Federal funding for solar programs was less than $100,000 per year before 1972. This has improved dramatically, with a budget request of $320 million for solar programs in fiscal 1978. But this is still far less than that appropriated for other energy sources whose environmental desirability is questionable. At best it is reassuring that President Carter has ordered a review of all federally sponsored solar energy programs. So far the administration's focus on solar energy has been disappointing. The time has clearly come for a well-financed, accelerated and above all, coordinated Federal program on solar energy. I hope the administration's active participation in today's Sun Day celebrations is an indication that such a policy is forthcoming.●

THE IMPOVERISHED PHILANTHROPIST

● Mr. SCOTT. Mr. President, the May issue of Reader's Digest has an article entitled, "The Impoverished Philanthropist." It is about a postal employee residing in Richmond, Va., Thomas Cannon, who has given money to persons he believed in need and worthy, a total sum of $35,000 over the past 10 years. This, according to the article, on an annual salary of less than $17,000. Perhaps he sets an example of what an individual can do to help his fellow man even though he himself is not at the highest income level.

I would like to print the entire article in the RECORD.

The article follows:

THE IMPOVERISHED PHILANTHROPIST

(By Gerald Moore)

There are no libraries named after Thomas Cannon. He has never endowed a college or built a museum. Yet this athletically built, slightly gray, 52-year-old postal worker from Richmond, Va., has probably, in proportion to his income, given away more money to good causes than some of America's greatest philanthropists.

In the past ten years, by working hard and living frugally, Cannon has saved and then given away to deserving strangers and acquaintances about $35,000—while he earned a base salary of less than $17,000 a year. He has directly helped scores of people with his cash gifts and inspired thousands more through his good example. He is neither a sucker nor a nut, though he has been called both.

"Some people think I'm a one-man welfare department," says the energetic Cannon. "But I'm not. I give money to people because I have been blessed, both as an American and as an individual. I want to share those blessings. And I give money to set an example of concern, to reward good works, or great courage, or to help people who have struggled and are on the verge of despair."

Some examples of this philosophy in action:

One August afternoon a few years ago, two armed holdup men entered a Richmond food-stamp-distribution center, where off-duty police officer Vernon L. Jarrelle, Jr., was standing guard. In the shoot-out that followed, Jarrelle, 22, was killed, leaving his wife and baby daughter without insurance. The next day, Cannon read of Mrs. Jarrelle's plight, and sent a $1,000 check to the widow.

"I had no way of knowing what her financial position was," Cannon says. "But this was a situation where I, acting as an individual, could help immediately. She needed encouragement right then, that day, not weeks or months later."

When Cannon heard about Charles Patterson, Jr., who was making a life for his family despite a debilitating brain tumor and, indeed, had persevered to get a high-school diploma, Cannon was impressed by the man's gallantry and wrote out another check for $1,000.

Last November, Cannon read a newspaper story about a young father whose wife fell into a coma after delivering their fifth child.

Bobby Hudson was already holding two jobs trying to provide for his family. And, unless he could find a woman to help care for the children, he faced sending some of them to foster homes. Cannon sent Hudson a $1,000 check with a brief note: "This gift is motivated not only by your need, but by your impressive demonstration of devoted and and courageous fatherhood."

There is nothing naïve about Cannon's approach to good works. He recognized long ago that the needs of the world go well beyond his own small financial resources. But that did not stop him from doing what he could. "I could sit around feeling bad about the state of the world," he says, "and do nothing because the problems are so large and my income is so small. That just isn't my way. I can do a lot, by just doing it."

It was this attitude and a lot of personal discipline which first pulled Cannon out of the depths of rural Southern poverty. Born into a poor black family in Richmond, he was just three when his father died and left the family destitute. One of the few things Cannon's father left the family was an illustrated collection of Biblical stories, a book that had an early influence on Cannon.

At age 13, Cannon dropped out of school to help support his mother and himself. At 17, he joined the Navy and was assigned to an all-black battalion loading munitions ships bound for the Pacific theater. On July 16, 1944, Cannon was transferred to gunnery school. The day after he left his old battalion, two ships blew up, and 322 men he had served with were killed.

Cannon wondered why he had been saved. "I was single," he argues. "I was expendable. There were men killed who had families, who were needed. Yet, I was spared. It started me thinking." Still, Cannon had no reason to draw any hard conclusions about his good luck, until it happened again.

After the Navy, he took a job unloading sugar boats at the Richmond waterfront. "One day," he recalls, "as a load of sugar was being lifted from the hold by a crane, I started off to get a drink of water. I had taken about a dozen steps when I heard the other guys yelling. I looked up to see a several-ton pallet falling right at me. I tried to run, but tripped. The pallet hit me as I fell and knocked me down into a depression between some sugar sacks. Miraculously, I was unhurt. That was just too much to explain as mere chance. I realized someone was looking out for me; I was being saved for a reason."

Cannon decided to go back to school and, in his typically direct manner, enrolled in the eighth grade at Maggie Walker High School in Richmond. "I admit it created a little stir when I showed up for classes," he says with a chuckle. "I was 23 and the biggest kid in the class!"

At the school, Cannon attracted the attention of a teacher who was to have a major influence on his life. "After consulting with the guidance counselor, she realized I was capable of schoolwork higher than eighth grade," says Cannon. "And so she arranged for me to take a college-entrance exam. I passed, and in one year went from the eighth grade to college at Hampton Institute. That never would have happened if my teacher hadn't cared."

By this time, Cannon was married and working nights in a textile mill to support himself and his wife, Princetta, and their two children. His successful completion of the college-entrance exam made him eligible for the G.I. Bill of Rights which he regards not as payment for his military service but as a blessing bestowed on him by his country. Years later, when America celebrated the Bicentennial, he sent each state and territorial governor $50 to use at his discretion, together with a letter which read, in part: "I praise America for her many inherent virtues as a nation, and express my heartfelt appreciation to her for the many blessings which she has bestowed on me personally—not the least of which was my formal education financed by the G.I. Bill."

After college, Cannon wanted to teach art, but there were no high-school jobs available. Eventually, he entered the postal service, and later requested duty working on the postal car of a train, sorting letters. "Riding the trains at night, I had lots of time to think," he says. "I felt very deeply that I should be helping others in some way, but I hadn't found the means."

Then one night, after Cannon had been transferred to Richmond's main post office, a curious thing happened. "Several of us were working along a conveyor belt, sorting mail, and having a philosophical discussion. I said, 'As a man soweth, so also shall he reap.' At just that moment, a big manila envelope came down the belt and burst open right in front of me, spewing forth sheets of paper. And on the topmost sheet was conspicuously printed the same quote!"

Cannon's desire to help others had always been spontaneous, informal. Now, he wanted to take some direct and organized action. But what could he, only a postal clerk, do?

"It all fell into place when I recognized that money is the most powerful symbol in our culture," he says. "But properly using even small amounts, I could help people and make a powerful statement. I realized that if I earned as much as I could, lived carefully and used any extra money to help others, then my life would mean something."

"Extra" is a tricky word, of course. Some people never have any "extra," no matter how much they make. Cannon, partly because of his youthful poverty, has a very sure sense of what is necessary and what is "extra." His house is old and run-down. His car is 14 years old. He spends very little on clothes, virtually nothing on liquor and nothing at all on tobacco. "We are warm, have enough to eat and don't lack for the essentials of life," he says.

Cannon has not neglected his family to pursue his avocation. He sent both his sons to college. He tries to keep at least $2,000 to $3,000 in his savings against a family emergency, but there are few frills. Almost everything else goes to help others.

His work has not always received praise. "Some of my neighbors think I'm crazy," he says. "They tell Princetta she ought to stop me. But after 31 years of marriage, she understands what I'm doing—and why."

Other people understand, too. Recently, Cannon received the kind of letter which simply overwhelms all criticism. Written by a third-grade class in San Diego, it said: "Our country is lucky to have a citizen who cares so much for other people. We are proud that you are an American!"

A letter like that, Cannon says, is better than just about anything his money could buy.●

CELEBRATING SUN DAY

● Mr. CLARK. Mr. President, I am pleased that Americans have chosen today to celebrate the Sun and sunpower's potential to be harnessed on Earth. Often, naming national days for the celebrating of "something or other" is a waste because most people are not interested.

But, it seems to me that Sun Day is different because many Americans are excited by the prospect of using solar energy in their homes, on their farms, and in their businesses. In the lexicon of new energy sources, solar energy is the most real to the most people. Repeatedly, all across Iowa, people have told me that they are interested in solar energy, they want to know more about it and how they can use it. The interest in solar power doesn't come from one group of enthusiasts—it seems to fascinate everyone.

I think there's a reason for this—a reason that goes beyond a desire to cut down on dependence on foreign oil and even beyond the desire to cut costs. Sunpower strikes a special chord in people who are fed up with being dependent on some outside, impersonal source for the energy that is essential to their existence. In Iowa, it goes right down to our midwestern roots—our forefathers were people who moved West so that they could depend on their own efforts and the resources provided by nature to sustain themselves. Solar energy arouses an awareness in people that the potential for that kind of self-sufficiency still exists.

That is not to say that Iowans or others excited by the idea of sunpower are planning to withdraw from the modern world. But I think people want to reduce their dependence on outside sources even while knowing that they cannot cut themselves off entirely. The support for developing solar energy is more a populist political movement than a burst of enthusiasm for a new technology. It is an attempt to create a more manageable world—a less centralized society.

Iowans have long had a special appreciation for the Sun because, in one way or other, most Iowans are dependent on crops that will not grow without the Sun's rays. But Iowans are not alone in their willingness to celebrate the Sun—it is estimated that 30 to 40 million Americans in 450 communities will participate in Sun Day—and 22 nations around the world are joining in the celebration. In Iowa, activities range from solar fairs, slide shows, and solar demonstrations to a sunrise celebration and sidewalk shows. The activities will occur in every kind of place from rural areas to small towns to big cities. Of course, many Iowans will neither participate in or know of Sun Day celebrations, but interest is widespread and it is still growing.

Sun Day, of course, is only a pause to

reflect on what sunpower can do for us—a chance to spread information and enthusiasm. But the hard work of realizing sunpower's potential is already underway. In Iowa there are quite a few solar houses—many of which I have visited. Farmers have a special interest in using the Sun in new ways because agriculture is so energy intensive. Because of their familiarity with technology and their total involvement in their own operations, farmers seem especially open to innovative uses of solar energy. Already, solar energy is being used for drying grain and other crops, for heating and cooling greenhouses and milking parlors, and for heating swine and poultry houses. As the work on these processes progresses, they will become more economical and more widely available than they are now.

And that is one of the purposes of Sun Day—to see that our national commitment to solar energy remains strong. The work that has been started must continue. The commitment that created Sun Day in the first place goes much further than Sun Day itself. It is a commitment to using new technology for renewing an old freedom—a freedom from total dependence on outside sources for vital necessities. It is part of this country's heritage and the supporters of Sun Day want to make it part of this country's future.

Mr. President, I firmly believe that "letting the Sun shine in" will be good for the United States. Those of us in Congress must make sure that Government policies effectively encourage swift and steady development of solar energy—recognizing that we are supporting not only an energy resource, but a part of our national dream.●

IN CELEBRATION OF SUN DAY

● Mr. HAYAKAWA. Mr. President, I am proud to have been a cosponsor of the resolution proclaiming today, May 3, as Sun Day. The purpose of this national event is to focus public attention on solar energy. I hope it is the beginning of a new era of solar awareness, solar acceptance, and solar use.

Over 500 cities are joining the celebration with activities such as exhibits, fairs, seminars, concerts, and many, many other events. A broad coalition of consumer, labor, church, environmental, educational, and government groups are participating.

Mr. President. most people believe solar energy is limited to capturing the immediate energy of the Sun's rays. However, solar actually refers to a wide range of energy sources; wind, biomass, low-head hydro, tidal and geothermal, as well as direct solar heating and cooling. Solar water heaters, solar space heaters, windmills, highly efficient wood stoves, and other solar devices are already on the market and economically feasible. We are seeking, through Sun Day, to heighten citizen understanding of the potentials of solar energy sources, provide information on how to use solar now, and coordinate the burgeoning interest in solar into a citizen movement which will accelerate the demand for and use of solar technologies.

I am especially proud on this day that my State of California has moved into a position of leadership in solar energy. The State, with 10 percent of the people in the country, has 20 percent of the manufacturers of solar energy equipment listed by the Department of Energy. These firms are involved in all types of devices from low temperature swimming pool heaters to the most advanced high capacity photovoltaic cells. Beyond this, a number of academic groups and engineering and architect/engineer firms are engaged in exploring further new developments. These range from improved solar systems and installation methods for lower costs and greater reliability to totally new power concepts.

A California State bill was signed into law September 1977 allowing Californians to deduct 55 percent of the cost of installing solar heating devices from their State tax bills, up to a maximum of $3,000 over a 4-year period. The California Energy Commission estimates the new law might encourage the installation of as many as 170,000 solar units from 1977 to 1980. A testing and certification program should be approved by the energy commission in another month. Under this program the State would accredit certain private testing labs so they can test solar equipment. This is an exciting program as it will help perfect equipment and make information available to consumers.

We also have a program where water and space heating solar units are being installed in State parks. The first practical application of solar energy in a major industry took place in California in the form of a solar heated laundry. In addition, the new 2,500 square meter Santa Clara community recreation center in California is one of the first large buildings in the world to be both heated and air-conditioned by solar power.

Our utilities are also actively involved. Pacific Gas and Electric Co. has made an extensive commitment to solar R. & D. with a budget of $530,000 for 1977 and $650,000 this year. Southern California Edison Co. is participating in 13 solar research projects including the 10 megawatt "power tower" to be built in Barstow. San Diego Gas & Electric began their first solar project in 1973 and spent over $600,000 through 1977. Their solar budget for this year alone is $480,000. I hope that through the attention Sun Day will bring to solar energy all States will become as active as California.

Mr. President, there is a point I would like to bring up as we celebrate this day. I think we all agree that utilizing solar energy is relatively expensive; its long-range growth as a worldwide source is limited primarily by the competition from cheaper conventional fuels. I fully concur with a Washington Post editorial appearing last week. It stated the most effective way Congress can promote solar energy is to deregulate oil and gas prices. As long as controls hold these fuel prices low, solar cannot effectively compete. This idea is so very logical and simple. Yet many of the staunchest supporters of solar energy are also the most vehement supporters of continued price controls. Perhaps, because today is Sun Day, my precontrol colleagues will see the light of day and begin supporting decontrol of oil and gas prices.

Mr. President, I believe proclaiming today Sun Day offers a unique opportunity for the Nation to participate in developing energy policy. I hope that everyone will take advantage of that opportunity.●

THE INAUGURATION OF SUN DAY

● Mr. HEINZ. Mr. President, we have been rather slow in developing strategies for coping with the serious energy problems our Nation faces. Only recently have we begun to realize the implications of our dependence on foreign oil; foreign policy implications and the expense and the risk involved have forced us to search for alternate sources of energy. The Sun represents the only energy source which is inexhaustable, reliable, inexpensive, and readily available. I am happy to see that there is now general support in Washington and across the Nation for the utilization of solar energy and that May 3, Sun Day, will be a day on which Americans join together to demonstrate their commitment to securing an alternate means of fulfilling our Nation's energy needs. Sun Day will be the inauguration of a national drive to put the Sun's energy to use.

Much of the technology for harnessing the Sun's energy has been developed even though we have not yet put it to full use. Solar space and hot water heating, for example, has long been successful and warrants a continuing commitment to commercialization and marketing. It is Congress which must continue to take the lead at this point and to provide the necessary incentives to encourage businesses and citizens to meet more of their energy requirements through solar energy and to provide necessary R. & D. funds where the technology is not yet fully developed. Support for such legislation along these lines has developed and a number of important bills which I was pleased to cosponsor have been introduced.

These bills would provide financial incentives for installing solar and energy conservation equipment and measures, establish a cooperative program with developing countries to accelerate the development of rural energy technologies, promote the use of solar energy and energy conservation in Federal buildings, provide incentives for small business incentives in solar energy research and demonstration, and give a tax credit to individuals for investments in renewable energy and energy conservation. This legislation represents a concerted effort in Congress to deal with our national energy problems and to put our solar energy technology to use.

Much of this legislation is the work of members of the Solar Coalition, a group of Representatives and Senators committed to a meaningful future for solar energy. Susannah Lawrence of Consumer Action Now has provided overall coordination and leadership. The Coalition has been responsible for much of the innovative solar legislation introduced in the 95th Congress and now will

be directing its resource at getting its many proposals adopted.

Sun Day will be a celebration of our national commitment to solar energy and it serves as well as a useful reminder of our vulnerability and reliance on exhaustible sources of energy. Solar energy makes sense politically for that reason. It also makes sense environmentally. We must now continue our work to insure that it makes sense economically as well.

I hope that Sun Day—now and in the future—will make the development of improved and new technologies for energy production and conservation a reality.●

"A PLACE IN THE THE SUN"

● Mr. SCHMITT. Mr. President, an energy policy for Americans must rapidly give the citizens of this Nation the motivation, the resources, the information, and the leadership they can use to move our Nation from a time of impending energy crisis to a time of energy balance and growth. Since the rapid acceleration of the industrial revolution during the 19th century, our use of natural resources has been out of balance with the capability of the Earth and the Sun to renew those resources. The essence of the task before us is to reestablish that balance on our place in the Sun.

Today, Sun Day, is a step toward eventually attaining that goal. It reflects a positive spirit that calls on the best in the American character, the creativity, the imagination and will that met the major challenges of the last 200 years.

If the use of solar energy is combined with a strong emphasis on the efficient use of all energy, there can be no question that most of our future energy needs can be met. It is clear that to survive the present we must produce oil, gas, and coal, upon which our economy now depends. We must use these immediate resources more efficiently and with a minimum of environmental pollution. It also is clear that we must buy time for a solar future by use of other domestic energy resources. For the long-term, however, we must continue our inexorable way toward harnessing the most abundant and cleanest of our energy resources, the Sun.

Harnessing the Sun will require both terrestrial and space-based electrical power facilities as well as direct heat and light, heat stored in oceans, chemical energy from plant life and dynamic energy in wind, rivers, and waves.

The Sun's role in our energy lives increases daily:

Passive solar thermal "greenhouses" are proliferating in New Mexico and the Southwest where they can provide an average of 50 percent of the heat needed by a house in winter.

Solar energy collectors on the roofs of large new buildings and feeding heating or heating and cooling systems are becoming commonplace in this same region.

The first modern large windmill that feeds electric power into a municipal power system is in place in Clayton, N. Mex., soon to be followed in other localities throughout the country.

As research and development drops the price, the use of solar cells for the direct conversion of solar energy to electricity expands and approaches a time where they can provide much of the electricity for our homes.

The conversion of biological waste and true energy crops to energy has begun in a few localities and promises to expand rapidly over the next few years.

These few examples show that a "solar civilization" is just around the corner.

However, there may be one thing missing from the ingredients of our solar future. We may need a great and positive symbolic demonstration of solar energy, symbolic of both its esthetics and its utility. As the Eiffel Tower symbolizes the esthetics and strength of steel and the Jefferson Arch symbolizes the esthetics and rebirth of St. Louis, so could a dynamic and artistic sculpture symbolize our commitment to the Sun.

Special activities going on today all over this Nation and in many other countries are in celebration of the solar idea. It is through these activities; seminars, fairs, teachins, concerts and demonstrations that solar energy will begin to play a major role in meeting our national energy goals and enhancing our spaceship Earth.●

SUN DAY

● Mr. RIEGLE. Mr. President, today is Sun Day, a time when it is the official policy of the Government, in close cooperation with tens of thousands of private citizens, to explore and celebrate the vast potential for power that rests with the harnessing of the Sun. Many of us in the Congress have, for several years, called attention to the safe, inexpensive, and reliable resource which is shared by all nations, and is captive to the politics of none; namely, the Sun.

Yet, as I speak, Mr. President, solar energy, which has been called the centerpiece of President Carter's energy program, is only going to receive minuscule financial support from the Federal Government this year. Less than $750 million will be spent on solar energy; this contrasts sharply with the nearly $2 billion appropriated for civilian nuclear development. Since the end of the Second World War, nearly $15 billion has been spent by the U.S. taxpayer to subsidize nuclear research and development. Against this massive amount, the Government has allocated less than $1 billion, prior to the present fiscal year, for solar energy research and development. In my judgment, nuclear energy is a transitional energy form with serious and growing problems associated with its development and use. Solar, on the one hand, is clearly the key to safe, reliable and renewable energy which the United States and the world so vitally needs.

The figures mentioned earlier, Mr. President, do not even reflect the vast amounts spent for nuclear research and testing by the military; nor do they take into account the Price-Anderson guarantees on liability which go to the operators of nuclear powerplants. These plants, of course, also raise the spectre of the possible fatal nature of nuclear power should an accident occur. Private insurance companies realize this and thus refuse to insure the nuclear plants. The Government must then limit the liability of those plants by statute—and the public is forced to pay for the coverage of these risks.

What success has solar power achieved when it has been given a chance? In Japan, for example, more than 2 million buildings are equipped with solar power. In Israel, 20 percent of all homes have solar units. But here in the United States, less than 40,000 buildings have some sort of solar power unit. The President aims at establishing 2.5 million solar-heated homes by 1985, yet the Energy Industries Association believe they could exceed this goal by at least a factor of three times, if the country committed itself to this goal. Still, this would place the United States, which is becoming increasingly dependent on petroleum from foreign or difficult-to-reach domestic sources, behind the Japanese, proportionally, in the development and use of solar power. This is happening while the other major industrial powers are working to become less dependent upon oil.

Mr. President, I earlier introduced along with the senior Senator from South Dakota (Mr. MCGOVERN) legislation which would allow States, by referendum or legislative action, to delay or reject the disposal of nuclear waste within their boundaries. This was a key effort to give States the power to protect themselves adequately from the radioactive wastes from nuclear powerplants—a problem we solve altogether by turning to the alternative use of solar power.

I have also introduced, and had accepted, an amendment which would have the Import-Export Bank give new emphasis to the export of solar technology and thus spur the development and installation of American made solar power facilities around the world. Approximately 60 percent of the energy used in the underdeveloped world is solar related. I want this figure to grow; I want American industry to develop that technology; I want solar power, cheap in cost, and safe from the conversion into nuclear weapons (by terrorists or hostile states) to help contribute to the solution of the American balance-of-payment problems.

The creation of a solar research station at Golden, Colo., was a step in the right direction toward reaching energy self-sufficiency. Additional sites are located around the Nation, including Michigan. A solar energy research plan in Michigan has developed comprehensive programs for energy technology transfer. The Central Solar Energy Research Corp. and my office have cooperated to present the Department of Energy with plans for a Solar Technology Institute. A final decision has not been made on whether or not to fund this Institute, and this raises the question of how serious the administration's commitment to solar development is. There appears to be little argument that the project in Michigan is valuable and a wise investment for Federal resources.

I have urged, with many of my fellow Senators, that the Philip Hart Senate Office Building be a demonstration of solar heating and cooling and thus help develop the technology that could be transferable to other public and private buildings.

I support the President's plan to encourage, through grants or tax credits, or deductions, the installation of solar heating and cooling units in homes and offices.

I support the administration's plans for the installation of solar units in Federal buildings. But I urge now, as I have done before on this floor, that more important emphasis be placed on this project, that more money be allocated, and that the program be given the highest priority within the Department of Energy.

If a large and expanding market can be created and guaranteed for the hundreds of independent entrepreneurs who are the majority of the solar heating and cooling industry, the Nation can achieve great economies of scale; solar units can become affordable by the average American citizen and businesses of all sizes; the savings of oil and gas could amount to a third of last year's consumption; and steady, productive, and well paid jobs would be created for literally hundreds of thousands of people who work in the housing and allied trades industries.

Mr. President, I applaud the efforts of the organizers and supporters of Sun Day. They offer us the best practical solution to the energy crisis, and I will continue to do all in my power to see that that practical development and use of solar power becomes the major element of our national energy strategy.●

SUN DAY

● Mr. MATHIAS. Mr. President, today is Sun Day, heralding the advent of the solar age. Earlier this year, Congress resolved that May 3—Sun Day—be devoted to campaigning for the development and exploitation of solar energy. Today, numerous festivities and educational events, celebrating the many uses of solar energy, are taking place in every State of the Union.

The popular response to Sun Day has been tremendous throughout the country. International interest runs high as well. It seems to me that this great outpouring of enthusiasm reflects man's boundless faith that by determination, adaptability, and creativity he can solve even his most serious problems.

In the Sun Day Times of May 1978, Katherine Seelman describes the energy crisis as "a challenge to human beings who have not yet learned to equitably distribute finite amounts of energy and other resources within biologically sustainable limits, during a period when the rapid depletion of traditional sources—such as petroleum and wood—and their replacement by hazardous substitutes—nuclear energy and coal—threaten world stability and the health of the biosphere." Sun Day represents one of man's attempts to surmount this challenge.

Pilot projects at home and abroad reflect increasing interest in the use of solar energy. Maryland has pioneered in this effort. The late Clarence M. Kemp of Baltimore was granted the first patent for a solar hot water heater in 1891. It is worth noting also that Solarex Corp., located in Rockville, Md., is the only manufacturer of the photovoltaic cell, a device that generates electricity from sunlight, aside from the major oil companies. Maryland Action, a statewide organization in Baltimore, has initiated a broad-based community coalition that presented two very effective citizen forums to explain the advantages of appropriate solar technology in low-income neighborhoods. In addition, the new building of the Calvert Memorial Hospital at Prince Frederick, Md., will make it the first general hospital in the country to operate with solar-assisted power and Timonium Elementary School is unique in that it is the first school in the country to have classrooms which are heated and cooled by solar energy.

Two projects in New York already demonstrate the feasibility of appropriate technology in low-income neighborhoods. Interested citizens, with the help of a task force and the Community Services Administration and in return for qualification for residency, remodeled an old tenement and retrofitted it with solar panels. These supplied 80 percent of the building's hot water needs and cut the fuel bill by $4,000 per year.

It is particularly significant that Saudi Arabia, a country so very rich in fossil fuels, spends a great deal on solar energy research and development. The new city of Jubail in Saudi Arabia will include a residential section where homes will have solar heating, cooling, and hot water. There are about 2 million solar hot water heaters in Japan, and 200,000 in Israel (serving 20 percent of the homes). France is spending $30 million a year on research and development aimed at commercializing its solar industry. And in Sweden, where half of all oil imports are used in home heating, the Government underwrites 35 percent of the cost of home solar units up to a maximum of $650. At least five major oil companies are involved in solar energy. Energy development is what oil companies know best.

No one can deny that renewable sources of energy must be developed and that solar energy has great potential in this regard. "Progress and Promise," a report by the Council on Environmental Quality, concludes that solar technologies could provide one-fourth of all U.S. energy needs by the year 2000. Says the report:

> It seems clear that the federal government—for a time—must play a strong role in furthering solar development.

More jobs and less environmental deterioration would be created per unit of solar energy than with any other source. And solar energy, of course, is sustainable for as long as the Earth remains inhabitable.

But acknowledging the problem and identifying the solution is only half the battle. The victory lies in acting on this knowledge. Sun Day will serve to hasten this victory. The efforts of the Sun Day/Solar Action Group must be applauded. Its members have worked tirelessly to make this day a success. They deserve our thanks and appreciation for establishing Sun Day as an important and memorable milestone on the road to energy independence.●

SOLAR ENERGY MEANS ENERGY INDEPENDENCE AND JOBS

● Mr. JAVITS. Mr. President, I would like to introduce into the RECORD today the text of my remarks about the importance of Sun Day, 1978. They were prepared for delivery to the Sun Day Seminar in New York City, an important event sponsored by the New York State Alliance to Save Energy, which I helped to organize, the New York Society of Security Analysts, and Consumer Action Now. The seminar was held in the auditorium of the Chase Manhattan Bank at 1 Chase Manhattan Plaza in New York City.

My remarks follow:

SOLAR ENERGY MEANS ENERGY INDEPENDENCE AND JOBS

Since the energy crisis burst onto the scene in 1973, I have been concerned at the lack of response that has been generated in the U.S. In many past crises, every segment of society worked closely together to develop necessary and often imaginative solutions to the problems of the day. But not so with the energy crisis. Up to now, the public has been apathetic at best, business has not promoted adequately new and innovative technologies, and Congress and the President have been mired in an interminable debate over a comprehensive plan to deal with this country's energy problems. And all the while, OPEC continues to levy a huge "tax" on the American public in excess oil prices, with the effect of limiting our capital for economic growth and depressing the value of the dollar.

Therefore, I am greatly encouraged by the tremendous interest Sun Day has generated throughout the country. At long last, something in conservation or alternate energy sources has caught the imagination of the American people; and that something—solar energy—is not a fanciful dream.

Solar energy is here now, with technology that is (at least for some uses) fully developed and available. Indeed, solar energy is such an obvious solution that we can only wonder why the first Sun Day was not five years ago when the OPEC countries first made clear our energy vulnerability. As one company has noted in its advertising for solar equipment: "An answer to OPEC comes up every morning."

Solar energy offers a combination of advantages unique among energy sources. The fuel is unlimited, and it is free. The technology is non-polluting, and doesn't produce dangerous wastes. Solar energy is already part of the biosphere, and its use does not introduce any heat imbalances on the earth, as might the release of heat from fossil or fission fuels. Importantly, it is available over the entire surface of the earth without the need for expensive technology to extract, refine, or deliver it; thus it is far more secure from technical or political disruption than any conventional source of energy. Its widespread use could free fossil fuels for other needs, such as industrial chemical feedstocks. Further, its deployment in the Less-Developed Countries could help meet their energy, food and development needs, while assisting in the growth of a large enough market to justify mass production in the U.S., and elsewhere.

I don't want to bore you with an endless array of statistics about solar energy, but

I think a few will be enlightening. In only one year, the solar radiation reaching the surface of the United States exceeds the total amount of fossil energy that will ever be extracted in the United States. One half of one percent of this energy is more than the highest estimate of our total annual energy consumption in the year 2000. And if only 35 percent of our building and heating needs were met by solar energy, we would be saving approximately 3,000,000 barrels of oil per day or ⅓ of our imports.

In addition to its availability, and its beneficial effect on our consumption of oil, there is another advantage to solar energy that is equally important, but gets less attention. Unlike nuclear energy or petroleum, which are highly capital intensive industries, solar energy is highly labor intensive. While centralized facilities such as power plants employ a relatively small number of highly trained personnel to run complex automated equipment, they do not offer job opportunities to the hard-core unemployed.

Decentralized technologies such as solar energy, offer far more favorable employment opportunities. For, while a sizable portion of solar equipment will be manufactured by large industrial concerns, these companies will not be installing it. Rather, it will be installed by local contractors, builders, and developers using local labor. The Federal Energy Administration has estimated that 3–4 million person years of direct jobs would be needed in solar energy development by the year 2000. Included would be jobs for carpenters, cement masons, electricians, plumbers, sheet metal workers, air conditioning and heating technicians, crane operators, welders, bricklayers, painters, electrical engineers, and so on. Indeed, solar energy utilizes a higher number of tradespeople per professional than almost any other energy source. For example, for nuclear energy the ratio is 2:1, for solar technology it is 9:1.

It has been estimated that $2 billion invested in conservation and solar power provides four times as many jobs as the same amount invested in nuclear power. Each unit of solar energy requires 2½ times more jobs to produce than the same amount of energy produced by nuclear fission. I am not advocating that we abandon the nuclear option, or any other option. But I do want to emphasize that a better mix of energy sources, with an increased emphasis on decentralized technologies, such as solar energy, will not only ease the energy crisis, but will create new employment as well.

With all of these advantages to solar energy, the question that must be asked is: Why aren't we further along yet in using this promising energy source? The answer is that substantial problems remain, problems which are in part technical and in part economic but which can be solved in their entirety if we all work together.

Perhaps the most important problem is the high initial cost of solar equipmest. Currently, public utilities absorb most of the capital costs associated with energy distribution, and recover those costs through their monthly billings to consumers. But with solar energy, it is the consumer who must bear the initial capital cost. Faced with the choice of a high outlay now with solar energy, and much smaller monthly fuel bills with conventional technology, all but the most committed enthusiast will choose the latter.

I believe there are several ways that the cost of solar energy systems can be brought down to the point where solar becomes an attractive option. The National Energy Plan, still stalled in Congress, provides tax credits to those who install solar technology. Several other bills currently before the Congress would make low cost loans available for the installation of solar equipment. Congress must get on with passing legislation to encourage the development of this type of energy—after all, through depletion allowances, tax incentives, and similar means, Congress has for years subsidized other forms of energy production, to the extent of $133.7 billion, since 1918.

But the responsibility does not rest entirely with the Federal government. States and localities must examine their tax laws to assure that a homeowner's tax assessment doesn't rise precipitously if solar equipment is installed. States must also examine their public utility laws to make sure that residential users of on-site solar energy systems are not subject to needless regulation.

Banks must examine their lending policies. Unnecessary reluctance on the part of mortgage lenders to provide funds for this new and different solar technology has been a significant restraint.

Consumer groups must come to grips with some of their basic assumptions as well. Solar energy will continue to be regarded as a somewhat exotic energy source so long as traditional fuels remain cheaper. As a Washington Post editorial last week noted: "Most of the organizations that campaign for solar solutions are also vehement defenders of price controls on oil and natural gas. The controls hold fuel prices low, which encourages waste and undercuts the new solar technology." We cannot have both cheap fossil fuel and widespread solar technology. Since fossil fuels will run out in the near future in any event, the choice should be clear.

The solar industry in cooperation with the appropriate government agencies such as DOE and HUD, must continue to develop warranty and performance standards to build consumer confidence. Equipment that does not function or cannot be serviced will destroy the market for solar energy. Indeed, in this country's one previous attempt at commercial application of solar energy, widespread use of inadequate solar hot water heaters in Florida in the 1940's and 1950's led to a negative attitude toward solar energy, this is still felt there today.

In addition to tax incentives and loan guarantees aimed at fostering the solar industry, there is another approach that has not received much attention, but which in the long run may prove most useful of all. I believe that, as solar technology develops to the point where it can replace conventional systems, we should begin to require that new construction use it to the maximum extent feasible, starting with buildings under Federal control. Right now, a significant amount of energy could be saved by the use of passive solar technology—designating buildings to make maximum use of the sun. As active systems, such as space heating, become commercially viable in the near future—and we are only talking about a very few years—their use should also be phased in by law.

I realize this is a difficult concept to implement. Innumerable local building codes would have to be revised. Systems that can be used in one part of the country might not be usable in a region with a different climate. The issue of solar access—an individual's right to have access to sunlight without having it blocked by a structure on his neighbor's property—will have to be addressed. Difficult as these problems are, we must not delay in working toward their solution. For, the sooner we move toward solar energy, the more secure will be our future.●

THE NEED FOR GERIATRIC EDUCATION

● Mr. BURDICK. Mr. President, a recent edition of the American Association of Retired Persons News Bulletin included an article I would like to bring to the Senate's attention.

This article highlights the growing national awareness of the need for more geriatric education in our medical schools. It discusses S. 2287, a bill I have introduced in the Senate to encourage this training as well as why such education is needed. It is a succinct and informative article, and I commend it to my colleagues. I ask that it be printed in the RECORD.

The article follows:

MEDICAL STUDENTS URGE EMPHASIS ON GERIATRICS

Increased support of training and research in treatment of the aging was urged by the American Medical Student Association at its recent annual convention in Atlanta.

Despite considerable interest in geriatric medicine in at least seven western countries, there was not a single endowed chair in geriatric medicine in the entire United States until January, 1977, when the New York Hospital-Cornell Medical Center established one in New York City.

National Institute on Aging Director Dr. Robert N. Butler has repeatedly pointed out in articles and speeches that the education of physicians—both researchers and practitioners—ignores aging and age-related programs. "Geriatric medicine simply is not taught in a nation where one in 10 is elderly," Dr. Butler emphasized.

In addition to the Medical Student Association action, there have been two other instances of developing interest. One is a new Ohio law that requires that geriatric medicine be taught in state-supported medical schools, effective this year. And Sen. Quentin N. Burdick (D-N.D.) has introduced a bill (S. 2287) to authorize up to $15 million in federal grants over the next five years for geriatric training in medical schools. So far no hearings have been held.

Of the 114 U.S. medical schools, only 32 offer elective courses in geriatric medicine. In contrast, all Soviet medical schools and nurses' training facilities were ordered to begin teaching mandatory courses in geriatric medicine in January of this year, according to an American correspondent's news dispatch from Moscow. In Canada, 10 out of 16 medical schools offer geriatric training, and Great Britain, Denmark, Holland, and Israel all have geriatric training in their medical schools.

Dr. Butler has pointed out that most American practitioners realize the shortcoming of medical education in this country; 75 per cent of them said they needed special training in geriatrics when polled by the American Medical Association.

He is convinced that "the teaching of geriatric medicine is necessary to serve as a catalyst for the research that forms the basis of a good health delivery system." ●

TAX REFORM FOR SMALL BUSINESS

● Mr. RIEGLE. Mr. President, I am pleased to cosponsor two important pieces of legislation which have been introduced by my distinguished colleague from the State of Wisconsin, Senator NELSON. I believe that the reforms in Federal taxation of small business which these bills encompass are sound and sensible, and would go a long way toward easing the serious capital shortages with which these businesses are faced and providing a greater measure of basic equity in the tax treatments which they receive.

I have long been concerned about the unique problems that small businesses face in attempting to compete successfully in the American marketplace, and I fear that too often the Federal Govern-

ment, though doubtless with the best of intentions, has contributed to the difficulties experienced by small and medium-sized business enterprises. We have attempted, time and again, to aid the business community by providing capital formation and investment incentives through the tax system; yet too often it is only the largest corporations which are in a position to take advantage of those incentives. It is those same corporations which have the freest access to private capital markets. Small businesses, by contrast, are doubly penalized: They are unable to utilize many of the tax provisions which would enable them to retain earnings for investment purposes, and they are also unable, in many cases, to obtain sufficient financing at reasonable rates in external capital markets.

President Carter's tax proposals take some important strides toward resolving the capital formation problems all businesses face. Indeed, I support much of the President's package. I believe that individual and corporate rate reductions are necessary to maintain the vigor of the current economic recovery, and to stimulate increased job-creating investments by private industry.

I do not believe that the tax relief and investment incentives in the President's plan are fairly apportioned in their benefits to large and small corporations. The Small Business Committee has estimated that, under the administration proposal, 66 percent of the corporate tax savings would accrue to the 12,000 largest corporations, while a mere 3.5 percent would be allocated to the 1.5 million corporations with taxable income below $50,000. This tiny amount of aid to small businesses is vastly out of proportion to their contribution to aggregate private sector employment, output, GNP, and the overall health of the economy.

Moreover, these same small businesses, which will benefit little from the administration's tax reductions, will probably receive a disproportionately small share of the proposed investment credit for manufacturing and utility structures as well. These businesses, as I have pointed out, already are restricted in their access to private capital, but the administration plan, rather than rectifying that problem, seems likely to increase their capital acquisition problems through its awkward and ill-targeted corporate tax relief program.

One of the bills which I am cosponsoring, the Small Business Tax Reduction and Stimulation Act of 1978 (S. 2669), would reorient the corporate tax cut so as to provide equitable assistance to small, medium-sized, and large corporations. It would expand aid to small businesses by dropping the tax rates to 15 percent for the first $25,000 in earnings and 20 percent for the next $25,000. It would provide the first tax relief for medium-sized businesses since 1938, by reducing the rate to 30 percent on earnings between $50,000 and $100,000 and 40 percent on earnings between $100,000 and $150,000. Refining the graduated scale of corporate tax rates, as this legislation proposes to do, would increase the cash flow to the vast majority of American businesses, and additionally would increase the tax incentives for these businesses to expand production and increase earnings, without facing a drastic and arbitrary step-up in tax rates at certain points.

All of these reductions would be achieved by shifting 1 percentage point of the administration's proposed corporate rate reduction away from the largest corporations. This would still provide them with a substantial rate cut from 48 to 45 percent, and according to the committee's figures, would leave them with a 62.4 percent share of total anticipated tax reductions. This can hardly be viewed as prejudicial to big business, and would bring the proportionate allocation of this tax cut much more into line with prior congressional actions.

The other piece of legislation which Senator NELSON has introduced, the Small Business Simplification and Reform Act, would allow small businesses to depricate up to $100,000 worth of capital equipment over a 3-year period. The complexity of current depreciation tax law has long placed an onerous burden on small businesses; they are often unable to support the expensive legal and accounting services which would be necessary to enable them to take full advantage of the provisions. Again, I would salute the President for his efforts, as part of his proposed legislation, to simplify the rules governing depreciation.

Nevertheless, capital equipment purchases pose special difficulties for small businesses, which require special tax treatment. Straight-line, lifetime depreciation methods leave businesses vulnerable to the ravages of inflation, since the dollars returned to them over the life of the investment are gradually worth less and less, and their initial investment is never entirely recovered. Various kinds of accelerated depreciation have been proposed to deal with this problem, but by and large they end up being complex and technical, and hence overly burdensome for small businesses without the resources to cope with them. This bill S. 2742, would provide the simplest means of easing this inflation squeeze.

These two bills deal effectively with many of the problems faced by small businesses. There remains, however, one pressing area of concern which has not been adequately addressed by any of the legislation which the Congress has heretofore considered. That is the overwhelming burden of paperwork which Federal regulation of all kinds imposes on business enterprises, and which small businesses in particular are simply unprepared and unable to cope with. While I support the goals of many of these regulatory programs, I will continue to believe that we can and must find a way to implement them without overwhelming the administrative capacities of the businesses we are trying to assist. I do hope that the Congress will attend to this matter at the earliest opportunity.

I commend Senator NELSON and other members of the Small Business Committee for their work in producing this important legislation, which I am pleased to cosponsor, and I hope that it will receive serious consideration as part of the 1978 tax package.●

STUDY MISSION TO TURKEY AND GREECE—MARCH 1978

● Mr. JAVITS. Mr. President, during the Easter recess I visited Turkey and Greece, under the auspices of the Committee on Foreign Relations. On May 1, I circulated a copy of my report on this trip to the members of the commitee, in anticipation of the committee's May 2 hearing on the administration's fiscal year 1979 request for assistance to Greece and Turkey. Inasmuch as I believe that my report may be of interest to other Senators also, I ask that the text of my report be printed in the RECORD.

The text of the report follows:

STUDY MISSION TO TURKEY AND GREECE—MARCH 1978

(By Senator JACOB K. JAVITS)

Under the auspices of the Senate Foreign Relations Committee I visited Turkey and Greece during the period of March 24–30, for the purpose of discussing with the leaders of Turkey and Greece the major foreign policy affecting United States relations with those two nations. In undertaking this trip I was acutely aware of the vital strategic interests of the United States and Western Europe in the eastern Mediterranean and of the adverse effect which problems in Greek-Turkish relations was having upon U.S. and NATO interests in the region. During this same time period I also visited Israel and have submitted a separate report to the Senate respecting that portion of my trip. I was accompanied on this study mission by my Executive Assistant, Albert A. Lakeland, Jr., who assisted me with the preparation of this report.

TURKEY

I was in Turkey for the period of March 24–26 and during that period I had meetings in Ankara with Prime Minister Ecevit, Foreign Minister Okcun, Defense Minister Isik and Central Bank Governor Sadiklar. I also had discussions with U.S. Ambassador Spiers and received a detailed briefing by members of the U.S. Embassy Country Team. I visited Istanbul briefly where I had discussions on conditions there with the U.S. Consul General Houghton and met with leading members of the Turkish business community.

Introduction: The overriding issue in U.S.-Turkish relations at this time is the arms embargo enacted by the Congress in response to the misuse by Turkey of U.S.-supplied military equipment in its military operations on Cyprus in July–August 1974. This issue now colors all other issues in U.S.-Turkish relations and has become a central issue respecting the sharp disputes between Greece and Turkey over Cyprus and jurisdictional rights in the Aegean Sea.

Turkey is the eastern anchor of NATO's southern flank. Geographically, it is the "cork" which blocks the Soviet Union from direct access to the Mediterranean Sea and to Syria, Iraq and the Persian Gulf. Thus, Turkey is a nation of not only regional but of truly global strategic significance. Its defection from the western camp could have profound consequences for western Europe and for the Mideast. The ties which bind Turkey to the West have not broken but they have been strained to the danger point.

The U.S. arms embargo is the most visible factor contributing to the loosening of Turkey's ties to the West but it is not by any means the only factor at work.

Throughout the past decade Turkey's political and social institutions have been subjected to great strains. Violence, terrorism and defiance of the law have risen to acute levels, while Turkey's parliamentary system of government has been frustrated for almost a decade by the absence of a viable parliamentary majority. The political stalemate has enabled splinter, ultra nationalist and fundamentalist religious parties to exert an exaggerated influence on coalition governments. Extremism is rampant in Turkish universities, both on the left and the right, frequently venting itself in anti-American and anti-western posturing. Violence and terrorism has reached alarming proportions and tends to intimidate moderate, pro-western elements at all levels of Turkish society. The authority of the governmental structure is under increasing challenge in Turkey. This, perhaps even more than the parliamentary situation, has closely circumscribed the capacity of the Turkish government to make concessions on foreign policy issues or to undertake new initiatives domestically.

Turkey's ties with the West are largely a product of this century and have come in two stages. The first was the nationalist revolution under Kemal Ataturk after World War I which set in motion a forced-draft westernization of the new Turkish nation based in the Anatolian heartland of the former Ottoman Turkish Empire. The second stage came at the end of World War II when Turkey formally aligned itself with the United States and joined NATO.

The blurring of the Cold War dichotomy of the world into opposing U.S. and Soviet-led camps, the emergence of a vigorously self-conscious Third World and the petroleum-based beginnings of an Arab and Persian renaissance, have tugged at powerful elements in the Turkish mind.

Animosity between Turks and Russians has a long and bloody history. Fear of Soviet expansionism was the major factor in causing Turkey to join NATO and keeping Turkey there today. Control of the Dardenelles, and land access to the Persian Gulf were historic ambitions of Czarist Russia and remain prime strategic objectives of the Soviet Union. Turkey is the key to realization of both of these objectives. The Soviet Union has switched to a "soft" policy toward Turkey, seeking to gain advantage from the strains in Turkey's ties with the United States and the West. In recent years, Turkey has become the largest single recipient of Soviet economic assistance. Moreover, Moscow has promoted a very active, subtle cultural exchange program between Turkey and the Turkic "Republics" of the Soviet Union.

Nonetheless, the forces challenging Turkey's ties with the West remain disorganized and inchoate. Turkey continues to be a clearly identifiable ally of the West—politically, militarily and economically. The political and economic problems which now loom so large in Turkey's relations with the United States and Western Europe are all capable of solution, and the drift away from the West in Turkey can be arrested and even reversed in some respects, by sympathetic and imaginative policies.

Arms Embargo and Cyprus: The overriding issue in U.S.-Turkish relations at this time is the arms embargo enacted by the Congress over objections of the Ford Administration, in response to the use by Turkey of U.S.-supplied weapons in its military operations on Cyprus in July–August 1974 in contravention of the terms governing the use of U.S.-supplied military equipment. The arms embargo is bitterly resented in Turkey and has helped cast a pall over relations between the United States and Turkey of very serious proportions. Following the imposition of the arms embargo, Turkey abrogated the Defense Cooperation Agreement with the United States then in effect and suspended U.S. activities at five major defense installations not directly related to NATO. Turkey's participation in and commitment to NATO has not been directly affected by the arms embargo or the suspension of U.S. base rights in Turkey.

The arms embargo—subsequently modified to allow up to $175 million in credit sales—is embodied in Sec. 620 (x) of the Foreign Assistance Act of 1961, as amended. The language of the embargo legislation specifies the conditions of its lifting; certification by the President to the Congress that: "substantial progress toward agreement has been made regarding military forces in Cyprus . . . "; and requires the President to report each sixty days to the Congress "progress made during such period toward the conclusion of a negotiated solution of the Cyprus conflict".

Turkey disputes with great feeling considering itself a friend and ally of the United States, the appropriateness of linking its access to U.S. military equipment to negotiations between the Greek and Turkish Cypriot communities and to Turkey's role as a Guarantor Power with respect to Cyprus.

The initial Turkish intervention in July 1974 was sought to be justified by Turkey as a Guarantor Power, following an anti-Makarios coup d'etat by Greek Cypriot forces allegedly with the backing of the 'Colonels' then governing Greece by a military dictatorship advocating enosis, or union of Cyprus with Greece.

Following its initial, limited military intervention in July, Turkey in August 1974 carried out a second, major military operation which placed its armed forces in control of nearly 40% of Cyprus and which resulted in significant casualties and the flight of a reported 200,000 Greek Cypriot refugees. The second military operation, carried out under the foreboding operational title "Attila II", is what prompted the Congress to act. Turkey claims that Attilla II was prompted by the exposed flanks of the Turkish forces which made the initial intervention and the refusal of the Greek side to agree to a large demilitarized buffer zone, and by reports of bloody attacks on Turkish Cypriot villages outside the first Turkish military zone.

Upon his return to power in January 1978, Turkish Prime Minister Ecevit, in an effort to unlink the Cyprus question from the U.S. arms embargo, stated that his government would seek a negotiated solution to the Cyprus dispute without waiting for the United States to lift the embargo. Subsequently, he met in Switzerland with Greek Prime Minister Caramanlis and, on April 13, 1978, under the guidance of the Turkish representatives of the Turkish Cypriot community presented their long-awaited proposals for a Cyprus solution to Secretary General Waldheim, the United Nations mediator. Those proposals, at the time of this report, were still being evaluated by Secretary General Waldheim as to whether they constituted a sufficient basis for the reconvening under his auspices of negotiations between the Greek and Turkish Cypriot communities.

On April 6, 1978, in an appearance before the International Relations Committee of the House, Secretary of State Vance announced a new policy of the Carter Administration by requesting that the arms embargo, in Sec. 620(x), be repealed by the Congress. He further announced the scrapping of the Defense Cooperation Agreement with Turkey negotiated by the Ford Administration and the intention of the two sides to negotiate a new agreement in its place.

In arguing for repeal of the embargo Secretary Vance stated: "This is a point of principle which has had its impact both in Turkey and throughout the world—demonstrating the seriousness with which the American people view any unauthorized use of our military equipment. The point was made dramatically and effectively. Now the time has come to look forward rather than back. Continued maintenance of the embargo would be harmful to U.S. security concerns, harmful to NATO, harmful to our bilateral relations with Turkey and harmful to our role as a potential contributor to a Cyprus settlement."

Military Consequences of the Arms Embargo: The embargo has contributed undeniably to a deterioration of Turkey's armed forces and its capacity to fulfill its NATO missions. Turkey's 500,000 man ground forces make it the second largest contributor of military manpower to NATO (after the United States). The military equipment of Turkey's ground forces, as well as its air and naval forces, is rapidly becoming obsolete thereby downgrading Turkey's capability to undertake the military missions assigned to it by NATO. And it has become an issue of great concern within NATO that the reequipping of Turkey's forces—its present equipment being largely of Korean war vintage—has been significantly impeded allegedly by the U.S. arms embargo.

But, it is important to note that other factors, unrelated to the embargo have contributed importantly to the deterioration of Turkey's armed forces and their capacity to perform their NATO missions. One factor is the diversion of Turkish military equipment and manpower to Cyprus and the related costs of the Turkish occupation army there. In addition, analysts state that Turkish military doctrine, which relies heavily on the maintenance of a large tank force to defend against the threat of a Soviet tank attack, instead of the new, much cheaper and more effective anti-tank weapons, contributes materially to the obsolescence and deterioration of Turkey's military capabilities. Moreover, Turkey's domestic economic difficulties, resulting from questionable investment import and export policies of recent years, as well as the steep rise internationally of energy costs, have been important factors in limiting the modernization of Turkey's forces through the purchase of new weapons for cash from the United States and other NATO producers.

Economic Conditions: Turkey's economic situation has deteriorated significantly in recent years for a combination of reasons. The quadrupling of oil prices and the worldwide recession have had the dual effect of sharply increasing Turkey's foreign exchange expenditures while also reducing its foreign exchange earnings through exports and workers' remittances from Europe. Turkey's foreign exchange problems have been aggravated by questionable public sector borrowing and investment policies, restrictions on foreign private investment and operations, and by inadequate export policies.

In 1975 and 1976 Turkey's trade imbalance exceeded $3 billion and in 1977 the trade deficit rose to $3.9 billion. By the end of 1977, Turkey's gold and foreign exchange reserves had been drawn down to $476 million from over $1 billion at the beginning of the year. Concern over lagging debt payments caused international banks virtually to halt lending to Turkey in 1977. However, in March 1978 Turkey reached agreement with the IMF on principles which could lead to a new IMF credit agreement and which would likely result in a resumption of lending by the private banks.

It is stated that Turkey's foreign exchange difficulties have led it to rely heavily on Libya for its oil imports and that Libya has given Turkey certain concessions in terms of price and delayed payments. Some have conjectured that the Qadaffi regime in Libya seeks to use its oil relationship with Turkey to apply leverage on policy issues—primarily to promote a pan-Islamic perspective on

foreign policy matters. Thus far, there is no evidence of any significant success.

Turkey's economic problems have perhaps encouraged the Soviet Union to exploit its economic assistance role in subtle ways. Over the past few years, Turkey has become the largest annual recipient of Soviet economic assistance; presumably this is a factor in the strain in U.S.-Turkish relations caused by the arms embargo. Also, it is a switch in long term Soviet strategy toward Turkey from one of confrontation to one of economic blandishment. In the very long run an additional calculation may be at work: it has been estimated by some that by the year 2000 a majority of the population of the Soviet Union may be of Turkic extraction in view of the much faster reproduction rates of the Turkic peoples of Soviet central Asia than that of the USSR's Slavic population.

Conclusions and recommendations

1. Arms Embargo: In enacting the arms embargo the Congress intended to penalize non-compliance with the conditions restricting use of weapons supplied by the United States, restrictions which are incorporated in U.S. law and which are spelled out more specifically in international agreements signed by recipient nations. In addition, there is little doubt that most members of Congress who voted for Sec. 620(x) believed that it would serve as an effective lever to induce Turkey to negotiate an equitable Cyprus settlement. It has not worked out this way, nor is it now clear whether the arms embargo will work out that way. Indeed it is asserted in Turkey that the result will be exactly the opposite, and that continuation of the embargo will tend to move Turkey further away from the NATO alliance so long as the embargo persists.

This view is supported by Secretary Vance who has argued very recently before the House International Affairs Committee that the embargo has not really achieved its purpose—that of underscoring to Turkey and the world the seriousness with which the United States regards the breach of the agreements restricting the use of U.S. supplied weapons to self-defense within Turkey. My own view is that neither thesis can yet be considered proven.

I therefore have urged that full hearings be undertaken on the Greek-Turkish issue so that an airing of the respective points of views may enable us and the parties to come closer to some form of agreement. Also, I have considerable feeling that a continued relationship of discussion between Prime Minister Ecevit and Premier Caramanlis should be continued within an atmosphere which makes it possible. I feel that to change that situation would result in bringing an end to this dialogue. Therefore, to have full hearings will give the discussions more of an opportunity to continue than to come at this time to some firm conclusion about the arms embargo, at least the extent to which it is now applied, to Turkey.

Prime Minister Ecevit has argued that Turkey is deserving of more sympathetic treatment, not only as a NATO ally, but also on its record as a developing nation which has adhered consistently to democratic government and to free elections. There is force to Mr. Ecevit's contention.

2. Turkey's Economic Problems: Despite Turkey's current acute economic difficulties, analysts generally believe that Turkey's long term economic prospects are good if the proper development policies are adopted and implemented. The political stalement of recent years undoubtedly has contributed to a certain rigidity and some questionable biases in Turkish economic policy. Like many developing nations, Turkey has had a public sector bias in its investment policies and decisions. Moreover, there is a long history of suspicion and discriminatory treatment toward foreign private investment and business operations in Turkey. These biases, combined with an outdated tilt toward the goal of economic autarchy, have contributed materially to Turkey's economic problems. I believe that the United States, working with our NATO allies and international institutions such as the International Monetary Fund, should use its good offices toward persuading Turkey to move toward more flexible and openminded approaches particularly with respect to the terms and conditions regulating foreign private investment. Prime Minister Ecevit has indicated that his government intends to modernize Turkey's economic policies and to reexamine the conditions under which foreign private investment can be attracted and can operate in Turkey. I recommend that the United States cooperate with the Turkish government in achieving these objectives. The private sector, including foreign investment can, in my judgment, make a vital and desperately needed contribution to Turkey's export earnings.

GREECE

I visited Greece on March 28 and 29, 1978. Personally, it was a joyful occasion as it was my first visit in more than a decade. In the 1950's and early 1960's I had been a frequent visitor to Greece but, out of conscience, I did not visit Greece during the more than seven years of totalitarian rule by the Junta.

While in Athens I had a very detailed and extended conversation with Prime Minister Caramanlis, covering a wide range of issues. I had known and visited Mr. Caramanlis during his long years years of exile in Paris; this was my first opportunity to meet with him in Athens. I also had very informative discussions with Defense Minister Averoff, Foreign Minister Papaligouras, and Finance Minister Boutos. In addition, I had conversations with President of the Parliament Papaspyrou and the prominent opposition member of the Parliament, George Mavros—a former Deputy Prime Minister and Foreign Minister.

In addition to my conversations with leading Greek political leaders, I had very valuable conversations with and briefings from U.S. Ambassador McCloskey and his staff—particularly Political Counselor George Barbis, who was control officer for my visit.

It was a particular pleasure for me to be a house guest at the Residence of Ambassador McCloskey. He is a friend of many years standing and his lovely wife, Anne, once was a member of my Senate staff.

Introduction: Greece is always an enchanting country to visit because of the congenial vitality of its people, the exquisite beauty of its geography and monuments and its incredibly rich history.

It would be misleading to say that Greece has its roots in western Europe; it is western Europe that has its roots in Greece. Modern Greece has its Hellenistic roots, which have so heavily shaped western European culture. But modern Greece also has its Byzantine and Macedonian roots—which to this day exert a strong pull on Greece to look eastward toward Asia Minor, and northward to the Balkans.

The overriding objective of Prime Minister Caramanlis is to secure the role of Greece as a western European democracy. The keystone of this strategy is to achieve full membership for Greece in the European Economic Community, and continued full participation of Greece in NATO. In a sense, Caramanlis is following the pull of Greece's Hellenistic roots.

Opposition Leader, Andreas Papandreou, bitterly opposes a westward orientation for Greece and argues for a neutralist, Third World role for Greece—outside of the European Community and NATO. In a sense, Papandreou may be seen as following the pull of Greece's Byzantine and Macedonian roots.

It is against this broader background struggle for dominance of contemporary Greece that my conversations with Prime Minister Caramanlis and the others took place.

Relations with Turkey dominate the foreign policy horizon in Athens and United States-Greek relations are heavily colored by the Greek-Turkish dispute over Cyprus. United States policy respecting Cyprus is passionately criticized in Greece, as it is in Turkey. Moreover, the United States must continue a very objective policy not to be drawn more deeply into the vortex of the Greek-Turkish dispute over air and territorial rights in the Aegean Sea.

Following World War II, United States influence has been important in the political, military and economic spheres of post-war Greece, since the initiation of the Greek-Turkish aid program under President Truman. The United States continues to enjoy a high degree of prestige, popularity and influence in Greece—a trend reinforced by the presence in the United States of a substantial, industrious and vigorous Greek-American community.

But, strong undercurrents of anti-Americanism have emerged in recent years, nonetheless, fed by alleged United States support for the Junta and by alleged U.S. acquiescence in Turkey's occupation of some forty percent of the land area of Cyprus. Latent resentments against the United States are exploited and inflamed at every turn by Opposition Leader Papandreou, whose party commanded twenty-five percent of the vote in the parliamentary election of 1977.

Greece occupies a very strategic position in the eastern Mediterranean and at the southern tip of the historically volatile Balkan peninsula. Its disaffection from NATO and the West could have far reaching, adverse geopolitical consequences for the United States and the Western European democracies.

In addition to its political and strategic significance as a western democracy and member of NATO, Greece is an important factor in economic life of the eastern Mediterranean region.

Cyprus and NATO: Anger at what is perceived as the failure of the United States to prevent or redress Turkey's occupation of 40% of Cyprus has led Greece to withdraw from participation in NATO's unified command structure. Greece's participation in the non-military aspects of NATO continues and some military cooperation with NATO continues on an ad hoc basis. Moreover, the United States continues to enjoy full access to important military bases in Greece, which are important to operations in the Mediterranean. A new Defense Cooperation Agreement with the United States, initialed on July 28, 1977 after two and a half years of negotiation, has not been signed by Greece. In this connection, Greek leaders point out that, in the absence of consummation of the new DCA, the United States continues to have access to bases in Greece on the more advantageous terms of the old Agreement.

The failure of Greece to consummate the new DCA is generally attributed to a desire to make more difficult the approval by Congress of the new Defense Cooperation Agreement between the United States and Turkey. The recently announced decision of the Carter Administration to scrap the Defense Cooperation Agreement undoubtedly will have an important bearing on the future of the initialed, but unsigned DCA with Greece. But, the precise effect remains unclear at the time of the submission of this report.

On an emotional level, Greece is heavily involved in the Cyprus dispute as reflected by events both in Athens and Nicosia. Nonetheless, Greek leaders are quick to point out

that their influence over the Cyprus Government and the Greek Cypriot community is finite and far short of full control. Greek leaders have indicated their full support of a Cyprus settlement on terms which President Macharios indicated would be acceptable to him shortly before his death. In essence, this would entail acceptance of a federal, bizonal settlement, with a Turkish Cypriot zone of up to 25% of the land and a much reduced Turkish military presence in the Turkish-Cypriot zone.

The recent proposals presented to U.N. Secretary General Waldheim by the Turkish side fall far short of those terms, and the recent announcement by Secretary Vance that the Carter Administration was seeking a repeal of the U.S. arms embargo on Turkey have evoked expressions of anger and disappointment by the Greek Government. (The reaction of the Greek Opposition has been considerably more vociferous).

In the period since Turkey's military intervention in Cyprus, Greece has moved to enhance its military capabilities to a significant degree. This enhancement, combined with the deterioration of Turkey's overall military capabilities in the same period, has enabled Greece to move up to a position of rough overall military parity with Turkey in the context of a potential Greek-Turkish military confrontation. The net effect of this development, in the eyes of some observers, has been to harden the negotiating posture of both sides.

Notwithstanding their strong opposition to the idea of a repeal of the U.S. arms embargo on Turkey, Greek leaders state a preference for the United States to curtail its diplomatic efforts to promote a Cyprus solution. Moreover, Greek leaders articulate a clear desire to achieve a bilateral settlement of the Cyprus problem, and other Greek-Turkish disputes, which they regard as being in Greece's highest interest and an essential precondition to achievement of the overriding objectives of the Caramanlis Government—a democratic Greece firmly rooted in the European Community and NATO.

Aegean Problems: Greek sovereignty over the Aegean islands stretching literally to the coast of Turkey has led to the emergence of potentially explosive disputes in the field of control of air space over the Aegean and control of territorial waters and undersea mineral exploitation. Greek sovereignty over the islands is not in dispute, but the exercise of that sovereignty with respect to some aspects of control of air space, and the definition of territorial waters and the continental shelf in the Aegean is in dispute.

The international civilian aviation arrangements of 1952 assigned control of the air space over the Aegean to Greece. Greece has rejected Turkey's request to extend its own flight information region midway into the Aegean. Following the Turkish intervention in Cyprus in 1974, Greece closed the Aegean to international air traffic. It remains closed to this date and air travel between Greece and Turkey is now effected over Bulgaria. Greece bases its action on the 1952 international civil aviation agreements.

Turkey claims that Greece has transformed international air space into a "controlled zone", in contravention of international regulations and claims that Greece has abused the responsibility granted to it by the 1952 arrangements. It seeks to revise the arrangements to enable it to extend Turkey's flight information zone midway into the Aegean.

This problem is considered to be susceptible to a negotiated solution in an atmosphere of improved Greek-Turkish relations.

Sea rights in the Aegean are complicated. The Geneva Convention of 1958 gives nations the right to explore for minerals in their continental shelf; the Treaty of Lausanne of 1923 declared the Aegean to be open to the shipping of all nations. Turkey was not a signatory to the 1958 Geneva Convention. In any event, the proximity of Greek islands in the Aegean to the Turkish coast complicates the delineation of territorial waters and continental shelf rights.

The latent problems with respect to sea rights in the Aegean were brought to the fore by the Arab oil embargo of 1973 and the subsequent quadrupling of oil prices. Oil and natural gas discoveries in the Aegean have intensified the dispute respecting sea rights. The dispute was escalated when Turkey sent an oceanographic survey ship into the Aegean in the summer of 1976, evoking Greek protests and hints of retaliatory action. Greece proposed referring the matter to the International Court of Justice. Turkey refused on the grounds that it was not a signatory to the 1958 Geneva Convention, and in the apparent belief that its bargaining strength would be greater in bilateral negotiations.

Bilateral negotiations, last conducted in the Caramanlis-Ecevit meeting at Montreux, Switzerland in 1977, have produced little more than an agreement to "freeze" the current situation by mutually refraining from further exploration or exploitation activities that might endanger future negotiations.

This dispute, while of potentially explosive proportions, also appears to be susceptible to a negotiated solution in an atmosphere of improved Greek-Turkish relations.

I was impressed with the fact that Prime Minister Ecevit found it easy to talk with Premier Caramanlis, and also that he greatly appreciated the fact that in the Montreux discussions Premier Caramanlis did not raise the Cyprus issue but confined their discussions to the Aegean which was the terms of reference upon which both parties had agreed. I feel there is much hope in the regard which these two leaders have of each other, and that they are capable of repeating what took place in the late 20's between Ataturk, then President of Turkey and Venizelos, then Premier of Greece. They entered into the Ataturk/Venizelos Accord which provided a framework for three decades of peace and stability to both countries. This is an example which the present leaders have much in mind, and which is capable of being duplicated.

Public opinion in both countries is so explosive as to inhibit this kind of progress. The basic policy of the United States should be to encourage the continuance of this dialogue within a framework and under auspices which are the most promising for it. If we can do that, I believe the chances are excellent that there will be a feasible and effective result; and such a U.S. policy must be mindful of the public opinion situation in both countries.

Economic Conditions: Greece has enjoyed steady economic progress since the restoration of democracy in 1974. The Caramanlis Government actively pursues a balanced and prudent policy of economic development which appears to be successful. It actively encourages private enterprise and has created an attractive environment for private foreign investment. The enlightened economic policies of the Caramanlis regime, combined with the natural business talents and imaginative, international outlook of the Greek people, have produced a steady record of economic progress even during the period of international recession following the quadrupling of international oil prices, the fall off in tanker and other ship charters.

But, income disparities in Greece are noticeable and exceed those of many OECD nations. During their communications, the "Colonels Government" deliberately sought to increase the relative share of national income flowing to the rural sectors of the economy. This remains as the sole positive legacy of that sorry period in modern Greek history.

Negotiations aimed at full Greek membership (it now has associate status) in the European Economic Community continue on a smooth course, though not without difficulties particularly with respect to Greek agricultural products. It is anticipated that Greece's entry into the EEC may be accomplished as early as 1980.

Conclusions and recommendations

1. U.S.-Greek Relations: Close relations with Greece are important to the United States and NATO. The leadership of Greece by Prime Minister Caramanlis, and the course he has set for his country, are very much in the long term interest of freedom, peace and well being for Greece and therefore of great interest to the United States and democracies of western Europe. It should continue to be the policy of the United States to lend its support to the Caramanlis Government and to provide all feasible encouragement to the Caramanlis objectives of tying Greece firmly to the West through membership in the EEC and NATO. These institutions will provide a very important continuing framework for the achievement of lasting stability and prosperity in Greece, and the avoidance of instability and disaffection which could cause serious strategic complications for the West. The fact that Greece has land borders with three communist nations—Albania, Yugoslovia and Bulgaria—and memories of the bitter civil war provoked by Greek communists after World War II, afford no grounds for complacency, particularly in light of the present Opposition in Greece.

2. Greek-Turkish Problems: Grave problems between Greece and Turkey have a very long history and will continue to be a major complicating factor for U.S. policy. The United States cannot abdicate its responsibilities to seek amelioration of Greek-Turkish disputes, in Cyprus or the Aegean or their respective borders. The U.S. cannot be the arbiter of those disputes, however, and it must not allow its policies and interests to become hostage to particular negotiations at any one time. Rather, the United States must seek to strike an enlightened balance among interest in close bilateral relations with both Greece and Turkey.

The presence of a very high quality to leadership in Greece, in the person of Prime Minister Caramanlis, and in Turkey in the person of Prime Minister Ecevit, gives the U.S. the opportunity to pursue and facilitate just such an enlightened and balanced policy.●

FIRST BAPTIST CHURCH OF PADUCAH, KY.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. FORD, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 422.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 422) entitled "An Act for the relief of the First Baptist Church of Paducah, Kentucky", do pass with the following amendment:

On page 1, line 6, strike out "$207,740" and insert "$171,990"

Mr. FORD. Mr. President, I move that the Senate concur in the House amendment to S. 422.

The motion was agreed to.

Mr. FORD. Mr. President, I ask the majority leader if now is the time for a statement that I wish to get in the RECORD?

Mr. ROBERT C. BYRD. Yes, indeed.

EXPORT OF BANNED SLEEPWEAR

Mr. FORD. Mr. President, this morning's Washington Post carried a very disturbing article, alleging that children's sleepwear treated with Tris, a possible cancer-causing agent, is being exported. These items have already been banned for sale in the United States.

I ask unanimous consent that the text of the Washington Post article be printed in the RECORD at this point.

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

(See exhibit 1.)

Mr. FORD. Mr. President, when the Consumer Product Safety Commission voted to ban Tris-treated children's sleepwear, a number of garment manufacturers suffered a severe financial burden. In the hope of mitigating the economic losses suffered by the children's sleepwear industry, the Senate passed S. 1503, which would allow these manufacturers to present their claims for losses resulting from the Tris ban in the U.S. Court of Claims. That legislation is now awaiting consideration by the House of Representatives.

In October of last year, a very narrowly divided Consumer Product Safety Commission voted that it did not have jurisdiction to prevent the export of Tris-treated children's sleepwear. One of the witnesses who appeared before the Commission urging the CPSC to assert its jurisdiction in this area was Edith Barksdale Sloane, the director of the District of Columbia Office of Consumer Protection. Under Mrs. Sloane's leadership, the District of Columbia became the first jurisdiction in the Nation to successfully remove these banned garments from retail stores. I am pleased to see that Mrs. Sloane has continued to pursue her interest in this matter as a member of the Consumer Product Safety Commission. On April 21 of this year, Mrs. Sloane urged CPSC Chairman John Byington to set this matter for reconsideration by the Commission. In her memorandum to the Chairman, Mrs. Sloane stated:

> The export policy issue relative to TRIS-treated products is a critical one which requires an immediate decision. I believe the responsibility for a prompt and separate reconsideration of this issue by the Commission is inescapable. The social, political, economic and ethical implications of exporting products already banned by the Commission to primarily third world or developing, non-white countries demand, in my opinion, distinct and timely consideration by the Commission. In view of the time frame required by staff to assemble and assess a briefing package on an all-inclusive export policy for Commission deliberation and the overlong period that the Commission has had to decide the TRIS export issue, it is my judgment that we should address the question of exporting TRIS-treated wearing apparel exclusive of all other export issues and as early as the Commission's agenda permits.

I understand that the Commission has now decided to reconsider whether or not CPSC has the authority to prevent the export of banned children's sleepwear containing Tris. Because of the importance of this issue, I believe the Commission would be well-advised in following Mrs. Sloane's recommendation to consider this matter as soon as possible. At the present time, I do not believe that further legislation clarifying the CPSC's jurisdiction in this matter is warranted. What is needed at this time is a clear and concise decision by the Commission interpreting its own statutory authority in this area. I sincerely hope that such a statement is forthcoming from the Consumer Product Safety Commission.

EXHIBIT 1

[From the Washington Post, May 3, 1978]

TRIS-TREATED SLEEPWEAR IS EXPORTED

(By Larry Kramer)

Several manufacturers are exporting millions of dollars in children's sleepwear treated with the banned cancer-causing agent Tris in an effort to beat the expected extension of the domestic ban to overseas sales.

Meanwhile, The Washington Post has learned that some of the exported garments, which are being sold at distress prices, are returning to areas under U.S. jurisdiction. The Consumer Affairs Department of Puerto Rico confirmed late yesterday that one of the two largest department store chains on that island, New York Stores, is still selling the controversial sleepwear.

The garments being sold in Puerto Rico may be coming from Venezuela, one of the main receiving points of the recent sales from American manufacturers. It also is possible, however, that they are being directly dumped there by U.S. manufacturers.

The Consumer Product Safety Commission banned domestic sale of garments treated with Tris, a flame-retardant, a year ago after the Environmental Defense Fund filed a petition to the commission warning of the carcinogenic nature of the substance.

But last October, after considerable debate, the CPSC voted that it did not have jurisdiction to ban the export of the garments in question.

In recent weeks, however, a majority of the five-person commission has indicated plans to change that policy, and attempt to ban overseas sales as well.

And Congressman Henry Waxman (D-Calif.), said yesterday he plans to introduce legislation today that would give the CPSC a clear right to ban exports.

Lou Bates, president of Bates Nitewear, Inc., said he sold to exporters all of the $2.4 million worth of clothing that he was forced to buy back from domestic retailers under the original ban order.

"The last of it was shipped three weeks ago," he said in a telephone interview from his factory at Greensboro, N.C. Bates said he was paid "$5.50 a dozen for about 80,000 dozen garments, giving me about $400,000 for the $2.4 million worth of clothes."

He said his firm, which is family owned, was hit particularly hard by the ban because "all we sell is children's sleepwear."

Bates said he was "lucky to sell the stuff when I did," because after a news story last Sunday said the CPSC would likely vote for an export ban on May 11, "everybody began scurrying to sell the stuff. And if I still had them, I would be scurrying, too."

Bates said he made sure that all of his garments were shipped overseas." "We watched the containers be sealed, and we watched the boats sail." He said he would not allow any of the clothing to be sold to countries even bordering the United States.

Tom Meredith, comptroller of the Greensboro Manufacturing Company, said his firm also shipped about 80,000 dozen garments in recent weeks, but received only about $4.25 a dozen, "for lots that usually sell at $28–$30 a dozen."

Some of Greensboro's garments went to Venezuela, while others were sold to a local retailer who lost a court battle when he tried to sell them in the U.S., and is now trying to export them himself.

"We just decided to bite the bullet and try and sell the stuff," Meredith said. "We say that they are trying to ban exports, so we had to do what we could."

Many manufacturers, including the two North Carolina firms, are hoping for some form of relief from Congress for their losses.

Their case is based on the fact that they were originally ordered to put the substance in clothing as a fire-prevention action. But many of the manufacturers are bitter about being caught in the middle, because the mills that produced the materials for the clothing didn't get caught with the losses. The manufacturers of the clothing were ordered to buy back the existing merchandise.

Although the relief legislation passed the Senate, it is still pending in the House, and it is still unclear what relief, if any, will be granted.

Dan Livingston, vice president of Bates, said that "conservatively," $5 million worth of Tris-treated sleepwear has been exported by all U.S. firms in recent weeks. He said many of the firms are hoping the government will still reimburse them for the difference between the distress sale prices and the value of the clothing.

But Rep. Waxman said it was "unconscionable that even without a law on the books American business would export items established to be cancer-causing. Many of these same businessmen will be coming before Congress asking for special compensation. Any businessman engaged in selling abroad should forfeit his rights to such compensation."

Waxman further said he was disappointed that the "CPSC moved as slowly as it did," to go after Tris exports.

The two new CPSC members, Susan King and Edith Barksdale Sloan, expressed anger at both the overseas and Puerto Rican sales.

And a third commissioner, David Pittle, said "our troops are out now finding out where all of this clothing is going, and if it is being sold in domestic markets."

Sloan said she was "outraged," that sales were reported in Puerto Rico, where she said "such sales are clearly banned."

King agreed, saying that CPSC legal advisors informed her such sales are illegal.

Mr. FORD. I thank the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Kentucky.

NATURAL GAS PIPELINE SAFETY AUTHORIZATION, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 703, which has been cleared on both sides.

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

The assistant legislative clerk read as follows:

> A bill (S. 1895) to amend the Natural Gas Pipeline Safety Act of 1968 to authorize appropriations for fiscal year 1979,

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill (S. 1895) which had been reported from the Com-

mittee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert the following:

That section 15 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1684) is amended—

(1) by striking out, in subsection (a) thereof, "and" immediately after "1977,"; the following: "and $6,000,000 for the fiscal year ending September 30, 1979,"; and

(2) by striking out, in subsection (b) thereof, "and" immediately after "1977,"; and by inserting immediately after "1978" the following: ", and $4,500,000 for the fiscal year ending September 30, 1979".

The amendment was agreed to.

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

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ALLEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-768), explaining the purposes of the measure.

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

PURPOSE

The purpose of this legislation is to amend the Natural Gas Pipeline Safety Act of 1968 in order to provide authorizations for the Department of Transportation's (DOT) pipeline safety activities and for grants-in-aid to federally certified State natural gas pipeline safety programs for fiscal year 1979.

BRIEF DESCRIPTION

This legislation authorizes Natural Gas Pipeline Safety Act programs at a level of $10.5 million for fiscal year 1979. Six million dollars of this authorization is allocated to DOT's pipeline safety activities. The remaining $4.5 million of this authorization is provided for grants-in-aid to federally certified State natural gas pipeline safety programs.

BACKGROUND AND NEED

Congress has delegated to DOT authority to set safety standards for the design, construction, operations and maintenance of our Nation's gas and liquid pipelines. There are presently approximately 1.7 million miles of these pipelines in the United States. These pipelines transport more than half of this Nation's energy resources.

Our Nation's escalating rate of energy consumption has placed rapidly increasing demands on our pipeline systems. Last year, it was estimated that there were more than 700,000 pipeline leaks from all pipeline systems, both distribution and transmission. Fortunately, most of these leaks were minor and did not cause a serious pipeline incident. However, potentially hazardous situations do exist and require the continued close surveillance and attention of the Office of Pipeline Safety Operations (OPSO) so as to minimize the risks to the public from such hazards. A summary of gas pipeline accidents and casualties for the period 1970 through 1976, as reported to DOT, are set forth below.

CHART A

SUMMARY OF GAS PIPELINE ACCIDENTS AND CASUALTIES REPORTED DURING YEARS 1970-76 AS REQUIRED BY 49 CFR, PART 191

Calendar year	Distribution					Transmission and gathering				
	Number of failures	Fatalities		Injuries		Number of failures	Fatalities		Injuries	
		Employees	Nonemployees	Employees	Nonemployees		Employees	Nonemployees	Employees	Nonemployees
1970	676	1	20	32	170	353	1	0	8	8
1971	875	6	26	36	329	410	2	1	14	10
1972	884	2	26	32	262	409	3	3	23	13
1973	893	1	32	48	285	471	1	1	3	16
1974 [1]	1,017	1	19	31	283	460	1	3	7	13
1975 [1]	979	0	8	29	191	394	5	1	8	9
1976 [1]	1,036	3	50	66	253	543	2	8	28	19

[1] Includes data from telephonic reports to the Office of Pipeline Safety Operations (OPSO) reported pursuant to sec. 191.5. Data from telephonic reports were not included in accident/casualty data for years 1970-73.

In 1976 there were 63 deaths and 366 injuries resulting from more than 1,500 gas pipeline failure incidents which were reported to DOT by gas system operators. Although these death and injury rates are relatively low in comparison with other transportation systems, the potential for a major accident is of continuing concern to the Congress, State governments, and the pipeline industry.

The committee's hearings on S. 1895 demonstrated the need to strengthen DOT's pipeline safety activities. Despite the extensive nature of our pipeline systems, and the potential dangers inherent in such systems, OPSO, now a part of the Materials Transportation Bureau in DOT, has operated with an extremely small staff and limited funding. These limitations have forced OPSO to attempt to stretch its resources over a wide spectrum of activities. These constraints have been exacerbated due to the fact that OPSO has operated during more than 7 of its 10 year existence, and continues to operate today without a permanent director. Also, despite the significant demands placed on OPSO to monitor this extensive and complex system, many authorized personnel positions still have not been filled.

In the committee's hearings, DOT made a number of important commitments. Representatives of DOT stated that they would make a major effort to rapidly appoint a permanent director for OPSO. They further agreed to develop guidelines to provide specific guidance to the States as to what constitutes a proper State inspection and enforcement program. Also, DOT stated that within the next calendar year they would propose a formal rule for liquid natural gas facility siting. In carrying out this activity, the committee urges DOT to examine carefully the most recent voluntary standard in this area and any proposed amendments thereto, in order to assist it in deciding what further action, if any, is needed. DOT also stated it would accelerate consideration of increased regulation of highly volatile liquids. It is worth noting that the General Accounting Office stated in the committee's hearings that "from 1968 through 1976 these highly volatile liquids accounted for only 10 percent of the liquid pipeline accidents, but were responsible for 68 percent of the deaths, 56 percent of the injuries, and 32 percent of the property damage.".

In providing a 1-year authorization the committee intends to monitor closely the progress of DOT in each of these important areas. The committee also expects that OPSO will upgrade its data analysis priority setting programs. The authorization level has been raised by $1 million from the level provided in the fiscal year 1978 authorization. This increase is provided in order to assure that sufficient funding can be provided for monitoring of our pipeline systems, and to allow for greater oversight of certified State natural gas pipeline safety programs.

The planned increased Alaska pipeline activities of OPSO will be useful but should be complemented by increased activity in the rest of the pipeline program.

Federal-State cooperation in the pipeline safety area is critical. In order to facilitate these cooperative programs, however, there should be further tightening of the standards of certification in this area. In recognition of the increasing demands that have been placed on OPSO, the committee considers that the additional authorizations for this program contained in S. 1895, as amended, allow for an orderly expansion of these critical safety functions.

(Mr. FORD assumed the chair.)

THE GREAT SHIPBUILDING BAILOUT-II: THE QUESTION OF FRAUD

Mr. PROXMIRE. Mr. President, the signs are increasing that the Navy is preparing the ground for a massive bailout of the shipbuilding industry. For many months I and others have been urging the Navy and the Defense Department to resolve the shipbuilding claims mess in an orderly, businesslike way. Instead, the White House appointees in the Navy seem determined to repeat the mistakes of the past. Apparently, they can think of no other approach than to simply bailout the three large shipbuilders who have filed $2.7 billion in claims against the Government.

BAILOUTS ARE INFLATIONARY

A bailout of the shipbuilding industry will cost hundreds of millions of dollars. It will be inflationary and will contribute to higher budget deficits.

Responsibility for the shipbuilding claims mess can be divided between the shipbuilders themselves and the Navy. As I have stated many times, the Navy should pay whatever it owes to its contractors by way of claims provided the claims are substantiated by audits and provided there is legal entitlement. The bailout approach blurs over the question of how much, if anything, the Government owes.

One of the Navy's problems is that its laxity in the handling of claims has encouraged the filing of claims.

INEPTNESS IN THE NAVY'S OFFICE OF GENERAL COUNSEL

For example, ineptness and procrastination within the Navy's General Counsel's office amount to a standing invitation for shipbuilders to make false or inflated claims against the Government and are impeding the efforts of the Justice Department.

Questions of fraud in claims filed against the Navy have been raised repeatedly by high Navy officials.

THE LITTON AND LOCKHEED CLAIMS

Prior to this year two shipbuilding claims cases—involving Litton and Lockheed—were referred to the Justice Department for investigation of possible fraud.

The Litton investigation resulted in an indictment against the company, which is pending. But the Navy spent a full year investigating the matter and then wasted another 6 months before referring it to the Justice Department.

The Navy also spent at least a year "investigating" the Lockheed claim. It was finally referred to Justice in 1974. I understand the Justice Department's Lockheed investigation is nearing completion.

THE TENNECO AND GENERAL DYNAMICS CLAIMS

In the past several weeks the Navy has referred charges of possible fraud against two other shipbuilders—Tenneco and General Dynamics—to the Justice Department.

The long delays that have occurred within the Navy's General Counsel's office after the receipt of complaints of possible fraud, and the inept handling of the complaints, have complicated the task of the Justice Department and deprived the public and the shipbuilders of their right to a speedy disposition of the charges.

As the old legal maxim puts it, "Justice delayed is justice denied."

THE NAVY INVESTIGATES—ON A PART-TIME BASIS

A year ago questions of possible fraud were raised within the Navy with regard to claims filed by Tenneco's Newport News Shipbuilding Division. The General Counsel's response was to assign the matter to two attorneys in his office. The two attorneys had many other responsibilities and thus could devote only part of their time to the question of fraud.

Later in 1977 questions of possible fraud were raised within the Navy with regard to claims filed by General Dynamics Electric Boat Division. The General Counsel referred the matter to the same two attorneys, again on a part-time basis.

Weeks and months elapsed before any real efforts were made by the Navy to investigate the allegations of possible fraud.

NAVY "INVESTIGATIONS" DELAY JUSTICE

Why does the Navy's Office of General Counsel engage in these time-consuming investigations anyway?

The General Counsel does not have subpena power.

He does not have access to the shipbuilders' company records except when the Navy is involved in litigation with a company.

The General Counsel's Office cannot interview present or former employees of a shipbuilder except on a voluntary basis.

The General Counsel simply does not have the legal authority or the staff resources to conduct thorough or even constructive investigations of possible fraud.

It is doubtful whether any useful purpose is served through the half-hearted and half-baked inquiries of the Navy's General Counsel.

The appropriate agency to conduct investigations of possible fraud is the Justice Department. There is no need for two Government agencies to investigate the same facts or for one to preinvestigate it before it gets to the Justice Department. Once serious allegations are made by responsible officials the Navy's duty should be to refer them to the Justice Department without delay.

The Navy's foot dragging and apparent reluctance to move quickly are encouraging shipbuilders to file claims that are carelessly prepared, grossly inflated or intentionally deceptive.

I ask unanimous consent that the written responses to questions addressed to the Navy's General Counsel, Togo D. West, Jr. for inclusion in the record of the Joint Economic Committee's hearings of December 29, 1977, on shipbuilding claims, be printed in the RECORD at the close of my remarks.

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

(See exhibit 1.)

Mr. PROXMIRE. Mr. President, I also ask unanimous consent that an article from the New York Times, April 16, 1978, written by Anthony Marro, about the problem of fraud in Federal programs, also be printed in the RECORD at the close of my remarks.

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

(See exhibit 2.)

Mr. PROXMIRE. Among Mr. Marro's findings is that few agencies have taken steps to minimize the potential for fraud or to make detection easier.

The article goes on to say that according to J. Roger Edgar, head of the fraud section of the Justice Department's Civil Division, fraud in defense contracts accounts for 30 percent to 40 percent of his workload.

EXHIBIT 1

GENERAL COUNSEL OF THE NAVY,
Washington, D.C., April 13, 1978.

Hon. WILLIAM PROXMIRE,
U.S. Senate, Washington, D.C.

DEAR SENATOR PROXMIRE: You have requested that I provide you with answers to questions for inclusion in the record of the Joint Economic Committee's hearings of December 29, 1977, on shipbuilding claims.

The responses are enclosed.

Sincerely,

TOGO D. WEST, Jr.

QUESTIONS AND ANSWERS

Question 1. In your testimony concerning allegations of fraud, you said you think it is appropriate to carry out "a sound and thorough investigation to coordinate with the Justice Department and find out virtually from the outset what they think about these allegations and to get that underway," and you mentioned the possibility of an investigation by the Naval Investigative Service or the Federal Bureau of Investigation.

To the best of your knowledge has anyone in the Navy requested the Naval Investigative Service or the Federal Bureau of Investigation to investigate any of the allegations of possible violation of fraud or false claim statutes in shipbuilding claims? Without formal investigation by investigators how can you gather the evidence necessary to allow the Justice Department to decide on prosecution?

Answer. The Office of the General Counsel has on occasion turned over allegations regarding fraud and false claims to the Justice Department. Some of these allegations have required an FBI investigation, others have been investigated by the Naval Investigative Service.

Question 2. Does your office have subpoena power?

Answer. The Office of the General Counsel, Department of the Navy, does not have subpoena power.

Question 3. Does your office have complete access to company records?

Answer. The Office of the General Counsel has access to Company records during a trial before the ASBCA through discovery proceedings. This Office also has access to the voluntary submissions by Companies of their records during claims evaluation and during the application of progress payments throughout the life of the contract.

Question 4. Does your office have the authority to interview present or former company employees concerning matters affecting the allegations of possible fraud or false claims?

Answer. Company employees can be interviewed only on a voluntary basis unless the Navy is involved in ASBCA proceedings.

Question 5. What steps have you taken to protect the preservation of evidence that may exist concerning these allegations?

Answer. Preservation of evidence is handled in the same manner as in preparation for trial.

Question 6. Do you consider your office is capable of conducting an inquiry into the allegations in sufficient depth to decide whether or not a violation of Federal statutes has occurred in the shipbuilding claims?

Answer. This Office can properly evaluate the allegations based on the existing Navy evidence in order to determine whether the facts relied on in forming the allegations are accurate and complete.

Question 7. If so, how long do you expect it will be before you reach such a determination? If not, isn't the time it takes for your inquiry simply delaying the start of a formal inquiry by the Justice Department?

Answer. All evidence in these matters has been shared with the Department of Justice.

Question 8. Considering the importance of this matter, do you consider it to be an adequate allocation of resources to have only two attorneys working part time on this issue?

Answer. From time to time the assignment of attorneys has been from one to six and their time was properly distributed with the other ongoing legal problems that this office handles.

Question 9. What criteria is your office using to evaluate the allegations or possible fraud or false claims and to determine whether or not to refer them to the Justice Department?

Answer. This Office, as does the Justice Department, relies on the applicable statutes and precedents relating to these offenses.

Question 10. Have you personally read the reports of possible violation of fraud or false claims statutes made by Admiral Rickover, Admiral Manganaro or others?

Answer. I have all of the reports and have read them.

Question 11. You testified that Admiral Rickover's reports of possible fraud came to the General Counsel's Office through a

convoluted chain. What steps are you taking to expedite the processing of fraud reports? In your opinion should this convoluted chain be changed?

Answer. The process for referrals of this type is not unusually burdensome and I believe that it has not unduly affected the speed or accuracy of our deliberations. It is true, however, that the reports in question were not made directly to the Office of General Counsel.

Question 12. You stated you have not discussed the potential fraud reports with Mr. Hidalgo and that you did not think it appropriate to discuss those fraud reports with him. Since Mr. Hidalgo has been put in charge of claims for the Navy, don't you think it would have been appropriate to mention this problem to him?

Answer. I stated that I did not mention NN fraud to Assistant Secretary Hidalgo. That matter was under the responsibility of ADM Manganaro. If and when the NN claims come before Secretary Hidalgo, I will discuss with him each of the fraud or false claim analyses which, in my view, warrant his attention. It is, of course, necessary for Assistant Secretary Hidalgo or anyone else who is working out a solution to the claims problem to have a complete understanding of the nature of the claims. To that end, OGC attorneys are assigned the responsibility to investigate each claim and to communicate with those individuals seeking to resolve these claims. In that way, proper consideration is given to all allegations of fraud and/or false claims which may arise.

Question 13. You testified you have two lawyers working on a part-time basis on reports of possible fraud in connection with the Newport News and Electric Boat claims. Could you please give us a brief description of the lawyers' backgrounds; specifically, identify their experience in terms of fraud or criminal matters as opposed to their experience in civil matters.

Answer. The Office of the General Counsel's attorneys assigned to these matters have about 30 combined years of shipbuilding claims experience.

Question 14. Could you give us a brief resume of your experience in criminal and civil law; what is your experience in contract law?

Answer. Prior to my appointment, I was neither a government contracts practitioner, nor a criminal lawyer.

Question 15. Identify for the record the number of potentially fraudulent elements contained in the Newport News and Electric Boat claims which have been alleged.

Answer. I believe that the release of this type of information at this time could be prejudicial to any affirmative action the government might determine to be necessary.

Question 16. Identify the date by which you expect to be finished with your preliminary investigation of the allegations of fraud.

Answer. All materials concerning the Navy inquiry have been made available to the Department of Justice.

Question 17. As previously mentioned, you stated that it is not the function of the Navy nor of any officer in the Navy to determine the presence or absence of fraud. Is this statement consistent with U.S. Naval Regulations? Is it consistent with instructions issued by the Secretary of the Navy? What is the responsibility of personnel in the Navy with regards to fraud they suspect may have occurred?

Answer. (a) The statement is consistent with U.S. Naval Regulations. See SECNAV Instruction 4385.1B. (b) The statement is consistent with SECNAV Instructions. See SECNAV Instruction 4385.1B. (c) The responsibility of naval personnel is to report allegations to the Inspector General or the General Counsel. See SECNAV Instruction 4385.1B.

Question 18. Is the General Counsel's office authorized by statute to investigate possible violations of Federal statutes?

Answer. The General Counsel's office is authorized to investigate allegations of fraud under Navy regulations/instructions. See SECNAV Instruction 4385.1B.

Question 19. Why are you investigating the potential fraud reports prior to submitting them to the Justice Department?

Answer. It is my duty under Navy regulations/instructions (SECNAV Instruction 4385.1B). Furthermore, the Office of the General Counsel can assist that agency in our specialized area of Government Contract Law.

Question 20. You implied that the False Claims Act and statutes for fraud provide you a means to recover any monies paid for a false claim whenever you uncover fraud. Is this just your personal understanding of the Act, the opinion of the Justice Department, or a formal opinion by your office? What happens in cases where the Contracting Officer has made an independent determination of the amount owed and did not rely on the claim itself? Can the Government still pursue a false claim prosecution in that case? If not, why are independent determinations of a claim's merit not prohibited?

Answer. a. It is this office's understanding of the law. It is not contained in an opinion of the Justice Department or of this office. b. The Government can pursue a false claim even if not relied on in the Contracting Officer's decision. This view is based on the express terms of two civil statutes and four criminal statutes. These six statutes are: 31 U.S.C. § 231 which permits a suit by the Government for $2,000 plus double damages plus cost against anyone presenting a false claim; 28 U.S.C. § 2514 which provides for forfeiture of fraudulent claims against the United States; 18 U.S.C. §§ 286 and 371 providing for up to a $10,000 fine and 10 year imprisonment for anyone conspiring to defraud the Government; 18 U.S.C. § 287 providing for up to a $10,000 fine and five years imprisonment for presenting a false or fraudulent claim to the Government; and 18 U.S.C. § 1001 providing for up to a $10,000 fine and five year imprisonment for knowingly making a false statement to the Government.

Question 21. In your testimony you stated that "if we discover fraud and we don't pay out then we don't have a fraud action at all. We will not have suffered any damage." Why do you not consider the Government's cost of analyzing the false claim to represent damages?

Answer. This item can be asked for under the civil statutes previously described in response to question 20.b.

Question 22. Is it not an offense just to make a false statement to a Government agency regardless of any monetary damages which might result?

Answer. Yes, if the statement was made knowingly and willfully it would be a violation of 18 U.S.C. § 1001.

Question 23. Admiral Rickover testified that his first report of possible fraud in the Newport News claims was submitted more than six months ago. What was the result of your office's investigation of this report? What is the current status of this item?

Answer. All materials concerning the Navy inquiry have been made available to the Justice Department.

EXHIBIT 2

FRAUD IN FEDERAL AID MAY EXCEED $12 BILLION ANNUALLY, EXPERTS SAY

(By Anthony Marro)

WASHINGTON, April 15.—Fraud in Federal aid programs has grown to the point at which, some experts say, its annual cost may exceed $12 billion. But many agencies have not yet established the mechanisms to detect, let alone prevent, fraud in their programs.

That is the assessment of a cross section of prosecutors, Congressional investigators and Government officials who said in recent interviews that the Federal Government has been so negligent in monitoring its own grants that it has permitted itself to become a major victim of white collar crime.

For the most part, the fraud is occurring in programs designed to provide services, training and aid to the disadvantaged: food stamps, health care, job training and housing aid.

But it is not the classic case of the welfare mother who cheats. Much of the fraud is committed not by the poor persons receiving the benefits, but by relatively well-to-do doctors, pharmacists and businessmen who have contracted with the Government to provide services and then set out to defraud it intentionally and systematically.

There are no precise figures for the amounts lost each year because of fraud. Mark M. Richard, chief of the fraud section of the criminal division of the Justice Department, says that the mechanisms for detecting fraud in many agencies are so weak that "the data base just isn't there."

'FRAUD, ABUSE AND WASTE'

But a recent report by the Inspector General of the Department of Health, Education and Welfare estimates that at least $6.3 billion to $7.4 billion was lost through "fraud, abuse and waste" last year in that agency alone.

And on a recent seminar on white collar crime, an official of the General Accounting Office, the investigative arm of the Congress, estimated that outright fraud in Federal economic assistance programs could amount from $12 billion to $15 billion a year and perhaps as much as $25 billion a year. The current annual budget of the State of New York is $12 billion.

Largely because of attention generated by a series of dramatic Congressional hearings and a string of critical audits by the accounting office, there has been a growing awareness of the extent of such fraud.

Among the problems and weaknesses cited repeatedly by persons familiar with fraud against the Government were these:

Relatively few resources have been committed to fight the problem. The fraud section of the Justice Department's civil division, for example, has only 13 staff attorneys and three supervisors to handle a load of about 1,200 active cases and a backlog of about 4,000 referrals.

Although the great bulk of the money in these programs comes from the Federal Government, the primary responsibility for policing them is often left to state and local prosecutors, who may lack the resources and expertise, and sometimes the enthusiasm, to do it. "The fact is that the public is more concerned with so-called street crime," Mr. Richard says.

With the exception of the Department of Housing and Urban Development, which was the victim of major program frauds in the early 1970's, few agencies have redesigned their programs to minimize the potential for fraud or to make detection easier.

DIFFERENCES ON SCOPE OF OFFENSES

There is some evidence that many of those engaged in fraud do not consider it theft, or at least see it as a crime less serious than robbery or mugging.

"There's a feeling that people have that they can rip off the Government and it doesn't matter, that it isn't really a crime," says John Ols, the G.A.O. official who cited the $12 billion to $15 billion estimate. "But

the fact is that every dollar lost in this way is a dollar that doesn't go to someone who needs it and who is entitled to it."

Mr. Richard, the Federal prosecutor, says that fraud against the Government results in social costs beyond the money involved.

"It's not only a violation of law, but it's an attempt to subvert a program, and this sort of things affects us all," he said. "When someone manages to subvert a Federal program, he's done something to undermine the integrity of the system over and above the actual dollar cost."

Some evidence of the extent to which the "integrity of the system" has been subverted can be seen in the report by H.E.W., in prosecutions and civil suits by the Justice Department, in Congressional hearings and in audits by the G.A.O.

THOUSANDS COMMITTING FRAUD

Taken together, they present a picture of thousands of persons—many of them well-educated, middle-class citizens—engaged in schemes that range from penny-ante abuses of food stamp programs to alleged fraud in massive, multimillion-dollar grain deals.

They include William C. Sibert, a former employee of the Department of Transportation who was charged with embezzling some $856,000 by putting his own name on checks intended for the construction of a subway in Atlanta.

Asked by a judge how this could happen, the Federal prosecutor is said to have replied: "Your honor, he posed as a subway system."

The cases include that of a doctor who allegedly billed H.E.W. for seven tonsillectomies on the same patient; the daughter of a Civil War widow who continued to collect "widow's benefits" for two decades after her mother had died and the officials of a health plan in California who persuaded some people to sign enrollment forms by telling them that they were signing petitions to impeach Ronald Reagan, who was then the Governor.

They also include the case of William F. Wilson, a dentist in South Carolina who is now in prison after being charged with, among other things, extracting healthy teeth from poor children so that he could collect fees from a Medicaid dental plan.

"It was just awful," said Joel W. Collins, the Assistant United States Attorney who prosecuted that case. He said the dentist had been found to have billed the Government for thousands of dollars worth of work not actually performed as well as for work that was not required.

"BROKE YOUR HEART"

"There was one girl about 13 years old who only had about three teeth left in her mouth," Mr. Collins said. "Looking at her just broke your heart."

Many of the cases disclosed in recent prosecutions and investigations are far more complex and involve larger sums of money.

Item: The Federal Government is trying to recover $24 million in damages from Cook Industries, which it contends defrauded the Government on grain shipments to 32 foreign countries. The suit, which is the largest civil suit the Justice Department is pressing in a fraud case, charges the company with having shortweighted, misgraded or adulterated grain shipments.

Item: The H.E.W. report, while saying that the estimates of dollars lost through "fraud, waste and abuse" might not have been more than 5.4 percent of its total budget of $136.1 billion, nonetheless concedes that the percentage was far higher in some programs. It said, for example, that at least 24 percent of its Medicaid funds had been misspent and concluded on the basis of a preliminary and hurried investigation that "criminal prosecution potential" exists in cases involving at least 290 physicians and 245 pharmacists.

Item: After paying nearly $5 million in vocational training benefits for veterans enrolled in a "barber's school" in Puerto Rico, the Veterans Administration discovered that the bulk of the 1,000 veterans it intended to aid had never actually taken the courses and that the "school" was little more than a store-front.

The proprietor, Romanita Garcia, eventually was jailed, and the Government has since recovered about $500,000 through a civil suit. But the rest was lost in what Federal prosecutors say was a classic case of fraud, much of it going to veterans who were not taking the courses they had reported taking, and much of it going to the businesswoman who was not providing the instruction she had promised.

Many fraud cases are fairly uncomplicated, relying less on careful planning than on the assumption that the Government cannot or will not audit its expenditures.

In many of the Medicaid fraud schemes, for example, doctors simply billed the Government for services not rendered or overcharged for services that were rendered. In many of the vocational education frauds, schools, sometimes with the aid of "students" who shared their Government benefit checks, simply enrolled veterans and billed the Government for training, even though the veterans never attended classes.

Often, this has involved some collusion with persons in the bureaucracy. In its investigation of prepaid health plans in California, a subcommittee headed by Senator Sam Nunn, Democrat of Georgia, discovered an official of H.E.W. who allegedly had accepted money and a car from a contractor whose grants he had approved. And as a result of an investigation of fraud in its educational training programs last year, the Veterans Administration, according to a recent report, meted out to its employees "one suspension, two demotions, 16 reprimands, 15 admonishments and 36 counseling."

FEW INSIDE ACCOMPLICES

Virtually all of those familiar with the programs agreed, however, that outsiders did not need, and in most cases did not have, inside accomplices to help them defraud the Government.

The fraud is not confined to social welfare and economic assistance programs. Although there are no estimates of fraud in military contracts and other forms of procurement, J. Roger Edgar, the head of the fraud section of the Justice Department's civil division, estimates that fraud in defense contracts accounts for 30 percent to 40 percent of his workload.

One typical case handled by his office resulted in the Government's recovery of $600,000 from a contractor who had been accused of using scrap metal rather than new materials in the catapults that launch aircraft from the carrier U.S.S. Forrestal.

In the past, Government officials say, the public and law enforcement figures were more concerned with other crimes, particularly organized crime and narcotics and street crimes, and fraud was not perceived as a major problem.

Even where there was heavy policing of fraud programs, they said, it often focused on welfare mothers who were believed to be obtaining benefits to which they were not entitled rather than on calculated and sophisticated fraud.

According to Richard L. Thornburgh, a former head of the criminal division, the Department of Justice did not even have a strategy for dealing with program fraud before 1972 and thus failed to detect many of the schemes to defraud Federal programs that are now known to have taken place.

"ERROR" OR "ABUSE"

One reason that estimates of the amount of fraud are so vague, sources said, is that many Government officials refuse to call fraud what it is, preferring to dismiss it as "error" or "abuse."

Another is that Federal audit cycles are so long that often fraud is not detected until years after it has taken place. In the case of Mr. Sibert, who allegedly embezzled the $856,000 from the Department of Transportation, the program that the money was taken from was not scheduled to be audited until eight years later, though the applicable statute of limitations runs only five years.

"It was a fluke that we caught him," said one Federal prosecutor. "If he hadn't aroused so much suspicion by spending so much money, the statute of limitations would have lapsed before we even knew the money was gone."

According to many of the sources, the problem is not just with the agencies, but with a lack of commitment by the Justice Department.

An indication of this can be seen in the limited resources of the civil fraud section headed by Mr. Edgar. Last year, it managed to recover about $8 million through civil suits against persons accused of defrauding the Government. It won numerous other suits against persons who did not have the resources to pay.

* * * * *

"There are a lot of cases that are going to have to be handled, and I'd like to know who is going to handle them," said one recently retired prosecutor. "If you start talking about a $6 billion problem at H.E.W., where are the bodies going to come from?"

A number of prosecutors and former prosecutors agree, noting that last year H.E.W. found suggestions of fraud by more than 13,000 persons in one welfare program alone and that since then several other agencies have begun similar internal investigations.

Griffin B. Bell, the Attorney General, has said repeatedly since taking office 14 months ago that fraud against the Government is a major concern and will be a top priority of the Justice Department.

To date, he has assigned nearly 200 agents of the Federal Bureau of Investigation to audits of health care programs and has added 13 staff lawyers, at least temporarily, to the 33-person staff in the criminal fraud section headed by Mr. Richard.

Although most of those interviewed argued that many more resources would be needed at both the state and Federal level, Mr. Richard said that he believes a strong commitment has now been made.

"You're dealing with an area that has been virtually ignored over the years in deference to other priorities," he said. "We are playing catch-up ball, and it's not going to be done overnight."

HEARING NOTICE

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs will be holding 3 consecutive days of hearings to consider S. 50—the Full Employment and Balanced Growth Act—the so-called Humphrey-Hawkins bill—on May 8, 9, and 10, 1978. The hearings will be held in room 5302 of the Dirksen Senate Office Building at 10 a.m. each day.

The witnesses scheduled to appear on May 8, 1978, are: Congressman JOSEPH L.

FISHER of Virginia, Dr. Andrew F. Brimmer, Brimmer & Company, Inc., Washington, D.C., Mr. Robert R. Nathan, Robert R. Nathan Associates, Inc., Washington, D.C., and Dr. Jack Carlson, vice president and chief economist, Chamber of Commerce of the United States, Washington, D.C. On May 9, 1978, scheduled are: The Honorable F. Ray Marshall, Secretary of the Department of Labor, the Honorable Charles L. Schultze, Chairman, Council of Economic Advisers, and the Honorable J. Charles Partee, member, Board of Governors of the Federal Reserve System. The final days of hearings on May 10, 1978, will include: Mr. Lew Foy, Chairman, National Planning and Employment Task Force, the Business Roundtable, Washington, D.C., Mr. Hugh P. Donaghue, vice president and assistant to the chief executive officer, Control Data Corp., Arlington, Va., Mr. George Hagedorn, vice president and chief economist, National Association of Manufacturers, Washington, D.C., and Mr. Arnold A. Saltzman, chairman, Seagrave Corp., New York, N.Y.

Anyone seeking additional information about the committee hearings or wishing to submit their views for the record should contact Steven N. Roberts of the committee staff at 202-224-0893.

ABOUT NEW YORK—IN THE DARKNESS 40 STORIES BENEATH THE CITY

Mr. PROXMIRE. Mr. President, we have heard a lot of criticism about New York, and I have been one of those who have criticized it.

I would like to call the attention of the Senate to impressive action by some New Yorkers that is overlooked. I would like to read briefly from a fascinating column by Francis X. Clines that appeared in the newspaper yesterday. It reads as follows:

[From the New York Times, May 2, 1978]

ABOUT NEW YORK: IN THE DARKNESS 40 STORIES BENEATH THE CITY

(By Francis X. Clines)

The work down under the city seems as impressive as the deaths there, and as granite-penned and hollowed out and dark as the deaths.

Going down into the slick darkness, the visitors are told by Sailor Kaplin that 19 sandhog workers have been killed so far tunneling 40 stories under the city, digging 13 miles down from the Bronx under Manhattan and across, through the earth, under the river, to Queens.

All this work to help the millions of living above quench their thirst by way of an immense new subterranean water passage worthy of ancient Pharaohs but actually attributable to a string of 20th-century mid-level rulers named Wagner, Lindsay, Beame and Koch.

"We remember the men of Local 14, 15, 147 and Local 3 who sacrificed their life to this job," Sailor Kaplin says, citing fellow sandhogs in a voice that stabs at the dark like his flashlight as the visitors descend in the sandhogs' elevator cage, moving faster than the water trickling down the walls of the 400-foot shaft. The men have died mostly in separate accidents—falls, fires, rock falls—and so the sacrifices have gone unnoticed up above.

The visitors—10 men and a woman who, in their yellow coveralls and hard hats, resemble aberrant moths—are breaking the routine of their own work life, which is to write down and publish various labor-union newspapers. They are trying something new, putting aside typewriters and paste pots and going out as a group from their white-collar offices around the city to see what the actual work of union people can look like. These paid poets of labor are replenishing their senses, looking for the solidarity of labor back at the work site instead of the union hall.

It's all very interesting in a big labor town like this, where some union leaders can be seen lapsing far from the lunch pail into the three-martini lunch.

The visitors' spirits are high. One man donning his plastic outfit cannot resist singing, "Look for the union label." There are Taiwan tags in some of the apparel.

Descending 40 stories under Van Cortlandt Park in the Bronx, one visitor asks how the group, which is to visit various types of labor sites, will ever top this first one for danger.

"Oh, we're going to plan a really dangerous trip next, to a public school," replies Tony Ramirez, an editor with New York Teacher.

The laughter compensates for the lost daylight, and, as eerie as the tunnel is, the visitors are quickly taking serious note that the 300 sandhogs working there are accepting three-fourths scale in hours and pay, doing round-the-clock shifts of six hours each instead of the eight hours each that were usual before the city's fiscal crisis hit.

"We had 90 percent unemployment when the job was shut down because of the crisis," says Ed Cross, a union official, recalling dollar-rich days when 1,500 sandhogs worked in the water tunnel. "At least this way four men get a job instead of three."

Matt Doherty, an editor with the state's United Teachers who is president of the visiting Metropolitan Labor Press Council, is impressed. "I've been writing the fiscal crisis so long it's a series," he says, "and here's a big part of the story—the death of workers, the sacrifice in wages."

Chick Donahue, a big sandhog with a red mustache, welcomes the visitors below with the same spirit. "This is where I make my living," he says, standing in a hole 24 feet in diameter that worms off toward the dark under Manhattan.

In the immense cold sepulcher of the sandhogs, none of the visitors' questions and concerns sounds trite. There seems no place for cynicism as a string of glowing bulbs lights a frightening granite path downtown. The word workers are quickly resorting to the likes of "awesome" in describing this deep place, which has its own two-locomotive railroad hauling cement that is poured down like an endless poultice into the earth.

The visitors' pads and pencils seem beside the point as they toil in a huge control room carved five stories high and two football fields long, lined with more than 60 openings eight feet wide to hold giant flow valves.

"I hate to ask, but where are the valves coming from?" Harry Avrutin of the Central Labor Council's Chronicle inquiries.

"Japan and Austria," a sandhog replies.

"Yeah, the foreign countries bid cheaper than the U.S.," someone says in the shadow, and there is no discussion of why.

To ride the tunnel railroad, its steamy red lights flashing off giant tinfoil strips holding back water leaks in the ceiling and walls, is to get addicted to a vision knifing blackly, perfectly ahead: You can fantasize about Peenemunde as the train bleats along, but then Sailor Kaplan, 40 years a sandhog, starts talking American history.

"Can you imagine all this going on down here and only 200 years ago there was nothing—absolutely nothing—up above," he says, speaking more or less directly beneath Lehman College. He leads the group, sloshing through puddles bow legged and as confident as Casey Stengel, and imploring "you dignitaries"—he says the word like a friendly, slow joke—to press Albany and Washington for subsidies to get the tunnel back to full-time labor.

The visitors reassure Sailor that they will not soon forget this place and the sandhogs when they ascend to their colleagues in such unions as the garment workers, the maritime workers, the paper makers, the Catholic and public-school teachers and state labor's political-action committee.

Cameras flash up at buttress-like concrete molds, and at a man working plain and hefty with a pickax.

The man from the paper makers searches the darkness for his local angle. "How many ways do you use paper in this tunnel?" he asks.

A sandhog eyes the alien worker and says, "Not much." Then he quickly adds, "But you need water, a hell of a lot of water, Pal, to make paper."

The article indicates that the men got paid three-fourths of the money they were entitled to in hours and pay doing round-the-clock shifts of 6 hours each instead of the 8 hours each that were usual before the city's fiscal crisis hit. These men are working at a sacrifice in hours, a sacrifice in pay, and doing fine work for the city of New York.

HOLOCAUST ILLUSTRATED NEED FOR GENOCIDE CONVENTION

Mr. PROXMIRE. Finally, Mr. President, briefly, on one other issue, I was glad to read last week that a tremendous number of Americans, over 100 million, had the opportunity to see at least a part of the recent television production "Holocaust."

The story dealt in part with the plight of the Weiss family, which had been in the upper class of German society prior to Hitler's antisemitic campaign. By the end of World War II, there were only two survivors: Rudi Weiss and his sister-in-law, Inga.

Inga had been married to Karl Weiss, and I found his story to be one of the most compelling in the entire saga. From a Nazi work camp, he was sent to one of the nicer ghettos because of his artistic ability. But as a member of the artist community in that ghetto, he worked in secret on paintings of the Jews who had been starved, tortured, or otherwise tormented by the Nazis. He and his fellow artists believed that what they were going through was so horrible that no one would believe it had really happened, that no one could picture how truly terrible the crime of genocide was. They had to take great care to hide their drawings, though, for fear that the Nazis would discover them and destroy both the paintings and their artists.

But they were discovered, and Karl and his fellow artists were tortured by the Nazis in an attempt to discover the location of any other paintings. But the artists refused to talk. Karl stood his ground even though two of his fellow artists died. Karl alone survived, al-

though the Nazis crushed his hands to keep him from ever drawing again.

Sent to Auschwitz, though, Karl did continue to draw pictures of the holocaust. He and his fellow artists were so dedicated to the cause of letting people know how the Jews had suffered that they were willing to give their lives if necessary.

Today, we have not forgotten the sufferings of the Jews. For all time, the Nazi holocaust will stand as a chilling testimonial to man's inhumanity to his fellow man. Indeed, shortly after World War II, several nations worked together to write the Genocide Convention, a treaty which would make the commission of genocide an international crime. I am proud that this country took a leading role in the drafting of the treaty, and I am proud that President Truman saw fit to sign it in 1948.

The fact is that some 82 countries have ratified the Genocide Convention. It was introduced and sponsored originally by the United States. We have not ratified it, and we should. It is a shame that we have not. It has been supported by every President since President Truman, and supported enthusiastically.

We have had 30 years to act on it, and we should act. I believe that this country has been a world leader in human rights, and should be proud of that role. Surely, a treaty which seeks to guarantee the most basic of all human rights is entirely consistent with our philosophy, and 30 years is too long to wait for the Senate to act on this noble treaty. I urge the Senate to ratify the Genocide Convention as soon as possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

ORDER FOR THE RECOGNITION OF MR. DOLE AND MR. BARTLETT; AND CONTINUED CONSIDERATION OF THE NAVIGATION DEVELOPMENT ACT ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders are recognized under the standing order, Mr. DOLE be recognized for not to exceed 15 minutes, and Mr. BARTLETT be recognized for not to exceed 15 minutes; after which, the Senate resume consideration of the waterways bill.

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

ORDER FOR RECESS UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the convening time for tomorrow be changed from 10 a.m. to 10:30 a.m.

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

RECESS UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour

The motion was agreed to; and at 7:23 p.m., the Senate recessed until tomorrow, May 4, 1978, at 10:30 a.m.

NOMINATIONS

Executive nomination confirmed by Senate May 3, 1978:

DEPARTMENT OF STATE

Richard F. Kneip, of South Dakota, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Singapore.

DEPARTMENT OF JUSTICE

Sidney I. Lezak, of Oregon, to be U.S. attorney for the district of Oregon for the term of 4 years (reappointment).

CONFIRMATION

Executive nomination confirmed by the Senate May 3, 1978:

DEPARTMENT OF ENERGY

John Kenneth Mansfield, of Connecticut, to be Inspector General of the Department of Energy.

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.

WITHDRAWAL

Executive nomination withdrawn from the Senate May 3, 1978:

NATIONAL RAILROAD PASSENGER CORPORATION

Anthony Haswell, of Illinois, to be a member of the board of directors of the National Railroad Passenger Corporation for a term expiring July 18, 1981, vice Donald P. Jacobs, term expired, which was sent to the Senate January 26, 1978.

HOUSE OF REPRESENTATIVES—*Wednesday, May 3, 1978*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Let the beauty of the Lord our God be upon us.—Psalms 90: 17.

For the beauty of the earth,
For the glory of the skies,
For the love which from our birth
Over and around us lies:
Lord of all, to Thee we raise
This our prayer of grateful praise.

Our Heavenly Father, who has filled the Earth with the springtime of beauty and has thrown a mantle of green across the shoulder of the hills, open our eyes, we pray Thee, to see Thy gracious hand in all Thy works that rejoicing in the glory of Thy creation, we may worship Thee with joy and serve Thee with gladness. Give us the desire and the determination to bring the gift of gladness to others that with them we may bear the heat and burden of the day and offer Thee the praise of work well done.

In all of our trials and troubles help us to keep our trust in Thee that the joy of Thy spirit and the faith in our hearts may kindle joy and increase faith in the lives of the people of our country. Amen and amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 11504. An act to amend the Consolidated Farm and Rural Development Act, provide an economic emergency loan program to farmers and ranchers in the United States, and extend the Emergency Livestock Credit Act.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 11504) entitled "An act to amend the Consolidated Farm and Rural Development Act, provide an economic emergency loan program to farmers and ranchers in the United States, and extend the Emergency Livestock Credit Act," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. TALMADGE, Mr. MCGOVERN, Mr. ALLEN, Mr. HUDDLESTON, Mr. CLARK, Mr. DOLE, Mr. YOUNG, and Mr. HAYAKAWA to be the conferees on the part of the Senate.

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 Senate to the bill (H.R. 6782) entitled "An act to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotion."

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 1633) entitled "An act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ABOUREZK, Mr. METZENBAUM, Mr. MELCHER, Mr. BARTLETT, and Mr. MARK O. HATFIELD to be the conferees on the part of the Senate.