SPECULATION

In the sphere of business, all future-oriented activity is often called "speculation." The businessman who is building a plant or store speculates on future business conditions that will, he hopes, permit him to retrieve his investment. The merchant who places a purchase order for future delivery speculates on future demand for his merchandise. Even the young physician who chooses to settle in a certain community to build his practice speculates on the economic future of his community and the demand for his services. All lack the knowledge of things to come, but hope the future changes and developments will reward their present decisions. And they all are taking risks that flow from the uncertainty of the future.

But all such future-oriented activity has come under a cloud of suspicion. It is more popular to live in the present for instant gratification of wants and desires. Public policy promises benefits and services now—even at the expense of the future. He who steadfastly keeps his eyes on the future faces censure and condemnation as a "speculator." In a strange twist of terminology, the "now-generation" questions his motivation and denounces him as "self-centered" and "greedy," seeking profits from changes. Countless laws and regulations aim to seize his rewards and restrain him from searching for the future.

The conflict is as old as man himself. It arose on his first day on earth when he became aware of tomorrow. Was he to allocate his labors to the urgent needs of the moment or to the demands of tomorrow? The answer to this question provides an important explanation of wealth and poverty. Present-oriented societies linger in perpetual poverty, always living from hand to mouth, while future-oriented societies soon prosper and multiply. It also gives rise to great differences in individual income and wealth, which in turn breed envy and covetousness and bring forth countless schemes and policies toward a new redistribution. It makes the successful entrepreneur a favorite target of envy to present-oriented individuals who fail to comprehend entrepreneurial and speculative activity. Preoccupied with the present, and chronologically poor and always unprepared, they tend to suspect all those individuals who differ in outlook and lifestyle.

THE SCAPEGOATS

Speculation also upsets those politicians and officials who would like to direct society with "central planning." When some individuals shape their own plans and act independently of the central planners, it is "selfish speculation," "unplanned," "atomistic," "harmful," and "chaotic." When central planning fails dismally and inflicts great harm on countless victims, the blame is laid invariably on "speculators." When the stock market crashes and economic depression seizes the country, the speculators caused it. When the U.S. dollar falls in purchasing power and sinks to lower levels in world money markets, the speculators sold it. When central planning creates an energy crisis, the political planners denounce the speculators and impose more stringent controls on individual initiative. In fact, the speculator is depicted as the personification of all human vices and failings.

THE TWO SYSTEMS

Such diatribes merely reveal the great schism that separates the two conceivable systems of economic and social organization: the private property order with its individual freedoms and the command system with its political coercion. Man always must choose between these two modes of organization. For long periods of time he chose the command system under such labels as feudalism, mercantilism, fascism, socialism, or communism. But occasionally the Western man chose to be free and independent, unconfined by political limitations and controls. The history of the United States provides a splendid example of such an order.

The free order is also a future-oriented order, since it permits its members to save and invest for a better future. It liberates man from ancient restraints that shackle his initiative and creative energy. In a free society the future takes the deepest root, and is most discernible, in the plans and aspirations of the great entrepreneurs and geniuses of enterprise. Through their actions and provisions for the future, they greatly affect the daily lives of their fellowmen. Their names and exploits are familiar to most Americans. John D. Rockefeller, Andrew Carnegie, J. P. Morgan, and Henry Ford were dramatic leaders, bold and original, with visions of change and a better future. Under their leadership and that of many other exceptional men, the U.S. became the most productive country on earth in 1893, and American wage rates and standards of living soared to the highest levels in human history shortly before World War I.

Yet these men have become important symbols of an economic order that stands condemned in the eyes of many of our contemporaries. Textbook writers utilize them to illustrate personal greed and lust for power that allegedly characterizes the period of "unbridled capitalism." Contemporary literature censures them for the poverty and misery of their workers, from whom the great fortunes allegedly were taken.

We need not dwell here on the great achievements of those exceptional men who affected the economic lives of so many Americans. Nor need we analyze the motive powers that drove those men to such performance. Their motives probably did not differ from those of most other men in other ages and places. But we need to be mindful that their very appearance presupposed a climate of individual freedom that is rare in human history. Surely they were "unbridled" with political edicts and controls, confiscatory taxation and regulation, and many other manifestations of the command order. They were left free to try and experiment, to save and invest for a greater future. No matter what we may think of them as individuals, we must admire the society that set them free and let them create unencumbered by the strictures of envy and the demands of the moment.

NO MORE GIANTS?

Present-day Americans would never tolerate the exceptional man who creates new industries on the ruins of old production. There can be no Henry Ford in our present political economy. Under the influence of ancient ideologies, modern man is suspicious of individual freedom that gives rise to economic inequality. He uses his political apparatus of coercion to maintain and restore some measure of equality. His tax collectors seek to extract "unearned" individual income and wealth. And his numerous officials in a host of regulatory agencies seek to restore equality and provide equal opportunity through stringent supervision and control.

Under the influence of old prejudices modern man prefers to rely on political action rather than on voluntary cooperation. In the command order every individual is a wheel in a giant political machine and every sphere of his social life is politicized. And even where modern man has retained some democratic institutions, politics plays an important role in his life. Parliaments, originally set up to limit the profligacy of the rulers, incur huge expenditures on behalf of the electorate. To be the favorite of an envious multitude, a politician must be on their level. He must desire what they desire, yield to their prejudices, and substitute them for principles. Instead of enlightening their errors, he must adopt them. As a political leader he merely furnishes the sophistry that will defend and propagate them.

PURCHASING THE FUTURE

When he must choose between the needs of the moment and the demands of tomorrow, modern man opts for instant gratification of his wants and desires. He wants social benefits and services now through political redistribution and transfer. He preys on the richer members of his society, and when such revenues no longer satisfy him, he embarks upon massive deficit spending. That is, he consumes the savings of his more provident members. And finally, when their means no longer suffice to meet his insatiable demands for present benefits, he may consume his economic substance. In economic parlance, he may consume his productive capital, which previous generations created and left for him, and thus diminish the apparatus of production at the expense of future generations.

The future is purchased today. We have a number of choices. But all sales are final.●

SENATE—*Wednesday, July 12, 1978*

(Legislative day of Wednesday, May 17, 1978)

The Senate met at 8 a.m., on the expiration of the recess, and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

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

Almighty God, who has safely brought us to a new day full of promise and heavy with responsibilities—

"We bear the strain of earthly care but bear it not alone;
Beside us walks our Brother Christ and makes our task His own.

"The common hopes that make us men were His in Galilee;
The tasks He gives were those He gave beside the restless sea.

"Our brotherhood still rests in Him, the Brother of us all,
And o'er the centuries still we hear the Master's winsome call."

—OZORA STEARNS DAVIS, 1909.

O Master let us walk with Thee this day and every day until Thy kingdom comes.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 12, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

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

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Hawaii.

THE JOURNAL

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

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

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

AMATEUR SPORTS ACT

Mr. STEVENS. Mr. President, on July 6 a letter to the editor appeared in the Washington Post which expressed surprise and dismay at White House opposition to a $12 million proposal to support U.S. Olympic Committee national training centers and sports medicine programs.

This funding is authorized in a bill, the Amateur Sports Act, which has already passed the Senate and is now pending in the House Judiciary Committee. Howard Gorrell, author of the letter, is a spokesperson for the American Athletic Association of the Deaf and assisted in obtaining greater provision in the bill for the support and encouragement of programs for handicapped athletes. He is a tireless proponent of the Amateur Sports Act, because he knows what its passage can mean for American amateur athletes of all skills and ability.

I ask unanimous consent that the text of his letter be printed in the RECORD.

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

A $12 MILLION REQUEST FOR ATHLETIC FACILITIES

Responding to Nancy Scannell's articles on the proposed Amateur Sports Act of 1978, I was stunned by the White House's opposition to a proposed $12-million federal grant to finance the U.S. Olympic Committee's national training centers and sports medicine programs.

As a representative of the American Athletic Association of the Deaf (AAAD), I strongly believe that the Congress should not approve the Carter administration's request to delete the $12-million provision.

If the $12 million is deleted, you can imagine: A most promising young gymnast's dream about improving her ability is ruined when her parents turn down her suggestion—attending a development camp for gymnasts—because they could not afford to pay for her expense. The United States Olympic Committee (USOC) presently pays for expenses while at the training centers, and the $12 million will help to continue this practice.

Finally, my main concern is that the deletion of federal financial assistance could be a serious blow to sports organizations for handicapped athletes because it could delay the USOC in establishing its proposed coordinating agency for the handicapped owing to lack of funds. In the past, these organizations have received little or no attention from the rest of sports community because of funding problems. For the first time in many years organizations like the AAAD stand to receive official status and organizational assistance, yet this initial seed money is in jeopardy because of the administration position. For the first time in decades all the amateur sports groups have agreed on a course of action, so it is now that we need the administration behind us.

This one-time federal grant is essential to the successful implementation of the Amateur Sports Act, which affects not only elite athletes but also athletic participation by women, teen-agers, senior citizens and the handicapped.

HOWARD L. GORRELL,
Chairman, ad hoc committee, American Athletic Association of the Deaf.
ALEXANDRIA.

DEFER TO ALASKANS

Mr. STEVENS. Mr. President, recently the Albany Democrat-Herald printed an editorial entitled "Defer to Alaskans." The article pointed out that land can be preserved and wisely managed without turning it into a series of parks and wilderness areas where exploration and mining of minerals is prohibited.

Today 99 percent of Alaskan land is under Federal ownership. Federal law demands that the environment be considered. Before any activity takes place on Federal lands a myriad of Federal and State permits must be attained.

We live in a time of ever increasing energy shortages, in a day of ever increasing dependence upon foreign countries for energy supplies—does it not make sense to develop a balanced and rational land-use plan for Alaska national interest lands? I believe that sensible planning and regulation can reconcile the many allegedly conflicting land-use values. The issue is not all or nothing, it is not development versus conservation.

I urge this Senate to "defer to Alaskans," to closely examine the work of the Federal-State Land Use Planning Commission, the proposals of the Alaska delegation, the Governor, and those of the Steering Council for Alaska Lands.

I ask unanimous consent that the article be printed in the RECORD.

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

DEFER TO ALASKANS

The House has passed legislation that would turn a good chunk of Alaska into designated wilderness areas and national parks. Alaska's one member of the House and its two senators are strongly opposed to the bill, and the Senate leadership has said—wisely—it may not allow the measure to be passed this year.

The Alaska lands bill is said to be the top environmental priority of the Carter administration. But the reason is not entirely clear. There has been considerable rhetoric to the effect that Alaska—or much of it, anyway—should be preserved for future generations because it is the last American frontier.

But land can be preserved and wisely managed without turning it into a series of parks and wilderness areas where exploration and mining of minerals is prohibited. Those areas, for instance, could be included in the system of national forests that operate under a policy of multiple use. Or the lands could remain under some other form of federal land management that protects it while also providing for some exploration for minerals and mining.

We hear a lot about mineral, oil and gas resources running out in this country. So how does it make sense to lock up additional areas where those resources may be found?

Federal law already demands that the environment be considered in any significant action by the federal government, and this surely applies to the vast stretches of Alaska that are under public—that is, federal—ownership. Additional protection as wilderness or park land does not seem necessary.

Most of us, and that includes most members of Congress, have never been to Alaska. So it makes sense to defer to the judgment of Alaskans who have been selected to represent that state. The Senate evidently will do just that by refusing to pass this bill as long as the state's two senators oppose it.

Mr. STEVENS. Mr. President, I ask unanimous consent that Evon Zerbetz, of my staff, be granted the privileges of the floor today.

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

Mr. STEVENS. Mr. President, I have no further requests for time from the leadership, and I yield back the remainder of our time.

SPECIAL ORDER

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

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Alaska.

ALASKA LAND LEGISLATION

Mr. GRAVEL. Mr. President, yesterday I was talking about the legislation that I have introduced with respect to the Alaska lands issue, and I made reference and went into a fair amount of detail with respect to the land use planning process that I felt was very important.

I also made a statement that I was surprised that the environmental community had opposed this process, which I found very odd, because I had been under the impression that a reasonable planning approach was something very desirable not only to those who were sensitive to environmental and ecological questions in our society but really to everybody, because one cannot organize one's personal life without some degree of planning, much less try to organize all of the intricate facets that impact upon the human use of land.

I made the statement that the environmental community opposed it, so I wish to submit for the RECORD and ask unanimous consent to have printed in the RECORD, a statement by Jack Hession.

This is an extract, it is not his full statement, but it deals on page 17 with their opposition in principle to a proposal which involves a measure of State jurisdiction over Federal land. I was quoting that one sentence:

We oppose in principle any proposal which involves a measure of State jurisdiction over Federal lands.

It is most unfortunate, and certainly misleading, that he would make that statement, because under my proposal there is no loss of Federal jurisdiction over Federal lands. What happens is that the President would appoint four members to the commission, the Governor would appoint four members to the commission, and the President and the Governor would agree on a ninth member, who would be the chairman of the commission.

The commission makes a judgment on Federal lands, a decision, a finding of something for development or something for a nondevelopment situation, and that decision on Federal lands can be vetoed by the Secretary of the Interior.

If the commission, composed of Federal and State individuals, makes a finding on State lands, and the Governor disagrees, he can veto it. So what happens is that there is no loss of sovereignty, because the jurisdiction in question can exercise a veto.

But what happens in a de facto fashion is that knowledge and information gets in front of the power curve rather than in back of the power curve, so that when the commission, which has at its disposal a research capability, makes a decision, and the Secretary or the Governor chooses to override that decision, they are going to have to have compelling reasons, they are going to have to have additional information, which were at variance from what the findings of the commission were.

This means that knowledge and information will be placed at a premium above what we find today, decisions made in Washington involving Alaskan domestic affairs, which have no relevance to the situation that exists up there.

So with regard to Mr. Hession and his statement, stating that they are opposed in principle to a measure of State jurisdiction, what they are saying is that they are opposed in principle, not just to a measure of State jurisdiction, because there is no State jurisdiction. There is a knowledge jurisdiction which takes place in a fashion.

I have a great deal of respect and affection for this very fine young man, but he would espouse a view that I would compare to the Luddite attitude in the early 1830's in England. I think it is most unfortunate. I do not think in a debate in a forum of his choosing he could sustain that position. I do not think there are any reasonable people in this country who would be prepared to accept that it is good policy to make policy with a lesser quantity of information, knowledge, and wisdom than would be the case to make policy with a maximum degree of knowledge and information.

Mr. President, I ask unanimous consent to have this statement to which I have referred printed in the RECORD at this point.

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

STATEMENT OF JACK HESSION

FEDERAL/STATE COOPERATIVE PLANNING AND MANAGEMENT

This subcommittee has asked for views on the proposal by Governor Hammond for cooperative management of the State-owned Wood-Tikchik area and the adjacent federally-owned area. Although we have not had the opportunity to review the Governor's proposal, we understand that it is essentially a scaled-down version of his long-standing proposal for management by a Federal/State commission in lieu of placing certain national interest lands in the national conservation systems. We also understand that the Governor has now added the State-owned lands on the Alaska peninsula and proposes that the federally-owned Iliamna and Alaska peninsula lands be included as well.

Although we are very much in support of Federal/State cooperation in the planning and management of land in Alaska, we do not think the Governor's plan is the best way of achieving it. We think title XI in H.R. 39 which calls for an Alaska advisory coordinating council is a more appropriate mechanism.

We are opposed to the State's joint commission approach for two basic reasons. First, we oppose in principle any proposal which involves a measure of State jurisdiction over Federal lands. We strongly believe that Congress should retain the sole authority over the public lands as provided in the Constitution.

Under the Governor's "fifth system", as it is sometimes called, national interest lands and other public lands would be under the authority of a joint commission composed of an equal number of Federal and State members. These commissioners would be responsible for classifying and otherwise disposing of Federal lands. This fact alone is enough to cause us to oppose the State's plan. We think it would set a dangerous precedent for all of the public lands if Congress turns over even a limited amount of Federal acres in Alaska to such a commission.

Second, we have the benefit of nearly six years experience with the Federal/State Land Use Planning Commission, an advisory body established as part of section 17 of the Alaska Native Claims Settlement Act (ANCSA). The Governor's present proposal, along with other comparable proposals by members of the Alaska congressional delegation and Rep. Lloyd Meeds, is similar in its structure and essential features to the present commission.

Summarizing our experience with the commission, we find that over the years it has reflected the state of Alaska's interests, as put forward by two separate State administrations. As a key example, the commission's national interest lands recommendations call for a "fifth system" for the majority of the D–2 lands, and what Federal lands are recommended for the national land management systems are not given the degree of protection proposed by either the administration or the Alaska coalition. This is because the State administrations, which have appointed the State members and co-chairmen, have been adept at controlling and guiding the commission.

This guidance has culminated in this present session of Congress, where the commission has taken a strong advocacy role on behalf of the "fifth system." It supplied the major concepts and policy provisions for the H.R. 10888, the Meeds substitute to H.R. 39. It provided staffing for Rep. Meeds during the Interior Committee's mark-up. All signs point to a similar, even stronger commission effort on the Senate side.

We think the Alaska advisory coordinating council of title XI avoids the pitfalls of the State's "fifth system" proposal. In contrast to the State's joint commission, the council has *advisory* powers only; there is no classification authority over Federal or State lands. Instead, the Federal, State and Native representatives would promote voluntary cooperative planning and management agreements, identify areas where land exchanges are appropriate, recommend to Congress changes in public land policy and laws, and conduct studies relating to land and resources use in Alaska. We are convinced that only if cooperative planning and management agreements are voluntary will the interests of the various landowners be safeguarded.

Thank you for the opportunity to present these views.

Mr. GRAVEL. Mr. President, I ask unanimous consent to have printed in the RECORD this morning a resolution which I introduced yesterday, which I believe is a very moderate one as Members of the Senate become appreciative of this humble request, that the pressures will be placed upon the Energy and Natural Resources Committee to see that it is effected.

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

S. RES. 507

Whereas legislation now being considered by the Senate Committee on Energy and Natural Resources would designate new units of the National Park System, National Wildlife Refuge System, National Forest System, National Wild and Scenic Rivers System, and National Wilderness Preservation System, resulting in an aggregate of 172 million acres, or nearly 50 percent of the lands in Alaska, in such systems;

Whereas designation of these lands would have a profound effect on the economic future of the State of Alaska and the lifestyles of many of the citizens of that State;

Whereas field hearings are normally held in the case of legislation having such an effect on a particular region or State;

Whereas there have been no Senate hearings held in Alaska on the Alaska National Interest Lands Legislation to date: Now therefore, be it

Resolved, That it is the sense of the Senate that the Committee on Energy and Natural Resources should hold not less than five days of field hearings in geographically diverse regions of Alaska on the Alaska National Interest Lands, such hearings to be attended by the chairman and ranking minority member of such committee or the chairman and ranking minority member of the Subcommittee on Public Lands and Resources.

Mr. GRAVEL. When the statehood bill was before the Congress, we had extensive hearings within, at that time, the territory of Alaska. When the Native land claims was the subject of the deliberations in Congress, we also had extensive hearings within the State of Alaska. Now we find ourselves on this very important issue of Alaskan lands when it is something that only affects Alaska, though in point of fact it affects the Nation and the world, because Alaska is the treasure house of the United States of America, that this legislation in the Senate has not received one day of hearings within the State of Alaska.

The House, in meeting its responsibilities, decided to have five days of formal hearings, 10 different town meetings of a formal nature throughout the State of Alaska, and 10 days of onsite investigation.

Certainly, the Senate committee, which is attempting to begin markup, is derelict in its duty in not similarly holding a hearing in Alaska. It would serve little purpose to hold hearings after the fact. All it would underscore is a certain bias and prejudice which exists within the Congress. I say bias and prejudice, because on close examination the results of the vote in the House of Representatives in no way can be construed as a balanced decision by that august body.

What happened there with 277 votes to 31 votes was what we would call in theoretical parlance the tyranny of the majority.

When you associate tyranny, you associate a certain degree of ignorance or lack of information. Actually, that was the case in the House. It was an easy vote for a Member of Congress who was not prepared to vote the full measure of financial support to the Environmental Protection Agency and thereby incur the wrath of his environmental constituency. It was an easy vote for him to try to reingratiate himself with that community by simply voting on something that they expressed as being their No. 1 issue. So, if you vote for somebody's No. 1 issue, Mr. President, you do not have to vote for anything else that they want. You have satisfied their major demand.

In this particular case, it was so easy for a Member of Congress to come forward and vote on the Alaskan lands issue. First, he did not have to bother spending time getting information about the subject; second, Alaska is far away and he can be sure that generally within his immediate tenure of office of 4 to 6 years the results of his decision would not be visited upon his constituency. So it was an easy throwaway vote to placate one segment, and, in the balance of things, one radical segment, of the population.

That kind of policy, that kind of law, is just riddled with failures, difficulties, and injustices.

That is essentially what would happen in Alaska. There would be a great injustice perpetuated if we let this bill become law.

We only talk in terms in the environmental community, that they just want to protect some Federal lands in Alaska.

Well, that is only part of the problem. The way the land decision is strewn across Alaska it is pockmarked here and there pell mell across the entire horizon of this subcontinent. So we would take the equivalent of 172 million acres of land, pull it out of the normal human inventory, and put it aside. Some of it should be put aside. I would not quarrel with that. But what happens with the balance of the land in the subcontinent, the land that the State of Alaska will acquire, the land that will go to the Alaskan Natives, the 40 million acres? That also is pockmarked all over the State.

So we get the situation that whenever they want to utilize State lands, private lands, or Native lands, they are compelled to come back to Washington, D.C They are compelled to come back to the Department of Interior.

That does not sound too logical, to turn around and say that the State has statehood and, "We give you all the sovereign powers that go with statehood, but if you want to use the land we gave you in statehood you have to come back and petition the Secretary of Interior, hat in hand, and hope that he might have a balanced approach."

I would question that balanced approach under the present Secretary, for whom I have great respect, and who I think is doing a good job, except in one area. I think he is somewhat biased to the environmental community. This may have some benefits nationally since we have had biases on the other side. This is the other end of the pendulum. Unfortunately, this kind of situation exists, but that is the nature of human existence. It is not the ideal.

What it means for us is that during this type of a tenure Alaska will literally be brought to its knees; that we will not see any appreciable economic activity within the private and within the sector involving State sovereignty, mainly because individuals will have power to thwart economic activity across the entire horizon of Alaska.

This is unfortunate. I think we need but look at a map of land distribution to see the corridor where the Alaska pipeline is located. I might add that that is the only thing that this Congress, this Nation, has done to help solve its energy crisis. It passed the Alaskan pipeline legislation which, of course, occurred on the floor of this body, passing by only one vote.

That is the only thing we have done to contribute to the energy problem that has plagued us in an aggravated form since late 1973. We see that, just as a matter of convenience, there is a little parting on the map where land is not selected so they can let the Alaska pipeline through. But I think the conclusion is very clear: Had the Alaska pipeline not been in existence today and had the d–2 land decision been made under its present context, there would have been no room to build the Alaska pipeline south from Prudhoe Bay. In fact, I think the situation would have existed to have discouraged entirely any exploratory activity in Prudhoe Bay. So the Nation would have been denied this unusual resource, this great blessing, to contribute not only to our energy needs, but, to a much greater degree, to a soundness to our economic structure. So, when the environmental community talks in terms of the efficacy of their position, I hope some are mindful of the fact of what effect that position has on the economy, on the nature of inflation for their constituents, on the degree of unemployment visited upon the people as a product of inflation, as a product of the hemorrhaging of the balance of payments, which is a consequence of our petroleum shortfalls.

Those are the consequences, both in the short run and in the long run, of what would be an unbalanced decision that could well be made by the Congress were it not for the vehicle of the rules as a device to thwart the tyranny of the majority. I take the floor early this morning in order to continue my efforts to impede the deliberations and markup by the Energy and Natural Resources Committee. That committee is scheduled to convene at 10 a.m. today. As a result of the Senate coming in, that meeting will be illegal. My effort here is, whenever possible, to try to take the floor of the Senate so as to impair that committee's ability to treat that particular subject matter.

Mr. President, I should like to focus on some testimony that was received by myself and others with respect to a subject which I think many environmentalists like to distort. That is what has happened in Alaska with respect to oil and gas development and its impact on the environment. So often we hear placed in juxtaposition the viability and the health of the caribou with respect to what oil and gas activities have already taken place. So I should like to read into the RECORD the testimony of Angus Gavia, who is an environmental consultant of some note, who had been retained by Atlantic Richfield to make an assessment of the impact on the North Slope as to what happened with respect to the environmental question.

The material follows:

OIL AND GAS VS. CARIBOU

I am Angus Gavin, a Consultant to Atlantic Richfield Company on Environmental and Ecological affairs in Northern Alaska—specifically the Prudhoe Bay Region on Alaska's North Slope.

My background for this position comes from many years experience in the north coupled with degrees in both Zoology and Engineering. I have spent some seventeen full years in the Canadian Arctic doing wildlife research. Was General Manager of Ducks Unlimited Canada for twenty odd years and was responsible for the building of some 900 odd waterfowl projects during that time including the huge Cumberland complex in northern Manitoba. During my Canadian Arctic days I was lucky enough to discover the long sought nesting grounds of both the Ross and Tule geese on which I wrote numerous articles. I also researched, wrote and published *"The Birds of Perry River N.W.T."*, *"The Animals of Perry River N.W.T."* and *"The History of the Athabaska Delta"* on which I did considerable research for both the Alberta Government and Ducks Unlimited. In 1969 I was asked by Atlantic Richfield Company if I would undertake a study of the North Slope region of Alaska and provide the ecological input necessary to safeguard the wildlife during the exploration and development of the oil field at Prudhoe

Bay. These studies have involved inventories and migration patterns of the caribou using this region, their calving success, fly oriented movements, their reaction to human activities within the oil field, pipelines, roads, drilling rigs, generating plants, power poles, flow stations and all the other facilities that are necessary for the efficient operation of a large oil field. Waterfowl, Shorebirds, Hawks, Owls and all the other avian species that inhabit this area during certain times of the year have also been inventoried and their movements closely monitored. Populations of foxes, wolves, grizzly bear, polar bear, moose and lemming have been closely watched and their numbers recorded.

Baseline material has been gathered from an area of approximately 16,000 square miles around Prudhoe Bay in order that we would have the type of data so necessary for comparison between a non-developed area and one under development. Specifically, our surveys covered the region lying between the Colville and Canning Rivers and from the Brooks Range to the Beaufort Sea.

Studies of the area immediately offshore have also been undertaken. This has included all the islands lying offshore between the Colville and Canning River where several different species of birds come to nest. These include Eider Ducks, Gulls, Tern, Black Brant Geese and Snow Geese. A five year study entitled "Wildlife of the North Slope" has already been published as has also a report covering the offshore region. Both are available from Atlantic Richfield offices in Anchorage and Los Angeles. The offshore report includes a write-up on the Snow Geese colony on Howe Island which lies just off the mouth of the Sagavanirktok River This small colony of Snows started nesting on this island in 1971 despite the heavy volume of fixed-wing and helicopter traffic in the area at that time—they have come back each year since. This, by the way, is the only known Snow Goose nesting colony in Alaska. We have also prepared a nine year study entitled "Caribou Migrations and Patterns Prudhoe Bay Region Alaska's North Slope". This paper still needs some final editing before publication, but for the information of this Committee, I have brought along an in-house copy which I shall leave with you.

From our studies which are now in their tenth year, it is obvious that while there may be some minor disruptions to wildlife during periods of heavy construction, it is also quite evident that the two are compatible provided the necessary environmental and ecological safeguards are a built-in feature of any exploration and development in the north. This has been proven quite conclusively at Prudhoe Bay where caribou still come to calve and spend the summer—waterfowl and other birds have adopted the area pretty much as a sanctuary, showing little or no fear of man during the period of time they are in this area.

While the ecology of the north is often described as being very fragile, it is not so fragile that exploration for fossil fuels and minerals cannot be undertaken. Utilizing the knowledge available and observing some necessary restrictions during periods such as when caribou are calving and birds are nesting—even areas such as the Arctic Wildlife Range could be explored without causing any undue disturbance or disruption to wildlife.

Numerous studies have been conducted over the Arctic Wildlife Range in connection with some of the proposed gas pipeline routes and from those we have seen a fund of helpful information that is available.

SOME ASPECTS OF EXPLORATION AND DEVELOPMENT ON WILDLIFE POPULATIONS—PRUDHOE BAY AREA—ALASKA

In 1969 a series of studies were commenced in the Prudhoe Bay Area of Alaska designed to measure the impact of exploration and development on the wildlife that inhabited the area on a seasonal and permanent basis.

These studies included an inventory of caribou populations utilizing the zone lying between the Colville and Canning Rivers and between the Brooks Range and the Beaufort Sea. Emphasis was placed on the utilization by caribou of the area under heaviest development and what effect this development was having on their day to day and season to season use. Assessment of waterfowl and other avian species was also made over the same regions and the impact on their environment measured. Many of the other species of wildlife found within this area were carefully observed and recorded and full reports submitted covering their abundance or scarcity—their movements and fluctuations both outside the field and within the development area proper. From these many studies, which are now in their tenth year, it is quite evident that development in an Arctic Environment can be accomplished without undue disturbance or disruption to the wildlife of the area provided the necessary environmental and ecological precautions are taken.

An example of these precautions and their effects is illustrated by the caribou calving cycle occurring within the Prudhoe Bay Field proper. In 1970, when only a couple of drilling rigs were working in the field, our calving count showed that seventeen calves had been born in the twelve square mile area lying between the Kuparuk River and the Sagavanirktok River. In 1977, within the same area now highly developed with a complex of Base Camps, Flow Stations, Production Pads and gathering lines, a total of eleven calves were born. This despite the fact that the herd supplying animals to this area has gone down drastically in total numbers over the last few years, through no fault of any development but rather through disease, predation and over-harvesting.

Another example of harmony between development and wildlife at Prudhoe Bay was the starting of a Snow Geese nesting colony within sight of the field. This colony, the only one in Alaska by the way, established itself on Howe Island in 1971 despite a fairly heavy volume of fixed-wing and helicopter traffic in and around the area, which was not supposed to be conducive to waterfowl of this species becoming established. They have come back each year since 1971.

In most cases, critical times for the observance of development caution and restraint is during the calving period for caribou and the nesting period for avian species. The calving period for wild caribou, and this applies whether they are in Alaska or Canada is quite short, running from around May 25 to June 10th. There are the odd exceptions, but by far the majority of animals are born within these dates with the peak occurring around June 4–6.

Exploration in any region can be adjusted to coincide with times when the utilization of an area by wildlife is at a minimum or at times when disturbances are not critical to their well-being.

In the case of an area such as the Arctic Wildlife Range for example, exploration work could quite easily be carried out in the period of time from freeze-up through to the beginning of May without any undue disturbance to wildlife in this area. Caribou using the Wildlife Range move into Canada for the winter and return to the coastal section of the Range to have their calves and to spend the summer.

Studies done so far suggest that there is little difference between moose and caribou in their reaction and adaption to exploration and development. Moose calve somewhat earlier than caribou do and prefer a different habitat during much of the year, but both become adapted to development, provided the proper criteria for their protection and well-being is a built-in factor in any land utilization.

ANGUS GAVIN,
Consulting Ecologist.

That is the statement of a person, Mr. President, who spent 16 or 17 years in the Arctic.

Earlier, I stated that the vote in the House did not represent a balanced view of the membership of the House. I would like to read for the record an article that appeared, I believe, in the Christian Science Monitor, written by Peter Stuart. It is entitled "Environmentalists Sense a Backsliding."

I quote the article:

ENVIRONMENTALISTS SENSE A BACKSLIDING

Is the political environment cooling for the environmental movement?

After nearly a decade of rising clout in Washington, a series of recent setbacks in Congress, and even in the avowedly environmentalist Carter administration suggest the movement's influence may be slipping.

Foes of the environmental movement welcome the rebuffs as a return to "common sense and the rule of reason," in the words of one, while its friends deplore them as "wavering" and "backsliding."

But both sides tend to agree with an observation by Rep. James M. Jeffords (R) of Vermont, cochairman of the caucus of environmentally concerned lawmakers known as the Environmental Study Conference.

"All of us recognize," he said in an interview, "that the great momentum we had in the '70s has subsided."

The change in momentum may be temporary, but it is visible from Capitol Hill to the White House. The signs: Congress, despite the House of Representatives' resounding approval last month of an Alaska wilderness protection bill of top priority to conservationists, lately has dealt them a succession of reverses.

Both houses are moving toward watering down the strong 1973 law protecting endangered species, which has allowed the tiny snail darter fish to halt the opening of the $119 million Tellico Dam in Tennessee.

The House earlier this month killed funding for a presumably noncontroversial program to control toxic chemicals. Then it came within 38 votes (211 to 173) of cutting $133 million from the antipollution enforcement work of the Environmental Protection Agency (EPA) and just 13 votes (211–198) short of an across the board 2 percent trim in the budget of the Department of the Interior, the government's chief natural resources agency.

President Carter, who campaigned two years ago as an ardent environmentalist, found himself recently in the ironic position of being visited by a delegation of conservationist congressmen who questioned his commitment.

They share, with many private environmental leaders, a twinge of concern over some recent nominations, energy decisions, and suggestions by presidential inflation troubleshooter Robert S. Strauss that easing antipollution standards might help the economy.

Mr. Carter also this month proposed the first new water projects—anathemas to most environmentalists—of his presidency.

"There have been some bright spots," Representative Jeffords says of the environmental record of Mr. Carter, with whom he met earlier this week. "But he has made some bad mistakes."

The winds of personnel change on Capitol Hill blow ill for environmentalists. Retirements among House committee chairmen will lose them at year's end one of their most influential allies and elevate a longtime nemesis.

The surprise retirement of House health and environment subcommittee chairman Paul G. Rogers (D) of Florida, who helped shepherd through Congress tough clean-air and clean-water laws, "really hurts," confides one House conservationist.

So, environmentalists agree, does the impending rise to the chairmanship of the powerful House Appropriations Committee of Rep. Jamie L. Whitten (D) of Mississippi, who has long fought to cut funding for anti-pollution programs.

Why does the environmental movement, after years of political ascendancy, suddenly find itself on the defensive?

Apart from the quirks of congressional turnover, the movement is believed to have been caught up in two strong political backlashes—against government regulation and against government spending (what one House environmental aide calls Congress' "budget cutting binge").

To regain the initiative, Representative Jeffords advises better communication.

"We've got to get environmental issues articulated in a way that's more meaningful to people," he says.

He suggests that environmentalists start publicizing their positions with more specifics than vague ecological principles.

Mr. President, I read this into the RECORD merely to demonstrate the fact that the vote in the House was not representative. It was a device by Members to sort of make themselves whole, at the expense of Alaska, at the expense of a balanced decision in Alaska with respect to lands. It is most unfortunate that that is the case, but it is normal human nature that you take the line of least resistance; and making an environmental decision in Alaska certainly is the line of least resistance.

Mr. President, I should like to read into the RECORD a statement by Alan Epps with respect to wildlife management and wildlife impacts. I read from his statement.

Alaska National Interest Lands legislation is more than designation of land areas and designation of managing agencies. It also is establishing broad land use patterns which, in effect, mandate land management options. This is particularly true where wilderness designations may occur. Upon close examination, wilderness is a questionable land use when wildlife resources are viewed from a true management perspective.

First let's define wilderness and second, see how this fits into overall wildlife management within the Alaska context.

WILDERNESS

Section 4(c) of the Wilderness Act of 1954 provides:

Except as specifically provided, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this chapter, and except as necessary to meet minimum requirements for the administration of the area . . . there shall be no temporary road, no use of motor vehicles, aircraft, no other form of mechanical transport, and no structure or installation within any such area.

It is important to further recognize the following from "Selected Legal Memoranda" volume I, Federal-State Land Use Planning Commission for Alaska, January 1978 Commission Study No. 30 pages 20 and 21:

A Solicitor's Opinion in the Department of the Interior (74 ID 97, February 24, 1967) has determined that this subsection [4(c)] and subsection 4(d), allowing preexisting aircraft and motorboat use to continue, providing for continued prospecting and governmental inventory of minerals, continuation of existing grazing uses and other special provisions, do not apply to wilderness areas proposed within National Park or National Wildlife Refuge Systems, but rather apply only to those specific wilderness areas within national forests designated in the Act.

The result of this decision is that legislative proposals for Refuge Wilderness areas can contain management provisions by paraphrasing specific sections of the Wilderness Act, or adding other provisions necessary to properly administer the area as a refuge wilderness. Congress can always delete or amend these management standards. To date none of the legislative proposals for refuge wilderness areas in Alaska have included special management provisions. In fact, for the six refuge wilderness areas already established in Alaska, the Act creating them provides that wilderness areas designated therein "shall be administered in accordance with the provisions of the Wilderness Act governing areas designated by that Act . . ." (Public Law 91-504, 84 Stat. 1104, October 23, 1970.) Identical language appears in Section 5 of House Report 5422 now pending in Congress for designation of the Chamisso, Izembek, and Simeonof Refuge Wilderness areas.

And further on pages 22 and 23:

Even with specific legislative provision for incompatible preexisting uses and means of transportation there may be danger that courts will overturn such provisions as inconsistent with the overriding purpose of the wilderness Act itself. A recent case in point is *Isaak Walton League* v. *St. Clair*, (U.S. District Court, Minn., January 5, 1973, ERC 1864) which was addressed to the continuation of mining locations in forest wilderness areas until the 1983 cut-off date. The Court held that mineral rights should not prevail over wilderness objectives despite the specific provision for mining in the Act.

With the above as a basis, it appears reasonable to assume the strictest interpretation of Wilderness for the purpose of this discussion.

WILDERNESS AND WILDLIFE MANAGEMENT

Wildlife management in Alaska, has a number of distinguishing characteristics which must be recognized if wildlife are to benefit. Most key habitat areas are occupied only for a short time, a few days up to six to eight weeks, out of each year. These are the periods of nesting and rearing for sea birds and water fowl, caring for the ungulets, denning for the bears, spawning and hatching for fish, and fecding, hauling out and calving for many of the sea mammals. Most of these areas are nearly void of wildlife during the majority of the year, although some overlap occurs in some cases. During this period, the majority of wildlife, for which Alaska is noted, are absent from Alaska scattered, across the major oceans and continents.

(NOTE.—It is also during this period of wildlife absence when sound environmentally safe development of other nationally significant resources such as energy does and should take place.)

I want to emphasize the point that is being made: In the major part of the year, there is no habitat activity in the land in question; and, as stated, during that part of the year sound and intelligent human activity can take place.

Another feature (though maybe not distinguishing—certainly germane to this discussion) is the drastic "natural" changes in many of the habitats, both key and general habitats. Of major importance in Alaska is wildlife. Wild fire on caribou winter range renders it useless to caribou for 75 to 100 years. Wild fire in the climax taiga forest, on the other hand, begins anew the successional stages of the taiga ecosystem and creates new range for moose and many of the upland birds and fur bearers. Wild fire during late summer in the headwaters of spawning streams may predispose soil erosion which renders the stream unsuitable for spawning purposes, which would eliminate at least a generation of some species of fish from that stream. All of these impacts of wild fire (good and mostly bad) would simply run their course under wilderness designations. This is more likely to happen since even the use of chain saws has been questioned in wilderness areas in the contiguous states and the really only effective tools for fighting wild fire in Alaska have been either a D-9 Cat or fire reardent bombing from aircraft.

I think any reasonable person could expect that if a large fire, and we have that frequent occurrence in Alaska, were to take place and you would see hundreds of thousands and millions of acres about to be annihilated as a result of fire it would be preposterous to sit back and take the dictates of this kind of law where you would see the disappearance of wildlife and waterfowl to an impact of 25 or more years or to ruin what would be a very viable fishery that could support other areas of our wildlife population.

But according to this paper that is obviously what could be the eventuality of those who want to insist that an area be set aside that would have no intrusion of man at all:

Another natural phenomena which drastically alters some ecosystems is major tectonic actions (earthquakes) which result in large uplifts perpendicular to spawning streams, such as happened in 1964. Unless fish ladders are built around most of these hindrances (which would be prohibited under wilderness classification) the stream would no longer support a spawning population of fish and could eliminate an important food source for associated carnivors such as bears, eagles and land otters.

Most Alaskan resident wildlife species are subject to drastic cyclic variations in population. The lows are attributable to four major factors: predators (both man and other carnivors), over use of the habitat, disease, and weather. The first two, predators and use of habitat can be managed and regulated in non-wilderness areas so the optimum populations are stabilized. Within reason, some disease factors can also be managed under non-wilderness situations. Weather impacts are much more difficult to manage. However, in some cases such as heavy snow fall years, reduction of predators has increased the chances of large ungelet survival, but this would be possible only in non-wilderness areas.

Wildlife management has long employed wildlife enhancement and habitat improvement practices. These are sound management tools, which in the case of Alaska's migratory wildlife, such as waterfowl and anadromous fish, have an impact far beyond specific sites within Alaska. To eliminate these wildlife management practices in large areas of Alaska in the name of "Wilderness Preservation" requires that other states and nations are aware of the impact and are willing to accept less than optimum production of these migratory wildlife species from Alaska.

CONCLUSION

Sound ecological management of wildlife habitat is integral with proven wildlife management in the Alaskan environment. Wilderness designations removes habitat and

wildlife management options which have a proven past record of benefiting Alaska's wildlife, both resident and migratory. Wilderness, by definition, eliminates man's option to modify the environment beneficially as well as detrimentally.

"Wilderness species" is a blatant misnomer since wilderness is a sociological phenomena, not a biological truism. Wildlife species of Alaska are associated with habitat, not wilderness. Man's influence on managing wildlife habitat can only benefit wildlife in non-wilderness areas.

Mr. President, I have another statement here I wish to read and that is the statement of a person for whom I have great respect. His name is Walt Parker. He is one of the chairmen of the Federal Land Use Planning Commission, which I authored in 1971, which has done, in my mind, yeoman service producing a compendium of knowledge on Alaskan lands which permits the intelligent deliberations that are taking place today.

Mr. Parker has been involved in transportation planning and operations in Alaska since 1946 with the Federal and State governments and the University of Alaska. In addition, he has done extensive private consulting in the areas of transportation and telecommunications. He was a planning officer and a regional evaluation officer for the Federal Aviation Agency in addition to other duties for that organization. He was a transportation planning officer for the Federal field committee for development planning in Alaska. In addition to his present position as State cochairman of the Alaska Planning Commission he was commissioner of highways and the director of the technical staff for the State pipeline office. In marine transportation he conducted several studies on Alaskan ports and marine transportation while at the University of Alaska. He was chairman of the State of Alaska's oil tanker standards committee and also head of the Law of the Sea project while at the University of Alaska:

The problem to which we must address ourselves is the securing of rights-of-way for surface transportation across Federal, State, and private lands. Even though easements are being identified for local access needs across Native-owned lands, eminent domain should still be the preferred alternative for securing such access across these as well as other privately owned lands. In this instance it was necessary to overturn a thrust in the Federal government to establish such rights-of-way which originated in the BLM corridor study which was accomplished in 1974.

The Commission and the State have said over and over again that the situation in Alaska does not in the main permit the establishment of fixed transportation corridors at this time but must remain flexible enough to adjust to future needs. Within the context of the National Interest Lands, the question then becomes, are the existing statutes adequate for the Federal government, the State, and private interests to secure rights-of-way across those lands at some future time when needs develop? The answer to that has been impossible to extricate from the matrix of Federal land management which will exist in Alaska after the passage of the Alaska National Interest Lands Act. In simplistic terms, if very large acreages and large masses of national parks, refuges, and wilderness are created, it will be necessary to have some special system for transportation access; if park, refuge, and wilderness boundaries are discretely drawn to recognize future transportation access problems, then it will not be necessary to have a special system.

The best and most positive answer is to have a system which guarantees that the needs for transportation access will be recognized by a wholistic planning process in which the mission orientation of any one single Federal or State agency will not over balance the decision making process to an unreasonable extent. This is not too difficult if all parties have a good faith interest in insuring that Alaska's transportation needs are met. If some parties' only interest is insuring that there will be no expansion of Alaska's surface transportation system in certain areas, then of course it will be impossible to arrive at an equitable solution.

While the primary item under discussion today is access across National Interest Lands by Federal, State, municipal, and private interests in transportation; there is an equally and possibly even greater problem in securing Federal access across State and municipal lands. Many of the key areas for future transportation initiatives in Alaska will be controlled by the State and municipal governments. While Federal preemption is available to use in these cases, it is not Federal preemption by Secretarial discretion but by statute, as in the Trans-Alaska Pipeline Act. It is not likely that Congress will wish to concern itself with every transportation project. Therefore, it seemed that one pragmatic solution was to institute a stronger Federal/State relationship in overall transportation planning. This has been accomplished to a degree in that the regional agencies of the Federal Department of Transportation have signed an agreement with the Governor of Alaska creating a State/Federal Transportation Planning Organization. This Organization has been in operation on a formal basis for over a year now and is an effort to overcome one of the major existing problems, namely that there was no multimodal transportation presence by the Federal government in Alaska to match the State's multimodal transportation planning agency. The new Organization has a policy group composed of the Directors of Federal and State transportation agencies and Federal and State land management agencies.

As yet, it is still very much a fledgling institution and it is impossible to evaluate its effectiveness at this time. Certainly a stronger mandate from the Federal Executive at the national level or the Congress would be of benefit in insuring across the board adherence to this process by the Federal government. The Governor has, of course, already made such a commitment when he signed the agreement, as have the regional agencies of the Federal Department of Transportation. Hopefully, this Organization can be developed to lay a firmer planning basis under the present statutes governing transportation access and any changes which may be made in this legislation. We have recommended two major alternatives for handling the process. The first is to have transportation decisions which affect both Federal and State governments be reviewed by a future Federal/State land use planning commission. In this concept, the existing State/Federal Transportation Planning Organization would develop the concepts or projects which would then be reviewed by the commission who would make final recommendations to the appropriate Federal Secretaries and the Governor.

The second option would require a simultaneous filing of applications for a corridor with all interested agencies under existing law and with the Federal Department of Transportation. The next step would then be a full interagency review including the preparation of a coordinated interdepartmental environmental impact statement would involve a full scale analysis of the corridor request in the context of transportation planning principles and the Federal Department of Transportation would have priority responsibility for conducting the necessary transportation analysis. The process would also statutorily require full coordination of such transportation planning responsibilities among interested groups. Step three would require that each of the reviewing agencies (as under present law) would reach their independent decisions on the application reflecting each agency's statutory mandate. In the event that either the Department of Transportation or appropriate regulatory agency reached a "no" decision, the application would be denied and the applicant would have recourse to existing appeal process.

In the case in which the Department of Transportation and appropriate regulatory agencies reached an affirmative decision, if the land management agency reached a negative decision, the decision would be transferred to the President of the United States for arbitration. The virtue of this approach is that it presents the land management agency from also becoming a transportation planning agency as well. Where request must be made to Congress under existing law there is no intent in our recommendations to change existing law.

This suggested process may appear cumbersome but its merit is that it does force interagency conflicts to be resolved in a reasonable time. The experience of many people in Alaska, including myself, is that the existing system is not forcing timely decisions.

One problem is that the planning process does not influence the permitting process sufficiently. For example, the State of Alaska has been trying to secure site permits to rebuild existing bridges on the Taylor Highway for some four years now without success. This is in contrast to the construction of the Haul Road from the Yukon River to Prudhoe Bay which was also accomplished under the aegis of the Department of Highways utilizing generally the same personnel who have been involved in attempting to secure permits for the bridges on the Taylor Highway. In the case of the Haul Road from the Yukon River to Prudhoe Bay, we had a strong congressional mandate and securing permits for gravel from BLM was no problem. From the beginning of the permit application process until the completion of the Haul Road occupied the period from April of 1974 to October of 1974. As you remember, Congress exempted this project from the requirements of NEPA. I think that any fair observer would have to say that environmental constraints were at least as strict on this project as one under which NEPA requirements were met due to the stipulations developed in response to congressional requirements.

In summation, the problem with the present statutes is that they give individual agencies with their particular agency biases too much control over transportation projects which may have to serve an entirely different range of needs. If the capacity to analyze transportation needs in a thoroughgoing professional manner exists in the Department of the Interior, to the same degree it exists in the Department of Transportation, it has escaped my attention thus far. It is hard to develop any logical rationale why the land management agencies should build up such expertise rather than relying upon the transportation agencies to make the transportation decisions. Then the land management agency can apply and test their mission goals in surface protection, wildlife management, or other areas against the transportation decision.

The claim has been made that this would be a new and expensive level of bureaucracy. I see it rather as a reordering of existing positions and budgets to better accomplish certain goals in a coordinated comprehensive manner rather than approaching them in a fragmented manner. It calls for institution-

alized liaison between agencies rather than counting upon the single agency developed EIS, the A–95 process or similar tried and found wanting procedures presently in use.

The Federal Government should strongly consider its own future needs in transportation in Alaska. It is most likely that Federal energy initiatives will develop the major transportation needs in the future. Congress can solve these as it has in the past on a one at a time piecemeal basis, but even if Congress is involved in the decision it could probably respond better to decisions based on a coordinated transportation planning process. At another level, it is not reasonable to expect the tiny communities of Alaska to have to go through a convoluted single agency control process every time they need a transportation improvement. The process must work in a positive manner for these communities rather than in an advisory manner. This is the difference in perspective which is bought by transportation agencies which are trying to bring transportation projects to the public rather than by land management agencies whose normal biases is to control or inhibit such developments.

As the resources of Alaska are developed over the next century, the efficiency of the transportation systems which are designed to serve them in the relationship of those transportation systems to national, continental, and international systems will become of increasing importance. The benefits of a strong intermodal planning process which relates Federal and State agencies on an ongoing basis will, I think, become increasingly relevant in this context and the only regret we would have is that we didn't do it sooner.

Mr. President, I think this underscores very strongly the thought that without a Federal Land Use Planning Commission to adjudicate the interface that will, of necessity, exist between the 172 million acres that will be set aside under H.R. 39 and the 103 million acres that will be held by the State of Alaska, and the 40 million acres that are held by the native organization, without having the vehicle or the instrumentation to affect and diminish the frictions that come about through this interface, is really a diabolical plan to strangle any economic activity in the State of Alaska.

That is really the purpose of this legislation. That is really the goal of the national environmental community, to thwart economic development in the State. Otherwise, why would they be so opposed to a planning process between the Federal Government and the State of Alaska so as to effect a harmonious situation? That is the only conclusion I can draw from the situation.

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 (Mr. MATSUNAGA). Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I would like to read from the report of the Joint Federal-State Land Use Planning Commission for Alaska on the subject of cooperative planning, management, and organization.

The reason I read this is to demonstrate the efficacy of this process and how it would be such an intelligent addition to the mechanistic approach of Government.

I advocate very strongly, and have stated repeatedly, that the reason why I am opposed to the lands bill for Alaska is not so much because of the quantity of land that is taken, and in many cases I think it is absolutely gross in that regard, but because I think that we will miss an opportunity to set up a mechanism. My good friend, who is sitting in the Chamber right now covering the minority, well knows the intricacies, the sophistication, the technical requirements of our society, and how our Government structure is crippled with its inefficiencies and its inability to satisfy those technical requirements. When we have an age where an incident occurring in New Delhi, India, can be known to the general population in the United States seconds or minutes after it occurs, these are situations of which we must take cognizance as we develop and maintain our efforts for purposes of good government.

That is why I advocate and will continue to advocate that with respect to the land needs of Alaska, and the environmental questions which are raised in our invasion of that subcontinent, that now, today, we need planning mechanisms.

With respect to this report, I read the following:

With some five years of first hand experience, the Joint Federal-State Land Use Planning Commission for Alaska remains concerned about Federal-State, intra and interagency cooperative planning and management that occurs in Alaska. After staff work, investigation by a subcommittee, and intensive outside review, the Commission, at its meeting of September 15 and 16, adopted the following recommendations.

The discussion of the recommendation is divided into four parts. First, the basic reasons for cooperative planning and management; second, the reasons for a joint Federal-State commission; third, the powers; and fourth, the organization that such a commission would have. An appendix has been added to the report which translates the Commission recommendation into legislative language. A bibliography is also attached.

Basic reasons for cooperative planning and management in Alaska include:

1. There is a continuing State-Federal relationship. This did not begin and will not end with the disposition of the d–2 lands.

2. The land ownership pattern in Alaska is growing ever more complex as a consequence of the implementation of the Alaska Statehood Act and the Alaska Native Claims Settlement Act. Lands owned by the Federal government, the State, Native corporations, and other parties lie adjacent to each other in tracts of varying size which do not necessarily follow rational boundary lines. This intermixture of land ownership can easily jeopardize prudent management. A systematic approach to resources which are similar but owned by different parties must be initiated to insure consistent and complementary management.

3. Private and State lands may be the essential buffer zone for certain of the more sensitive areas in Federal control. In other cases, the Federal government will own and regulate the mountain tops while the valleys are in State control, or the Federal government will have the wild and primitive areas while State lands will contain the people. Cooperative management is essential to protect the commonality of interest and to protect the national interest.

4. Resources have been divided by mixed ownership across the surface of the land, and between the surface and subsurface. The State, for example, owns the bed of navigable waterways and tidelands, while the water column within the Federal withdrawals will be controlled by various State and Federal regulations and may be subject to claim under the Federal Reserve Water Rights Doctrine. Ownership of the land surface and the underlying minerals may also be split between private owners and Federal agencies.

5. Migratory wildlife, e.g., caribou, waterfowl, etc., require extensive habitat that will occur on all land ownerships. Habitat must be maintained, and movement must remain free if these species are to survive.

6. Even if parks or refuges are contained ecosystems to the extent possible, there will be elements of the ecosystem that cannot be contained in area boundaries. Protection of entire ecosystems, and the full use of new knowledge about those systems will require extensive cooperation.

7. Issues may have a local significance but are actually regional, statewide or national, and they must be approached from that perspective. These include: (a) Outer Continental Shelf programs; (b) Coastal Zone Management; (c) international fisheries management; (d) marine mammals; (e) energy development; (f) fish and game management; (g) transportation; (h) wilderness study; (i) research and (j) information systems.

8. The social, economic, and land use interweave is more fundamental in Alaska than in states with a more developed infrastructure. Any change can have an effect across the State.

9. National parks will become destination points for tourists. The State will be called upon to provide access and other infrastructure outside the parks. Close coordination and planning will be necessary to permit the State to provide these services without harmful impacts.

10. Ownership of land in Alaska is concentrated in government and corporate hands. Thus, there is no "grass roots" force to develop means of cooperation.

11. There are extensive federally owned areas in Alaska which remain largely in their natural state, and have natural values that are clearly of national inportance. Nonrenewable and renewable resources found on these lands are largely unevaluated, and their possible importance in meeting future national and international needs for energy, minerals, wood fiber, and food cannot be accurately estimated at this time. The existing Commission has recommended this area be placed in a new classification called Alaska National Lands. Decisions regarding these lands must be made cooperatively, within a national context over time.

Mr. SCHMITT. Will the Senator yield at that point?

Mr. GRAVEL. I am happy to yield.

Mr. SCHMITT. I could not help but reflect on this last point raised about the land use report and what the Senator had said earlier with reference to technological advancement. In a way, it appears significant—historically significant, anyway—that the impetus that came to the environmental concern of this Nation and the ability to do something about that concern was the result of having seen the earth from space. I am not going to say that the environmental movement was not strong and would not have grown stronger with time, but I

think that view of the earth as a single fragile-appearing globe in the blackness of space, circling its sun, did add a perspective that we really had not had before. It is not the perspective of seeing a mechanical globe sitting on your desk; it is the perspective of the real world.

At the same time, the technology that allowed us to get there in space is what provides us with the hope of doing exactly what was just read by the Senator; that is, evaluating in a nondestructive way both the renewable and nonrenewable resources of a remote area.

The satellite technology that allows us to remotely sense great portions of the resources of those areas is part of that picture. The communications technology that allows us to work with a variety of Earth-bound and airborne and space systems in order to make that evaluation is part of that picture.

The transportation systems we now have in order to put something like a drilling rig in, to get additional information without any significant destruction of any aspect of the ecosystem is part of the modern technology base upon which we stand to provide for the kind of program that the Senator, I believe, is discussing. That is, of compatible management of these lands, utilizing the good will and good offices of the Federal and State governments and other parties; but standing on that base of technology which exists now and allows us not only to preserve the environmental aspects of these lands, but, at the same time, allows us to use those lands in nondestructive ways.

So the Senator, I think, if that is the direction he was heading in his thoughts, certainly is on the same parallel path as mine.

Mr. GRAVEL. I thank my colleague. That is very much the case. In fact, I think the words, "space ship earth," really characterize my view, at least, as to the fact that we have a totality which must be intelligently managed. It is our technology, our science, our advances in these areas, our knowledge, that will permit us to do this intelligently.

The proposal that I have for a Federal lands planning commission is that we have an instrumentation, a vehicle, through which to acquire knowledge and have a body of knowledgeable people to implement policy on a continuing basis as problems occur. To me, that is the only way to address ourselves to an intelligent plan for existence on this planet as part of the planned ecosystem.

Mr. SCHMITT. I am not absolutely sure the land use commission is the only mechanism by which we can provide some rational structure to our use of land and its resources, and water and its resources. But I do feel as a Senator that the concept of a space ship is a valid one, although sometimes carried to an extreme.

We often hear the Earth referred to as a closed system. Well, it is not closed. It is a solar engine that is being driven by energy from the Sun and our puny efforts to add to that energy are just that.

The basic atmosphere of the energy of the oceans, of life itself, the fossil energy that we use far too wastefully today, all have been derived from the sun. In the final analysis, one can conceive of all energy on this earth as being solar derived. Certainly, the energy that makes it run on a day-to-day basis is from the sun.

Beyond that, there is a finite base of resource. There is an environmental resource system; there is a crew. There are all those aspects that make the space-ship analogy hold up quite well.

I think, again, in 1968, when Frank Borman and his crew of Apollo 8 had an opportunity to take those first television pictures of the earth and to bring back the beautiful color pictures of the earth from their journey around the moon, that did provide a major hiatus in the evolution of thought, if not the biological evolution of mankind.

SPECIAL ORDER

The PRESIDING OFFICER. The time of the Senator from Alaska has expired.

Under the previous order, the Senator from New York (Mr. MOYNIHAN) is recognized for 10 minutes.

Mr. GRAVEL. Mr. President, I ask unanimous consent that due to the personal absence of Senator MOYNIHAN at this moment and with the presence of Senator BARTLETT, that the orders be switched, that Senator BARTLETT be permitted to proceed for his allotted time at this point and that Senator MOYNIHAN may follow Senator BARTLETT upon the expiration of Senator BARTLETT'S time.

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

The Senator from Oklahoma (Mr. BARTLETT) is recognized for 10 minutes.

Mr. BARTLETT. Mr. President, it was my understanding that I had 20 minutes.

The PRESIDING OFFICER. It is the Chair's understanding that the Senator yielded 10 minutes to the Senator from New York (Mr. JAVITS). If that is not correct, the Chair will entertain a unanimous-consent request.

Mr. BARTLETT. I ask unanimous consent that I have 18 minutes and the Senator from New York have 10 minutes which, if my arithmetic is correct, would bring us up to 10 o'clock.

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

Mr. BARTLETT. Mr. President, let me change that unanimous-consent request to the distinguished Senator from New York (Mr. MOYNIHAN), rather than Mr. JAVITS.

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

Mr. GRAVEL assumed the chair.

MOBILE MISSILES AND SALT

Mr. BARTLETT. Mr. President, our present strategic nuclear forces consist of intercontinental ballistic missiles (ICBMs), submarine launched ballistic missiles (SLBMs), and manned bombers. Maintaining a balanced "triad" of ground, sea, and air-based strategic forces has been a basic structure for America's nuclear deterrent for many years. Each leg of the triad is understood to provide unique contributions to the triad while enhancing the strengths of the other legs of the triad, substituting for their weaknesses, and providing flexibility.

The land-based intercontinental ballistic missile (ICBM) brings to the triad a large number of accurate, medium-sized nuclear warheads at a relatively low cost. Nearly all of our ICBM force are constantly on alert, ready to be launched with little warning against targets approximately one-half hour's flying time away. Faster reacting than the bomber force and more flexible than the submarine launched ballistic missile force, our present ICBM force, the fixed base Minuteman II and III, are probably the most cost-effective leg of the triad. Unfortunately, the growth and modernization of the Soviet ICBM force calls into question the survivability of the fixed, land-based missile in the 1980's.

The submarine launched ballistic missile is the most survivable leg of the triad. It is also the least flexible and potentially the most expensive. In time of war, communications with our fleet ballistic missile (FBM) submarines is likely to be slow and uncertain. At any one time, a much smaller percentage of SLBM's than ICBM's are on alert. Reentry vehicles on submarine launched ballistic missiles have smaller nuclear yield and less accuracy than ICBM reentry vehicles. Alone the submarine-based ballistic missile force is an inadequate and uncertain deterrent not suitable for hard targets such as Soviet ICBM silos or dispersed hardened industrial sites

The manned bomber, once the entire American strategic retaliatory force, still carries greater destructive power than either of the other two legs of the triad. The bomber is also the most flexible weapon in our strategic deterrent. Bombers can be launched on warning or placed on airborne alert to show resolve. They can be directed to additional targets or they can be recalled. Once airborne, bombers are less vulnerable to surprise attack.

However, because manned bombers are too slow to initiate a disarming surprise attack, they are the most stabilizing leg of the triad. Bombers are also the only part of the triad which can be employed in a conventional war. Unfortunately, the cost of the bomber force is high, its alert rate is low, and it is vulnerable to air defenses as well as being destroyed on the ground.

Thus, the intercontinental ballistic missile complements the other arms of the triad quite nicely. However, the land-based missile force is unique for reasons other than its relatively low cost and very quick, sure response. They make clear to everyone, friend and foe, that an attack on American strategic forces would require an attack on the United States itself. This symbol of American resolve greatly enhances our strategic deterrent.

America's land-based missile force, the Minuteman II's and III's and Titan II's, will become increasingly vulnerable to attack by Soviet ICBM's in the early to mid-1980's. The Defense Department has

stated publicly that the anticipated strategic arms limitation agreement (SALT II) cannot prevent this occurrence.

Existing Soviet intercontinental ballistic missiles, when armed with extremely accurate reentry vehicles already tested, are all that is necessary, even though the Soviet Union has further improvements in development. According to one opinion, the Soviet Union might disarm our ICBM force and destroy a large number of our bombers and submarines at their bases, thus greatly crippling our retaliatory force. Under those circumstances, the United States might be deterred from launching its surviving bombers and SLBM's by the prospect that the Soviet Union, which protects its population with civil defense and antiballistic missiles, might launch a massive attack against American population centers. However unlikely this theory that our deterrent might be deterred by a strike out of the blue, the United States should not become too dependent upon a vulnerable ICBM force which could be a lightning rod.

This strategic nuclear instability in the mid-1980's must be redressed with immediate programs not just options—SALT II or no SALT II. Assuring the survivability of our ICBM force is no easy task. Further hardening of the protective ICBM silos will not work. Current Soviet ballistic missiles have sufficient accuracy to overcome any conceivable hard target. Ballistic missile defense (BMO or ABM) is possible, but with present technologies very expensive. Also, the Anti-Ballistic Missile Treaty associated with SALT I greatly restricts the number of ABM sites which could be deployed.

Of course, we could always launch our ballistic missiles upon warning of an enemy attack, but this would result in a very unstable nuclear balance. It would also require the development of expensive launch on warning technologies. Because of limitations associated with hardening, ballistic missile defense, and launch on warning, the Pentagon is presently looking at ways to make our ICBM's mobile or to hide their location. This effort is generally known as Missile-X (MX). The ultimate shape of the MX program will be determined by the answer to two questions:

First, how should our ICBM force be based in the future?

Second, what missile and nuclear mirved warhead should be deployed in a new, yet to be selected basing mode?

The United States has considered placing its ICBM force on trucks, railroad cars, barges, and surface ships. It has considered dropping them out of aircraft or placing them in lakes or even in deep gorges or ravines where they would be difficult to target. Last year, it looked as if our future ICBM force would be based in long tunnels. However, now it seems clear that our future ICBM's will be shuttled from shelter to shelter like the pea in a shell game in order to confuse Soviet military experts as to their exact location. This method of hiding the exact location of our intercontinental ballistic missiles is known as the Multiple Aim Point (MAP) basing system. Candidate missiles for the multiple aim point system include our present Minuteman III, the proposed Trident II submarine launched ballistic missile, and a new ICBM larger than the Minuteman, known as the Missile-X (MX). The MX program today includes both the selection of a new missile, the number and size of mirved warheads, and selection of an appropriate basing mode. Generally, a larger missile is considered more cost effective in the multiple aim point system, with the necessary size being determined by the Soviet threat. With or without SALT II, it is clear that the United States will need a multiple aim point system and a new large mobile missile to be developed and deployed as soon as possible.

The three most likely candidates for multiple aim point basing are the vertical shelter, the horizonal shelter, and the sheltered trench. The tunnel concept, which would carry the missile on a underground flatcar known as a transporter-erector-launcher (TEL), is now in disfavor.

The vertical shelter basing mode is essentially what used to be referred to as the proliferated silo approach. Later it was known as the austere silo approach to distinguish the proliferated aim points from hardened "launchers." Later, the word "silo" was dropped probably because of its historically close association with the word "launcher." The construction of additional fixed land-based intercontinental ballistic missile launchers is prohibited by SALT I and is expected to be prohibited in SALT II. The adoption of the name "vertical shelter" with emphasis on the word "shelter" is designed to emphasize that the multiple aim points are not in and of themselves "launchers."

For the vertical shelter, there is no transporter-erector-launcher, there is a "transporter emplacer." The missile is transported around on a truck which would erect the missile and then would lower it into the ground along with a protecting cannister which also contains the launch mechanism. It is anticipated by some that the cannister would be the "launcher" which would be limited at SALT, but not the holes in the ground or silos which serve to "shelter" the missile and its "launcher." Under the vertical shelter basing mode, the MX missile could be launched only from the cannister and only when the cannister is emplaced in one of the vertical shelters. It could not be fired while moving between shelters.

The horizontal shelter or "garage" approach to basing the MX would involve placing the MX missile sideways into horizontal shelters. To fire the missile, a missile launch vehicle would drive out of the shelter, would erect the missile and its cannister which serves as a launcher, and the missile would be ordered to fire. The missile launch vehicle itself, along with its missile, would be towed from horizontal shelter by means of a missile launch vehicle transporter. During the trip between shelters, it would not be possible to launch the MX missile even though the missile and its launch cannister are together.

The modified sheltered trench system would involve a covered trench which is relatively vulnerable to attack but which would have hard points either along the trench or on spurs to the side. The missile would be carried on a "transporter launcher" which normally would not be able to fire the missile except from one of the hard points.

Whatever basing mode will be selected and whichever missile and MIRVed warhead will be considered optimal, the MX program will be directly and indirectly influenced by the emerging Strategic Arms Limitation Agreement (SALT II). SALT II consists of a treaty which will last until 1985 and a protocol which will terminate earlier on a day which has not yet been agreed upon.

As reported in the press, the protocol would probably prohibit deployment of mobile intercontinental missiles. An analysis of multiple aim point (MAP) basing reveals that MX is not a mobile missile like the Soviet SS–16 and SS–20 which are free to travel over the landscape and fire from any point chosen. Mobile missiles like the SS–16 or 20 would probably use presurveyed firing points, but these points would not be readily identifiable. As now understood, missiles deployed in a MAP system could fire only from a limited number of fixed and identifiable points and could not fire while traveling between those points. In another sense, however, MAP missiles are clearly mobile. They move routinely from location to location and this movement would make it difficult for the Soviet Union to verify actual numbers under any Strategic Arms Limitation Treaty. Furthermore, if given the ability to fire from other than fixed points, then MAP missiles would truly be mobile missiles.

Whatever the peculiarities of multiple aim point ICBM's as mobile missiles, the United States has apparently conceded that MX will be categorized as a mobile missile. As such, it is reported that testing of the missile from its launcher would be prohibited under the SALT II Protocol, although apparently neither testing the missile nor testing the launcher would be prohibited. Such restrictions on the untested, greatly needed MX missile are difficult to understand in view of the already deployed Soviet mobile missile, the SS–20 which, with only one warhead can reach the United States.

Because the MX missile itself is not expected to be available during the lifetime of the protocol, it is argued that the protocol restraints on mobile missiles will not limit the MX program. Undoubtedly, however, the very initiation of restraints on mobile missiles would strengthen the hand of the Soviets and those who oppose development of the MX missile by raising the important question of whether or not we should be investing millions of dollars in full-scale development of a system which may be banned in SALT III or SALT IV or by extension of the protocol. Also a ban on mobile missiles might delay the earlier deployment of a mobile Minuteman missile as a MAP system.

MX may also be limited by restrictions on new types of ICBM's, whether these are contained in the Treaty or the Protocol. The Soviet Union is reported to have proposed that each superpower be permitted one new non-MIRVed ICBM as an exemption to this rule. Such an exemption would be of little value to the MX program since the cost effectiveness of the multiple aim point system requires large MIRVed missiles. The MAP basing mode requires the attacker to target a large number of points in order to be sure that it has destroyed nearly all of the relatively few large MIRVed missiles which are hidden and which are capable of devastating retaliation.

There is also reason to believe that the SALT II Treaty itself may prohibit the multiple aim point system. Apparently, SALT II will carry over the SALT I prohibition against the construction of additional fixed ICBM launchers. In the MAP concept, the "launcher" could be defined as the missile, or the missile cannister, or the missile transporter, or the missile shelter, or even the entire MAP system associated with each missile. What would constitute the construction of additional fixed ICBM launchers is unclear. Even if the Soviet Union were to agree that new silos or shelters could be constructed, they might argue that each such structure should count as a launcher under the SALT II limits. If this possible interpretation were accepted, the benefits of MX would disappear because each MX missile would count as 10 or 20 or 30 launchers under SALT.

The SALT II Treaty is also reported to prohibit reloadable launchers. This could be interpreted as providing a restriction on vertical and horizontal shelters and possibly even the trench or tunnel systems.

Most significant for the multiple aim point concept, however, is the SALT II prohibition against concealment and deception measures which interfere with national technical means (NTM) of verification. The pea and shell game approach to intercontinental ballistic missile basing will undoubtedly make it more difficult for the Soviet Union to verify by means of satellite and other technical intelligence the exact number of missiles deployed in a multiple aim point system. Verification by national technical means is probably possible, and measures for verification involving cooperation between the United States and the Soviet Union, especially involving onsite inspection, could make verification quite easy. Nevertheless, the issue of "interference" will undoubtedly be a sore point with the Soviet Union.

There are many other restrictions on the multiple aim point (MAP) approach which might result from a SALT II Treaty. Possible limits on the number of reentry vehicles (RV's) permitted on ICBM's could reduce the cost effectiveness of a MAP system. Restrictions on modernization of existing missiles could prevent the testing and deployment of a mobile Minuteman. Other direct limitations may also appear in SALT III and future Strategic Arms Limitation Agreement.

The indirect impact of SALT II on MAP missiles may be as significant as the direct impact. Lack of agreement with the Soviets on the legality and verification of MAP ICBM's would undoubtedly disrupt United States-Soviet relations and could become an argument against MX and/or MAP. Support for funding an expensive program like MX would be made weaker once it is recognized that the program might be banned by an extension of the Protocol or by adoption of its restrictions in SALT III. Certainly, it must be recognized that the United States might make significant future concessions at SALT III in order to justify not continuing restrictions on mobile missiles.

In summary, with or without SALT II, the United States will need a multiple aim point system sometime in the 1980's as well as mobile missile (M–X). The MAP system and mobile missile (M–X) would be banned for the duration of the SALT II Protocol might be banned or restricted by the SALT II Treaty itself, and probably would be the subject of efforts to continue its limitation in SALT III. Thus, there is a fundamental tension between the multiple aim point basing mode and MX on the one hand and SALT II on the other hand, which must be resolved before any treaty goes into effect. Resolution by this conflict becomes more interesting because the Senate will undoubtedly have to deal with both SALT II and MX decisions at approximately the same time.

On July 9, the Washington Post reported that Secretary Vance would discuss the multiple aim point system with Soviet Foreign Minister Gromyko. I think that it is important that the United States and the Soviet Union clarify the relationship of SALT and our multiple aim point system as soon as possible. Some people believe that ambiguity in SALT II would delay the MX missile program. However, I believe that an ambiguity as to whether the United States would be permitted to deploy a multiple aim point system would only serve to prevent the chances that the Senate will ratify SALT II.

SOVIET TRIALS AND AMERICAN TECHNOLOGY

Mr. MOYNIHAN. Mr. President, this is a moment of decision in the executive branch with respect to the U.S. response to the clear challenge presented by the Soviet Union in the form of a raft of treason trials begun there.

Nothing quite the equivalent has occurred since the commencement of the Moscow Trials in 1936.

There have been great trials and purges and barbarity of the worst kind in the Soviet Union in that interval but, often as not, concealed, and never since the 1930's used by the Soviets to accuse a foreign government—in this case the Government of the United States—of an effort to subvert the Soviet Government. Never, until now. As the Coalition for a Democratic Majority said yesterday in a statement on the matter, the Soviet Government is calling the President of the United States a liar. For the President has stated that Mr. Shcharansky is not an American agent; the Soviet Union has said he is, and they will find him guilty. His crimes, as one may learn in this morning's press, include the transfer of classified sociological information to the West.

Thus, it is a remarkable event we see in the Soviet Union—four political trials proceeding simultaneously, all defendants described with that tiresome Soviet rhetoric always directed against men of independent mind and strong character. To be horrified by the latest wave of political terror in neo-Stalinist Russia is nonetheless to recognize, sadly, that it is not new.

Now it may be said that the human rights activists make two points of consequence about the Soviet Union, one of relevance to them, the other to us. They tell us what life is really like in the totalitarian police state of the Communist type; they tell us of the fate of civilized values, of culture under such a system. But if this were all they had to say, their condition would still engage our moral sense, but what else? Our political sense is engaged because of another point the Soviet human rights activists make, one of immediate concern to us: The Soviet Union is a dangerous society, dangerous to us and to all the world's democracies. For the dissident movement in the Soviet Union is more than a plea for help from us; it is a warning to us. And, as such, it needs to be taken with utmost seriousness. The campaign for human rights inside the Soviet Union is thus of central importance to us, not a diversion or an irritant or an aberration.

The hostility of the Soviet Government toward the Soviet civil rights movement is a measure of Soviet hostility toward the United States. If the Soviet Government cannot tolerate the simplest expression of individuality, the smallest amount of individual creativity, the most noncontroversial expression of solidarity with Western values, then we must draw the obvious conclusion as to what the Soviets intend for any political or social order not under their control.

Now for decades the Soviets have proclaimed their unalterable hostility toward the West. Ought they to be taken seriously? These trials now underway make their intentions obvious. Thus, the trials, as I said earlier, are a challenge to us. In particular, they are a challenge to the American Government which has raised the issue of human rights to a new standing in world politics. It is the Government of the United States which has quite properly defined a government's attitude toward its own citizens as a measure of its attitude toward the rest of the world. Surely, by now, our administration must realize that the nations of the world—especially the Communist ones—will be far more impressed by what we do in support of declarations than by what we say.

How then should we respond? There are those within our own Government who—to put it plainly—wish to do nothing. Accordingly, they present for our consideration only the most exaggerated proposals so as to rule them out

in favor of nothing at all. Thus, they will argue that all that can be done is to cancel the SALT talks, but the SALT talks are of such overriding importance that they cannot be canceled. The inevitable conclusion is that we ought to do nothing and hope that the current wave of anti-American hostility passes on.

The problem ought not be put so starkly. Even with a decision to continue the SALT negotiations—and it would seem to me that the timing of the trials for the eve of the Vance-Gromyko meeting was meant as a direct affront to the United States—there remain other measures that can inform the Soviets that the American Government must be taken seriously. The transfer of American technology is one important area.

For some 6 years now we have engaged in the sale for the transfer of all manner of significant and important technology and materials to the Soviet Union. Under the rubric of "detente" the Soviets have been able to acquire a broad range of technical, industrial, managerial capabilities. We had thought that the sale of technology or even its free exchange under the guise of scientific cooperation would induce the Soviets to behave more civilly. In the fields of chemistry, energy, electronics, oceanographic research, agricultural productivity, we have supplied that which a stagnant Soviet economy could not provide—advanced technological competence.

American technology looms large in Soviet calculations. On June 27, the New York Times reported on a controversy within the executive branch about the proposed sale of sophisticated oil extraction technology to the Soviet Union:

> Government officials say that members of the National Security Council staff are questioning whether the United States should approve a proposed $144 million deal for the export by Dresser Industries of Dallas, Texas, of plans and equipment to manufacture high-quality drill bits. Part of the deal, the officials said, involving the sale of an advanced electron beam welder, has already been temporarily halted while White House aides discuss the issue with other agencies . . .
>
> The idea of imposing restrictions on oil-related sales is being challenged by officials in the State Department and in the Commerce Department who contend that a ban would result in business being lost to other Western countries and might further exacerbate the poor state of Soviet-American relations.

Intragovernmental disputes on matters of foreign policy are not uncommon. What is perhaps uncommon—but by no means unpredictable—is the persistence with which the opponents of these particular sales have pressed their case. A responsible administration official telephoned me and asked that I raise this matter publicly, which of course I am happy to do. That it is necessary at all, however, causes one to wonder. What is the source of the administration's reluctance to deny advanced technology to those who continue to show the greatest contempt for us?

At the best, I believe the answer is to be found in some fundamental misconception about the role of trade in the relations between states. It is a recurring misconception, but no less pervasive for that. Last June the Secretary of Commerce put it thus:

> . . . I am concerned with what I perceive to be a growing tendency for the United States to deny trade as a political gesture . . .
>
> Trade, most of you would agree, fosters closer cultural and political ties between countries . . .
>
> Commerce is the common language of the world's peoples. Where ideologies divide, commerce unites.

Unhappily for a commercial nation such as ours, the point is not affirmed by history. One notes, for example, that destructive wars have been preceded by expanding levels of trade. But the theory of commerce as practiced by the Soviet Union is a new theoretical and practical construct; it is a new way of doing business wholly at variance with our own tradition, and its essence ought to be better understood in our own Department of Commerce.

I have mentioned the importance of the Soviet human rights leaders as warnings to the West, and this particular warning was presented in a memorable address by Alexandr Solzhenitsyn to the AFL–CIO in June 1975. Solzhenitsyn said:

> * * * Lenin foretold this whole process. Lenin, who spent most of his life in the West and not in Russia, who knew the West much better than Russia, always wrote and said that the western capitalists would do anything to strengthen the economy of the USSR. They will compete with each other to sell us goods cheaper and sell them quicker, so that the Soviets will buy from one rather than from the other. He said: "They will bring it themselves without thinking about their future." And, in a difficult moment, at a party meeting in Moscow, he said: "Comrades, don't panic, when things go very hard for us, we will give a rope to the bourgeoisie, and the bourgeoisie will hang itself."
>
> Then, Karl Radek, whom you may have heard of, who was a very resourceful wit, said: "Vladimir Ilyich, but where are we going to get enough rope to hang the whole bourgeoisie?"
>
> Lenin effortlessly replied, "They'll supply us with it."

And Solzhenitsyn added another somber metaphor:

> * * * [I]f, in the frenzied competition of one company with another, they will continue to rush in loans and advanced technology, if they will present earth-moving equipment to our gravediggers, then I'm afraid that Lenin will turn out to have been right.

The Soviet Union does not share the values of commercial societies, does not accept the notions of rule or law or sanctity of contract, or limitations of state intervention, or any of the manifold philosophical notions which have informed the history of Western societies. Soviet interest in trade is practical, not ideological, and the Soviet propensity for American technology bespeaks an understanding of the superiority of the American material product, not the political one.

Yesterday, I spoke at a press conference with other Senators and Congressmen interested in the fate of Alexander Ginzburg, Solzhenitsyn's friend and comrade. Ginzburg's trial—and the others—coincides with the President's opportunity to deny to the Soviets certain products in which they are interested—the oil drilling equipment I have alluded to, and other advanced products as well. Senator JACKSON urged the President to act forcefully on these pending license requests, and I shared that sentiment. I wish to underscore that suggestion today.

Meantime, it is important that we return to the first principles of successful diplomacy. It is elementary that hostile policies of a foreign state should create, for that state, an element of risk. Otherwise, those policies will surely persist.

I recall that in 1975, when I was serving as U.S. permanent representative at the United Nations, the Soviets launched an aggressive policy in Africa, first evidenced by the introduction of Cuban forces into Angola. It was, of course, the same year when another of those periodic Russian crop failures obliged the Soviet Government to import large amounts of grain. One might have thought that the Soviets would have had enough respect for us to reason that they could have the grain, or Angola, but not both. But they got both, and therein can be seen the origins of the current Soviet notion that they can both violate the Helsinki Accords as they relate to human rights yet benefit from the Helsinki Accords as they speak of expanded trade.

It is clear enough once again. The President has before him a limited proposal, that he deny export licenses for certain advanced American technology. It is time—long past time—that we establish that the aggression we have seen in Moscow this past week is as dangerous to us as the Soviets' traditional geopolitical aggression, and that we will respond as if we understood the nature of what was being done to us.

Fred Ikle, former Director of the Arms Control and Disarmament Agency, and surely one of our country's most distinguished scholars of international affairs, spoke of the relationship between American technology on the one hand and totalitarian excesses on the other. In March of last year he said:

> If the rules of a nation deprive their people of individual liberties and human rights, they will inevitably impose a long-term handicap on the nation's technological and scientific creativity. But by transferring our advanced technology to these nations we remove that handicap from them. Thus, we unwittingly help these regimes to perpetuate the suppression of freedom.

This kind of "linkage" must surely be broken.

I wish to simply make two additional points.

First, it is clear that the administration is much divided, that advisers in the White House are very much against bending at this time—just as they would have been quite willing to see it go forward in the absence of these trials. They are reluctant to do so now.

It seems to me they make the right point, as against the State Department analysts who would have us suppose that we have a choice between doing nothing or breaking off the Strategic Arms Limitation Talks.

This is not the sole choice to which we are confined. We have a great many intermediate measures which would be effective in the message they would send and which would be understood in the Soviet Union.

Mr. President, I speak, I hope, from some experience, not vast, but I have negotiated with the Soviet officials and diplomats on three continents, and I have some sense, one hopes, of the matter. None of us can have any overwhelming confidence, but when we have some experience, we should use it for what it is worth.

The Soviets are trying to establish that the President's talk at human rights is solely for domestic consumption. This is a familiar enough phenomenon in the Soviet Union. Everybody in the Soviet Union knows what that means. Governmental hypocrisy is a pervasive reality of their life. And the way to establish that it is given to in the United States is to confront the United States and the President with the most egregious violation of human rights one can imagine and then establish that the U.S. protests this in words, but does nothing in fact. And once the Soviets establish there are no consequences, that nothing will happen, then they have established not merely that we will give in on one particular situation—which is not the most important thing for the Soviets, if I estimate them right. What is more important for them is to persuade their own people that they are seeing in the American Government a phenomenon they fully understand in their own Government—statements of high principle that are not really incant. No Soviet dissident must ever expect any help from the United States; it will not come.

I cannot but recall the extraordinary clarity with which Alexander Solzhenitzyn on June 30, 1975, in the first speech he made in the United States, invited here by the AFL–CIO, remembered a great exchange between Lenin and Karl Radek in which Lenin said:

> Comrades, don't panic, when things go very hard for us, we will give a rope to the bourgeoisie, and the bourgeoisie will hang itself.

But then Karl Radek said:

> Vladimir Ilyich, but where are we going to get enough rope to hang the whole bourgeoisie?

And Lenin said:

> They'll supply us with it.

And Alexander Solzhenitzyn rose and said:

> Don't, don't sell earth moving equipment to our grave diggers.

That is what Solzhenitzyn recalled on June 30, 1975.

And he also pleaded:

> Don't sell earth moving equipment to our grave diggers.

What more would you want to hear?

One last reference to this matter from both a scholar and a public official of great distinction, Dr. Fred Ikle, director of the Arms Control and Disarmament Agency in the last administration. In a speech he gave in March of last year he made the essential point about technology. He said:

> If the rulers of a nation deprive their people of individual liberties and human rights, they will inevitably impose a long-term handicap on the nation's technological and scientific creativity. But by transferring our advanced technology to these nations we remove that handicap from them. Thus, we unwittingly help these regimes to pepetuate the suppression of freedom

That is a linkage that is real, Mr. President. That is why the issue of human rights, and Univac computers, and Dresser drill bits are in fact inevitably linked. A society that suppresses free inquiry about politics does the same about physics. The Soviet Union is a backward nation in the realms of communication, speculation, and inquiry. And to the degree that we provide them the fruits of our technology to the Soviets, we provide them the fruits of a free political culture. It is not a question of appropriations of funds for research that has made for creative societies in the West. It is that a free society is creative. Political freedom and scientific freedom are not discontinuous. They are part of the same political, social, and scientific continuum.

So one would hope that the President would see in this an opportunity to establish a linkage which is innate, inevitable, and central to what ought to be our perception of ourselves and of the Soviets.

For the Chief Executive, it cannot be an easy one, and he will continue to have our respect and esteem whichever way he decides. But I would urge upon him one thought: there is nothing in the least inappropriate to associate the withholding of technological advantage from the West with the abuse of human rights in the East. We are surely not going to ease their abuses of human rights by providing them the fruits of the very creativity of our free society.

It seems to me that between the prospect of doing nothing and a profound step such as severing the SALT negotiations, this is an intermediate, moderate, and concrete course the President can take and I, for one, hope he takes it.

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

Mr. MOYNIHAN. I am happy to yield to the distinguished Senator from Maryland.

Mr. MATHIAS. I have listened with great attention and great interest to what the Senator has said. I think when the distinguished Senator from New York speaks he commands that kind of attention and respect.

Of course, I think there is great force to what he has said. But I am particularly interested in the point he made at least twice in his remarks, and that is that the way in which the United States deals with these very serious human problems, problems which do affect public opinion in the United States, as well as official sensibilities of the United States, need not disrupt the SALT process. That is a process which, by its cataclysmic character, stands in a different category from the other relationships with which we may deal with the Soviet Union.

I wanted to be sure that I did correctly interpret what the Senator said.

Mr. MOYNIHAN. The Senator has correctly interpreted my view, and it is only my view, but there are differences of consequence and extent and time that are involved here.

We know the Soviet regime to be a brutal regime. We are not learning something new. The Senator is correct. In my view, the SALT talks should not be broken off at this point.

Mr. MATHIAS. I certainly concur with that view.

Mr. MOYNIHAN. I thank the Senator and I thank the Chair.

COMMITTEE MEETING

Mr. GRAVEL. Mr. President, I ask unanimous consent that the Subcommittee on Permanent Investigations of the Governmental Affairs Committee be authorized to meet during the session of the Senate today Wednesday, July 12, 1978.

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

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on International Trade of the Committee on Finance be authorized to meet during the session of the Senate today to consider a resolution on continuing the President's authority to waive the Trade Act freedom of immigration provisions.

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

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

Mr. MOYNIHAN. Mr. President, will the Senator withhold that request for one moment?

Mr. TOWER. I will certainly withhold that request for my distinguished friend and distinguished fellow alumnus of the London School of Economics.

Mr. MOYNIHAN. I thank the Senator. Mr. President, I ask unanimous consent that the Committee on Human Resources be authorized to meet during the session of the Senate today to hold a hearing on S. 2910, the Health Services and Pregnancy Prevention and Care Act of 1978.

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

Mr. HART. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation of the Commerce, Science, and Transportation be authorized to meet during the session of the Senate today to hold oversight hearings on railroad freight car shortages.

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

MILITARY CONSTRUCTION AUTHORIZATION ACT, 1979

The PRESIDING OFFICER. The hour of 10 a.m. having arrived, under the previous order, the Senate will now proceed to the consideration of S. 3079, which the clerk will state by title.

The second assistant legislative clerk read as follows:

Calendar 778, S. 3079, a bill to authorize certain construction at military installations, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I suggest the absence of a quorum. And I ask unanimous consent that the time be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HART. 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. HART. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 3079.

Mr. HART. I thank the Chair.

Mr. President, I ask unanimous consent that Jim Smith, Phyllis Bacon, and Robert Old of the Committee on Armed Services staff be accorded the floor privileges during the consideration of the pending measure.

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

Mr. HART. Mr. President, the bill before the Senate, S. 3079, is the fiscal year 1979 military construction authorization bill. This is an annual bill which authorizes funds for new construction for all the military services as well as funds to operate and maintain the inventory of military family housing.

The Departent of Defense requested $4,247,089,000 in new authority to construct some 750 projects at 390 different active military installations, covering 49 States and 21 foreign countries, and to operate and maintain nearly 400,000 military family housing units. The Committee on Armed Services recommends that the Senate consider a bill totaling $3,998,432,000 in new authority which is a reduction of $249,377,000 from the administration's request. The committee has carefully screened this request and is recommending reductions and deferrals where this can be done without jeopardizing our national defense interests.

There are several points regarding the bill that I would like to highlight for the Senate.

ENERGY

Since I became chairman of the subcommittee responsible for reviewing this bill, I have placed emphasis on the potential for the Department of Defense to contribute to solutions to the energy crisis. There is tremendous technological capability in the Defense Department and we are striving to get some of that expertise directed toward the energy problem. The Defense Department is the ideal Federal "test bed" for demonstration efforts and for large scale buys of new devices (such as solar panels) to achieve market penetration, to bring down unit prices, and to foster public acceptance.

Through a special series of hearings we encouraged the establishment of formal communication channels between the Departments of Defense and Energy. Some progress is being made—but there is a strong, bureaucratic resistance within the Defense Department to devote resources—manpower and dollars—to the energy crisis even though the President has referred to the energy situation as the "moral equivalent of war" and the Secretary of Defense himself has termed the pending worldwide crude oil shortage as "the single surest threat to our national security." We have inserted some energy initiatives into this bill. For example, we have added section 610 that requires the incorporation of optimized solar systems in all new family housing units and in 25 percent of all other new facilities placed under design after this bill is enacted. The committee recognizes that this may increase the capital cost of new facilities, but we believe that this premium may result in accelerating the acceptance of solar systems by months or even years.

Application of life cycle costing methods will make this investment a wise one over the life of the alternative system.

CONSTRUCTION IN EUROPE

The committee is recommending substantial reductions in the Administration's request for construction of facilities in support of NATO in Europe. We are recommending reductions of $375 million from a request of nearly $650 million. In recommending these reductions, the committee takes issue, not so much with the requirement for these facilities, but with the question of who should pay for these facilities. The NATO infrastructure program, to which the United States contributes nearly $100 million each year, is designed to provide facilities in support of the NATO mission. Last year, fiscal year 1978, the Defense Department doubled its request for construction in Europe—from an average of $200 million for fiscal years 1975 to 1977 to $400 million—and the committee served notice in its report on the fiscal year 1978 bill that construction costs in Europe were largely an alliance responsibility and they should not be a unilateral U.S. burden. Despite this warning from the committee, this year the Defense Department request for construction in Europe went up to nearly $650 million. In addition, a report, indicating a construction backlog for U.S. forces in Europe of nearly $6 billion, was provided to the committee. I invite my colleagues' attention to a more comprehensive treatment of this subject in the committee report; basically, we are taking the position that the United States should not unilaterally fund U.S. construction requirements that support the NATO mission; they should be part of the NATO infrastructure program to which we will contribute our share, along with our allies.

BASE REALINEMENTS

After the hearings on this bill and during markup, the Defense Department announced another round of potential base realinements. Despite Defense assurances to the contrary, the committee identified over $40 million in projects at locations potentially impacted by the realinement announcements, and the facilities contained in that announcement. The committee had the option to either defer these projects or to provide contingent authorization. The committee chose the latter imposing a requirement in the report that none of the $40 million in projects could be obligated until a final base realinement decision had been announced and a revalidation of the project requirement was made in writing to the committee.

Mr. President, I feel that this is a good bill that deserves the support of the Senate. I do want to thank my friend and colleague, the distinguished Senator from South Carolina (Mr. THURMOND), who has provided outstanding assistance and support on this bill as the ranking minority member of the Subcommittee on Military Construction.

Mr. President, I ask unanimous consent that the correspondence which I addressed to Secretary Harold Brown, dated June 23, 1978, be printed in the RECORD.

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

COMMITTEE ON ARMED SERVICE,
Washington, D.C., June 23, 1978.

HON. HAROLD BROWN,
Secretary of Defense,
Washington, D.C.

DEAR MR. SECRETARY: I'm deeply disturbed to learn that the Air Force has decided to defer the construction of the avionics training facility authorized for Lowry Air Force Base in the Fiscal Year 1978 Military Construction Act at a cost of $3,380,000. I'm disturbed at learning of this deferral from the press rather than from Defense Department or Air Force officials. However, I'm much more disturbed that this action appears to be a political accommodation to the Illinois Congressional delegation which has been understandably vocal in their concern over the publicly announced study of the closure of Chanute Air Force Base.

As Chairman of the Senate Armed Services Subcommittee on Military Construction, having to deal with base realignment legislation and policy, I've emphasized in hearings and in private meetings with Defense officials that I support efforts by the Defense Department to achieve management efficiencies and economies through base realignments, consolidations and closures—if they can be justified—however, these actions are painful and efforts to mitigate adverse impacts are a must. I've also emphasized that realignment studies should be as objective and as factual as possible—without regard to politics.

Apparently politics dictated the recent Air Force decision to defer the Lowry project. Lowry Air Force Base has never been identified as a "candidate" or even an "alternative" for realignment by the Air Force. No mention was made in the April 26, 1978, Air Force announcement that construction activities would be curtailed or suspended at Lowry. It is my understanding that this decision was made only last week as a result of Congressional intervention.

As a Senator from Colorado, I must, of course, be concerned that Lowry Air Force Base does not become a political pawn. As Chairman of the Senate Armed Services Subcommittee that has jurisdiction over these matters, this action evokes broader concerns with Defense Department base realignment policy and procedures. I have appended a

list of questions on this subject which I would appreciate have your office address expeditiously.

Since serious policy issues are raised by this development, it may be necessary to defer Senate Floor action on the Fiscal Year 1979 Military Construction Act until these questions are clarified or until subcommittee hearings are conducted to determine whether amendments to base realignment law (10 U.S.C. 2687) are warranted.

Sincerely,

GARY HART,
Chairman, Subcommittee on Military Construction and Stockpiles.

Attachment.

DEFENSE DEPARTMENT POLICY ON BASE REALIGNMENTS

1. When and why was the decision made to defer the construction of the avionics training facility at Lowry Air Force Base?

2. Was the Defense Department consulted on this decision?

3. Is this decision part of a Defense Department policy to defer construction at all bases that are either "candidates" for realignment or have missions similar to "candidate" bases?

a. If no, why not?

b. If yes, provide a list of all other bases affected by this policy and indicate the specific deferrals that may be affected at such bases.

4. If it is not Defense Department policy to defer construction at "candidate" bases and bases with similar missions, perhaps it should be. Provide a list of all bases that are currently "candidates" for realignment and all bases that have similar missions (e.g., Chanute, Lowry, Keesler, Shephard, and Lackland; San Diego, Great Lakes, and Orlando, etc.). For each base indicate construction projects that are pending (authorized but not completed, include those only partially completed) indicating the status of each project.

5. Despite assurances from Defense officials during hearings that the Fiscal Year 1979 Military Construction Authorization request contained no construction projects at bases that were identified as "candidates" for realignment in the recent announcements, the Senate Armed Services Committee identified and "conditionally authorized" over $40 million for such projects. What is Defense Department policy with respect to requesting authorization for construction projects at "candidate" bases?

6. The action at Lowry suggests that the Committee should perhaps examine projects at bases whose missions are similar to "candidate" bases with a view toward either eliminating projects contingent on final realignment decisions and revalidation of project requirements. Provide a list of such bases showing projects authorized for each of these bases as included in the FY-79 Military Construction Authorization Bill reported by the Senate Armed Services Committee.

Mr. THURMOND. Mr. President, I rise in support of the pending bill, S. 3079, military construction authorization bill which authorizes spending of $3.9 billion for the 1979 fiscal year.

These funds are primarily for the Army, Navy, and Air Force with smaller amounts allocated for defense agencies, Reserve Forces, and family housing.

This bill represents a decrease of 6 percent from that requested by the administration, a reduction in dollar terms of about $249 million.

Mr. President, several features of this bill deserve special attention by the Senate. I would like to comment briefly on these features.

CONSTRUCTION IN EUROPE

The committee had made significant reductions in the administration's requests for construction within NATO in Europe. The United States over the years has done far more than its share in bearing the cost burdens of protecting Europe, but now we feel our NATO allies need to give more money and more attention to the construction deficiencies there.

While the committee fully supports NATO, and has demonstrated that support over the years, we feel more NATO resources should be applied to the construction shortages than has been the case to date. The United States has prefinanced many projects and NATO currently is about $300 million in arrears on NATO eligible projects. Hopefully, the committee decision will spur more attention from our allies.

BASE REALINEMENT

As the Members know, the Defense Department announced in April a number of possible base realinements throughout the country.

Generally, funding is denied all bases in such categories until a final decision is made. The committee supports this approach, but rather than remove the authorization, the committee decided to allow the funding contingent upon a decision by DOD that the particular facility will not be closed.

This approach enables much needed construction to go forward without an unnecessary delay once the base realinement decisions are completed.

ENERGY CONSERVATION

The committee has also undertaken to push numerous initiatives in the interest of energy conservation. These include encouraging the services to use recycled waste as a source of energy, to move away from oil and gas burning boilers and to conserve energy usage throughout the Defense Department.

Mr. President, this bill is within the budget guidance and I believe represents a sound and well-structured step forward in meeting the vital military construction requirements of our defense establishment.

I would like to commend our able subcommittee chairman, Mr. HART of Colorado, who guided this bill through hearings and markup. Also, I would like to compliment Mr. Jim Smith, Mr. Edward Kenney, Mrs. Jeanie Killgore, Marie Fabrizio Dickinson, and Phyllis Bacon, who have contributed much toward the work of the membership in developing this legislation, and I would like to commend the other members of the subcommittee who have done such a fine job on this bill.

I urge the Senate to give S. 3079 prompt and favorable consideration.

Mr. TOWER. Mr. President, I yield myself such time as I may require. I think there is very little that I can add to what has been said by my distinguished colleague from Colorado. I believe this has been a very carefully considered military construction bill. Senator HART and the staff have done a very workmanlike job. I particularly commend Senator HART for the very even-handed and statesmanlike way in which he handled the whole issue of military construction. He looks at everything very objectively and evaluates everything on its merits. That is, indeed, as it should be. Therefore, I believe we have a very fine bill which merits the support of the Senate, and I would hope there would not be any amendments that would involve any great substantive changes in the bill.

Mr. President, I support S. 3079, the fiscal year 1979 military construction authorization bill. This bill will provide for construction and other related authority for the military departments and the Office of the Secretary of Defense within and outside the United States, in the total amount of $3,998,432,000.

The nearly $4 billion recommended for authorization in this bill is about $250 million below the administration request. The committee made a number of reductions and additions in order to arrive at that particular amount. The majority of the reductions were made because the committee felt that there were higher priority items that warranted authorization. In this regard, the committee gave the services an opportunity to submit additional construction requirements listed in order of their priority, and the committee recommended many of these for authorization after making some reductions in the initial submission.

The committee also made substantial reductions in the administration's request for construction in Europe, primarily because we had some question as to who should pay for these facilities. Last year in approving a rather substantial increase for military construction in Europe, the committee cautioned the DOD that it should not expect to continue to receive increased authorizations for construction in Europe for facilities that were properly the responsibility of the alliance.

The committee position on this matter, which I support, is that the United States should not unilaterally fund any construction project in Europe, first, which is currently eligible for NATO infrastructure funding; second, which may become eligible for NATO infrastructure funding; or third, which in the opinion of the committee represents a high priority operational requirement that should be funded by the alliance.

Mr. President, the position of the committee is that NATO construction requirements should be provided through NATO sources from the alliance and that, for the United States to continue unilateral funding for construction, is really not in the best interest of NATO standardization and rationalization. At the moment, we are very heavily prefinanced in NATO infrastructure projects. In a sense, the United States has "prepaid" for various projects that really should have been paid by the alliance. In this regard, it could be said that the alliance currently "owes" the United States for about $300 million, and the fiscal year 1979 request would have added another $175 million to that total.

The committee believes that this practice should stop and it is really not in the best interests of the United States or NATO for the prefinancing practice to continue.

On a more parochial basis, I am pleased to note that the bill contains over $115 million for military construction at some 20 military installations in Texas. Most of these projects are being authorized for Army and Air Force installations, all of which had played a vital role in our national security system. In particular, I am pleased to note the committee added for the Army, barracks and dining facilities modernization ($7.1 million) and a tactical equipment shop ($2.3 million) at Fort Hood, and a quality assurance lab ($813,000) for the Red River Army Depot, and for the Air Force, an automotive maintenance complex ($2.2 million) at Lackland Air Force Base.

Mr. President, this is a bill that I believe meets the requirements of the Department and, at the same time, it does not contain any excess. All of the projects we are recommending for authorization carry a high priority within the Department of Defense, and they were examined very closely by our committee. I urge that my colleagues support this bill as reported.

UP AMENDMENT NO. 1408

(Purpose: To authorize exchange of Government-owned land in acquiring real property)

Mr. HART. Mr. President, I send to the desk a technical amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HART) proposes an unprinted amendment No. 1408:

On page 35, line 10, insert "exchange of Government-owned land," and "purchase,".

On page 49, line 18, insert "exchange of Government-owned land," and "purchase,".

Mr. HART. Mr. President, this amendment is technical in nature and has the support of minority.

For over 20 years the Military Construction Authorization Acts have included the authority for the military departments to acquire real estate by exchanging excess Government-owned land.

This year, for some reason unknown to the committee, that authority—to use excess Government-owned land to exchange for required real estate—was omitted from the legislative request submitted by the Defense Department. This omission was not made known to the committee until after the bill had been reported.

This amendment simply reinstates that provision giving the military departments the authority to acquire real estate by exchanging excess Government-owned land.

I would point out that, if this amendment is agreed to, this will be a conference matter and we will have the opportunity to challenge the Defense Department as to why this provision was omitted.

Mr. President, I ask for the immediate consideration and acceptance of the amendment.

Mr. TOWER. Mr. President, I yield back such time on the amendment as may be under my control.

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

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

MODERNIZATION OF NAVY SHIPYARDS

● Mr. CRANSTON. Mr. President, I support S. 3079, the military construction authorization bill for fiscal year 1979. The bill before the Senate is the product of meticulous examination by the Armed Services Subcommittee on Military Construction and Stockpiles, chaired by the able Senator from Colorado, Senator HART. The bill was reported to the full Senate on May 15, 1978, by the full committee, which is chaired by the distinguished Senator from Mississippi, Senator STENNIS.

The bill recommended by the committee contains many innovative provisions which deserve the support of the entire Senate; the requirement that the Department of Defense—a major consumer of energy—make use of solar energy in future military construction projects; improved security arrangements for nuclear and chemical weapons; and a requirement for DOD to seek increased participation in military construction bidding by minority and small business contractors. The bill before us also recommends a high level of support for the Navy's military construction program for modernizing its shipyards. It is this section of the bill on which I will focus my remarks.

Much naval shipbuilding, refit, overhaul, maintenance, and repair work for the U.S. naval fleet is done by commercial, private shipyards. However, naval shipyards owned by the U.S. Government and operated by the Navy are also maintained to provide quick response industrial work during peacetime and to insure sufficient capacity and capability to meet workload surges in the event of war or other emergency. All new shipbuilding is done at private yards.

According to a March 1978 General Accounting Office report, the eight U.S. naval shipyards have handled 68 percent of the necessary maintenance work over the past 5 years. In order to retain this important capability, the Secretary of Defense in 1970, directed the Navy to begin a 10-year shipyard modernization program, since many of the shipyard facilities and equipment were obsolete and inefficient. The 10-year plan developed at that time has since been revised. The new 10-year plan for fiscal years 1977 through 1986 is estimated to involve an investment of over $1.3 billion. Under the present plan, substantial improvements will be made to two California naval shipyards: at the Mare Island Naval Shipyard, the Navy projects an investment of $203.7 million and the Navy expects to fund improvements valued at $206.7 million.

For this third year of the revised 10-year plan—the fiscal year 1979 budget—the Navy had planned to request for several projects at the two California shipyards. At Mare Island, the budget was expected to include funding requests totalling $24.497 million, broken down as follows: $3.6 million for energy monitoring and control systems; $5.9 million for a new paint and blasting facility; $297,000 for plating shop alterations; $9.5 million for a new service group complex/rigging shop; and $5.2 million for the north waterfront work facility. In the process of OMB/DOD level review of the Navy's plans for fiscal year 1979 the administration elected to defer Navy's request for funding of the latter two projects—the service group complex. rigging shop and the north waterfront work facility. Funding was requested for the other projects and the bill before us recommends those funds be authorized.

Similarly, for the Long Beach Naval Shipyard, the Navy planned to request in fiscal year 1979 funds for two projects as part of the modernization program at that shipyard: $900,000 for a seawall to protect from flooding industrial property valued at $200 million; and $6.7 million for a new pipe shop. The administration did include in its request to Congress the funds for the seawall but deferred the pipe shop funding.

The House Armed Services and Appropriations Committees and the Senate Armed Services Committee have recommended that Congress approve some of the deferred projects for fiscal year 1979. And, in the case of the House, funds have been authorized and appropriated accordingly. The pipe shop for the Long Beach Naval Shipyard has been added back by both the Senate and House Armed Services Committees and by the House Appropriations Committee. The House bills have both been passed. I am encouraged by the substantial support shown for this much-needed improvement.

However, the House and Senate disagree on two other projects—the service group complex/rigging shop and the North waterfront work facility for the Mare Island Naval Shipyard. It is these two projects I would like to discuss with the Senator from Colorado, as they will be items in the House-Senate conference on this bill.

First, as the Senator knows, the House added back the $9.5 million for the Mare Island service group complex/rigging shop project. These funds would be used to consolidate the functions of the rigger and laborer shop and the temporary

service shop which are presently dispersed among 26 different buildings. Not only does this dispersal result in inefficient work, but some of the buildings are seriously deteriorated and in violation of health and safety regulations—3 are condemned and 17 are substandard and deficient in the very characteristics needed to complete the necessary work. Thus, construction of a new facility and alterations to other buildings should be a high priority.

Further, deferral of this project would have a domino effect on efficient completion of the phased modernization program at the Mare Island yard as a whole. One of the sites to be vacated as part of the service group complex project is needed for a follow-on improvement pipe shop project.

Finally, the Navy states that design work on the service group complex/rigging shop is due to be completed in October 1978 and a contract award could be made by January 1979—well within fiscal year 1979.

Therefore, I urge that the Senator from Colorado and the other Senate conferees give careful consideration to the House position authorizing this project in fiscal year 1979.

Regarding the second project—the proposed north waterfront work facility—I note that the House authorized but did not appropriate the $5.2 million necessary for this project. And, in the bill before the Senate, the Armed Services Committee has not included the project.

I understand that the Senate committee decided not to recommend the additional authorization for this project to the fiscal year 1979 budget because the projected contract award date has been delayed due to siting problems. However, these problems are expected to be resolved shortly and I look forward to supporting this project in the fiscal year 1980 military construction authorization bill.

Mr. HART. I thank my good friend, the assistant majority leader, for his kind comments and his support of this bill.

He has discussed the matter of naval shipyard modernization—a subject that has been of high priority to my subcommittee. Until a few years ago, our Navy shipyards were operating largely with World War II technology and facilities. Anyone who has visited a Navy shipyard recently can see that significant capital investment is being made to improve and replace facilities to make the public shipyards more efficient. This, I think, is money well spent.

In specific reference to the Mare Island projects discussed by the Senator from California, the Armed Services Committee did not feel that they were of sufficient priority to warrant adding them to the budget. In the case of the rigging shop project, as the Senator mentioned, it will be a conference item, and we will give it every possible consideration within the constraints of available dollars. I appreciate the Senator's understanding on the waterfront facility which has experienced siting problems—I expect it will be a budgeted project for fiscal year 1980.

Mr. CRANSTON. I thank the Senator from Colorado for his consideration and his time, and again commend him on the fine work of his subcommittee as is evident from the bill before the Senate today. In closing, Mr. President, I urge my colleagues to join me in supporting S. 3079, the fiscal year 1979 military construction authorization bill.

● Mr. HATHAWAY. Mr. President, I very much appreciate the work of the Committee on Armed Services with regard to the 1979 military construction authorization measure, the Senate report of which is now pending.

I particularly appreciate the efforts of the Subcommittee on Military Construction and Stockpiles ably chaired by the Senator from Colorado (Mr. HART) with respect to the language regarding base realinements contained in the pending measure.

As the Senator from Colorado knows, I cosponsored section 612 of last year's military construction authorization measure now codified in section 2687 of title 10 of the United States Code. Section 2687 requires the Secretary of Defense, before a base closure is carried out, to submit to Congress a detailed justification for his decision, including statements of the estimated fiscal, local economic, budgetary, environmental, strategic and operational consequences of the proposed closure or realinement. A period of 60 days must be afforded Congress to evaluate the base realinement decision, and no action may be taken to implement the realinement decision during this period.

I believe that section 2687 is an important step in giving Congress a basis on which to review military installation realinement decisions. However, when the Defense Department recently announced a major round of new base realinement proposals, I again expressed concern that Defense Department estimates in regard to base closures are deficient in two critical areas.

First, in the area of cost savings to be realized from any base realinement, the Defense Department tends to overestimate the amount of money that will be saved in closing or reducing a military installation. For example, the Defense Department estimates that it will save $17 million over 5 years by an 83 percent reduction at Loring Air Force Base in Limestone, Maine. The Save Loring Committee, on the other hand, after thoroughly analyzing the cost to all Federal agencies of closing Loring, estimates that it will actually cost the Federal Government $133 million over a 5-year period.

The second major area in which Defense Department estimates are deficient is that of assessing the local economic impact and dislocation that will result in communities experiencing base closures or reductions.

President Carter himself acknowledged this deficiency in regard to Loring Air Force Base when he ordered the Secretary of Defense to reevaluate the impact on the local economy of closing Loring.

The General Accounting Office has also stated that greater credibility and reliability for Defense Department cost estimates for base realinements could be accomplished if outside experts were used to assess the economic and other impacts that base closures will have on affected communities and on other Federal agencies that support communities.

In a recent letter Elmer Staats, Comptroller General of the United States, states:

> . . . Our experience in reviewing some 30 proposed closures over the past 3 years has shown that the Department of Defense analyses are generally restricted to measuring impact only in terms of funds appropriated to it and do not include the estimated costs of other Federal departments and agencies. In our view, the analysis and estimating expertise at the Departments that will be affected, such as the Departments of Labor; Health, Education, and Welfare; Commerce; and Housing and Urban Development, should be used in measuring the overall economic and community impact of defense closures and realinements.

Given these deficiencies in Defense Department analyses of base closures, I would like to ask Senator HART if his committee, in monitoring the current round of base realinements, would give special attention to these two critical areas—that is total costs to all Federal agencies in any base realinement, and the local economic impact that is likely to result from a base realinement.

On a national level, many of the base realinements proposed by the Defense Department may be justified, but before Congress consents to any major base closures or realinements, it should have a realistic, credible and reliable estimate of the costs and savings to be realized, and the local economic impact on communities affected by such closures or realinements.

Mr. HART. Mr. President, I assure the Senator from Maine that I share his concern regarding base closures and realinements. We will, indeed, pay close attention to the two areas that the Senator has raised. I applaud the Defense Department for seeking economies in its budget by examining consolidations and management efficiencies; however, base realinements are traumatic—people's lives are affected—and I want to be sure that they are fully justified before they are carried out. And even if they are justified, the Federal Government has a responsibility to make all realinements as smooth and as "painless" as possible.

I think we have made significant progress in this area in the last year. As the Senator mentioned, we did enact into law section 612 which requires public participation in the decisionmaking process and increases congressional oversight without infringing on the prerogatives of the executive—and I thank the Senator from Maine for his efforts in drafting the original legislation as well as his continued attention to this matter.

I also advise the Senator from Maine and my other colleagues that President Carter, in March of this year, signed a new Executive order to bring to bear the resources of all executive departments and agencies in assessing possible realinement actions and in mitigating the adverse impacts that are inevitable when final realinement decisions are made.●

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant clerk proceeded to call the roll.

Mr. STEVENS. 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. 2463

Mr. STEVENS. Mr. President, I have an amendment No. 2463, which I call up and ask to have considered.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2463.

Mr. STEVENS. 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:

Insert the following new section at the appropriate place in the bill:

SEC. Public Law 95-82, is amended under the heading "AUTHORIZATION TO CONSTRUCT OR ACQUIRE HOUSING" in section 101(c) with respect to Naval Station, Adak, one hundred units, strike out "$8,500,000" and insert in place thereof "$10,500,000".

Mr. STEVENS. Mr. President, in late May, I was informed by the Department of the Navy that additional funds would be required to construct the 100 units of family housing at Adak Naval Station which were approved last year. At that time, the Committee on Armed Services had completed action on the fiscal 1979 authorization bill so they did not have the opportunity to consider this project in committee.

The Navy received five proposals for Adak based on prefabricated designs. Initial indications are that an additional $2 million will be required to construct these units. As this amount exceeds the 10-percent leeway provided for family housing cost adjustments, an additional authorization is required. The Navy has indicated that no additional funds need be appropriated as the increased authorization would be funded from prior year savings on other construction projects.

The requirement for these units at Adak has been revalidated and I am convinced that every reasonable course of action has been followed to obtain the lowest cost family housing units which will meet the need at this remote site.

I believe that the chairman and ranking member of the Military Construction Subcommittee are familiar with the situation at Adak. It has been indicated that they may be able to support this amendment. I should be pleased if they would do so. It does add $2 million to the authorization for housing under this bill.

Mr. HART. Mr. President, if I may clarify this matter with the Senator from Alaska, in his statement, he emphasized that no additional appropriations will be required under this amendment. Is that the understanding of the Senator from Alaska, to the best of his knowledge?

Mr. STEVENS. I say to the Senator from Colorado, who managed the bill, that I have been informed by the Navy that no additional funds will be necessary. I am the ranking Republican on the Appropriations Subcommittee and I believe that that statement that we have been given by the Navy is correct. Under the law, they are allowed to go 10 percent above the authorization. In this case, the $2 million is in excess of the 10 percent for the 100 units involved.

My answer to the Senator from Colorado is that, based on the information we have from the Navy, there will be no additional appropriations required. There is an additional authorization required.

Mr. HART. Given that understanding, Mr. President, it is not the intention of the Senator from Colorado to oppose this amendment.

Mr. STEVENS. I am grateful to the manager of the bill.

Mr. THURMOND. Mr. President, as the ranking member on the subcommittee, I have no objection to the amendment. We are willing to accept it on this side.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.) The question is on agreeing to the amendment.

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1409

Mr. STONE. Madam President, I send an amendment to the desk and ask for its immediate consideraiton.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Florida (Mr. STONE), for himself and Mr. CHILES, proposes an unprinted amendment numbered 1409.

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

The PRESIDING OFFICER (Mrs. HUMPHREY). Without objection, it is so ordered.

The amendment is as follows:

On page 48, between lines 9 and 10, insert the following:

SEC. 614. (a) Subject to subsection (b), the Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to convey to the city of Niceville, Florida (hereinafter in this section referred to as the "City"), all right, title, and interest of the United States in and to the land described in subsection (c).

(b)(1) The conveyance authorized in subsection (a) shall be made only if not later than one year after the date of the enactment of this Act, the City—

(A) conveys land to the United States which has a fair market value which is not less than the fair market value of the land authorized to be conveyed in subsection (a);

(B) pays the United States an amount of money equal to such fair market value; or

(C) conveys land and pays an amount of money to the United States which in total equals an amount which is not less than such fair market value.

(2) If such land is used for any purpose other than a cemetery which is operated on a nonprofit basis, title of such land shall revert to the United States.

(3) The Secretary shall include in any instrument making such conveyance terms which will carry out the provisions of paragraph (2).

(c) The land referred to in subsection (a) is a portion of Eglin Air Force Base, Florida, containing 48.59 acres, more or less.

(d) The exact acreage and legal description of any land conveyed under this section shall be determined by surveys which are satisfactory to the Secretary.

LAND CONVEYANCE, OKALOOSA COUNTY, FLORIDA

SEC. 615. (a) Subject to subsection (b), the Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Air Force Enlisted Men's Widows and Dependents Home Foundation, Incorporated (hereinafter in this section referred to as the "Foundation"), of Washington, District of Columbia, all right, title, and interest of the United States in and to the land described in subsection (c). Such conveyance shall be made subject to such terms and conditions as the Secretary considers appropriate to carry out the provisions of this section.

(b)(1) In consideration for such conveyance made by the Secretary under subsection (a), the Foundation shall—

(A) convey land to the United States which has a fair market value which is not less than the fair market value of the land authorized to be conveyed in subsection (a);

(B) pay the United States an amount of money equal to such fair market value; or

(C) convey land and pay an amount of money to the United States which in total equals an amount which is not less than such fair market value.

(2) If the land conveyed under subsection (a) is not used as a permanent location for facilities of the Foundation before the end of the ten-year period beginning on the date on which such land is conveyed, title to such land shall revert to the United States.

(3) If such reversion occurs, the Secretary shall pay to the Foundation an amount of money equal to 50 per centum of the fair market value of the land reverting to the United States. Such fair market value shall be determined as of the date on which such land was conveyed to the Foundation by the Secretary.

(4) No construction shall be started on such land until plans for such construction are approved by the Secretary.

(5) Notwithstanding section 2733 of title 10, United States Code, sections 1346 and 2672 of title 28, United States Code, and section 715 of title 32, United States Code, the United States shall not be liable to the Foundation for any damage to, or diminution in value of, the land conveyed pursuant to this section or improvements thereon, if such damage or diminution of value is caused by any activity of the United States at Eglin Air Force Base.

(c) The land referred to in subsection (a) is a portion of Eglin Air Force Base, Florida, composed of two parcels containing a total of seventy-nine acres.

(d) The exact acreage and legal description of any land conveyed under this section shall be determined by surveys which are satisfactory to the Secretary.

Mr. STONE. Madam President, Senator CHILES and I are offering this amendment to allow the conveyance of some 48½ acres, more or less, of Eglin Air Force Base in Florida to the city of Niceville for the purposes of a cemetery. This cemetery would, in turn, be used by the Air Force Enlisted Men's Widows and Dependents Home Foundation, Inc., and would fill a very major need for burial space and other purposes.

I believe that the committee has examined this amendment. I believe it will find it acceptable

Mr. HART. Madam President, may I inquire of the Senator from Florida if it is his understanding that the procedure to be used here will guarantee that any exchange of land will be based on fair market value, that the property to be received by the Air Force will be of approximate fair market value of the excess land disposed of?

Mr. STONE. The Senator is correct

Mr. HART. Madam President, based on that understanding, I would have no objection to this amendment.

It is my understanding it is in the House bill and we would go to conference with it in the Senate bill, as well.

Mr. STONE. Madam President, I ask for a vote and I yield back the time.

Mr. THURMOND. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. THURMOND. On the minority's time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. THURMOND. Madam President, I have no objection to the amendment by the distinguished Senator from Florida. It appears that there would be an exchange there in which there would be no loss to the Federal Government and the purpose of the amendment appears to be a worthy one.

Mr. STONE. I thank the distinguished Senator from South Carolina very much and I ask for a vote.

The PRESIDING OFFICER. The question is on agreeing to UP amendment No. 1409 of the Senator from Florida.

The amendment was agreed to.

AMENDMENT NO. 3134

(Purpose: To amend section 2687 of title 10, United States Code, relating to base closure and realinement, in order to make the provisions of such section applicable to military installations at which not less than three hundred instead of five hundred civilian employees are authorized to be employed)

Mr. TOWER. Madam President, I call up my amendment at the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) proposes amendment number 3134:

On page 48, between lines 9 and 10, insert a new section as follows:

BASE CLOSURE AND REALINEMENT AMENDMENT

SEC. 614. Clause (B) of paragraph (1) of section 2687(d) of title 10, United States Code, is amended by striking out "five hundred" and inserting in lieu thereof "three hundred".

Mr. TOWER. Madam President, this amendment would alter certain criteria established last year concerning the Congress role in military base closures and realinements. My colleagues will recall that, subsequent to the considerable number of base closure and reduction proposals made in March of 1976, Congress for the first time established procedures guaranteeing public participation and congressional review of decisions made in the executive branch affecting defense installations in the United States. Last year when the military construction bill for fiscal year 1978 was considered, these procedures and criteria were further refined and subsequently incorporated into permanent law.

At the time when these procedures were established certain criteria were set forth which clarified the definition of a military installation. In order to avoid the inclusion of hundreds of small outposts and stations to which small numbers of personnel are assigned, military installations were defined as facilities at which not less than 500 civilian personnel are authorized to be employed.

Very simply, my amendment would alter this criterion and redefine a military installation as a facility at which not less than 300 civilian personnel are authorized to be employed. My amendment would affect no other provisions or criteria of section 2687.

My purpose in bringing this particular amendment, relates to the fact that a great many major military facilities in this country engaged in operational or training missions do not employ 500 civilian personnel.

In closing, I point out to my colleagues that, at the time the Subcommittee on Military Construction and the full Committee on Armed Services gave consideration to this bill, it was our understanding that a change in the law would not be required. Subsequent to reporting this bill, however, I was advised in writing by Deputy Secretary of Defense Duncan that the Defense Department would be unable to accommodate the concerns which I had raised regarding the application of section 2687 to a base closure proposed in my State. Accordingly I urge adoption of this amendment.

Mr. HART. Madam President, I am somewhat reluctant to alter the legislation which affects the relationship between the Defense Department and Congress with regard to base consolidation and realinement. I think it has been carefully crafted to attempt to accomplish the dual purpose of insuring congressional oversight about matters that are of extreme importance to all of us and to the country, and at the same time reserving as much as possible the decisionmaking process from the political process.

I believe that is a view and a goal that many of us here share, on both sides of the aisle. Although these are extremely sensitive matters in our States and districts, I think there is a general consensus in both Houses and on both sides of the aisle that the military needs operate efficiently, it needs to take stock of its facilities occassionally, and, where duplication or overlap is occurring, to reduce it and eliminate it. That is a goal I share, and I know the Senator from Texas shares it as well.

What the amendment would do, of course, would be to lower the threshold where the notification procedures occur and involve Congress, if it so wishes, in that process.

I think the arguments in favor of this proposal are sufficient, however, to introduce it into the conference discussion. It is a serious question, a question put forward by the Senator from Texas with deliberation and forethought. Consequently, I believe it is something that our colleagues on the House side should discuss with us. For that reason, I will not resist or oppose the proposal of the Senator from Texas to insert it into the conference discussion.

Based on conversations I have had with the Senator from Texas, I think he understands that even though I will not resist or oppose it at this point, that will not necessarily be the case in the conference itself; so I would like to reserve my own personal judgment on it for later purposes.

At this point, I think the proopsal does have some merit, and I believe we legitimately can take it to conference for discussion with our House colleagues.

Mr. TOWER. I thank my friend from Colorado. I certainly appreciate his position. As I noted, I believe he approaches this matter with objectivity and statesmanship.

I am prepared at this time to yield back such time as is under my control on the amendment.

Mr. THURMOND. Madam President, as the ranking minority member of the subcommittee, I have no objection to the amendment.

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

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HART. Madam President, unless there are other amendments—and I do not believe there are—we are prepared to go to third reading on the bill.

Before we do that, I would like to make a couple of observations. When we go to third reading, I will ask that we postpone final passage, and I will give the Senate my reasons for doing so.

During the course of our committee's deliberations on this bill and prior to announcing its proposed list of consolidations, realinements, and closings, the official representatives of the Department of Defense, in speaking for the department and the services, assured me, as the subcommittee chairman, that the list of facilities to be realined, consolidated, and closed was inclusive and that the proposals announced by the administration and the department toward the end of April of this year—April 26, to be precise—contained all the facilities that would be considered.

Since that time, the department, and particularly the Air Force, in at least one instance has undertaken publicly to suggest that in the case of at least one of those facilities, and perhaps more, the

policy of the Air Force, and presumably of the department, was to consider all possible alternatives to the facilities named in the consolidation-realinement list of April 26. This seemed to me to be a departure from the policy announced by the department and the services and not in keeping with representations made to me, as the subcommittee chairman.

Furthermore, Madam President, the Air Force, again specifically in this instance, adopted a policy or pursued a policy which also was not made clear to our committee, which was that, there being so-called alternatives to the bases and the facilities contained in the consolidation list, any proposed construction on those so-called alternative facilities would be deferred, pending studies as to whether those alternatives in fact would be candidates for consolidation, realinement, or closing.

Because of the serious policy questions which both of these issues have raised, on June 23 I directed a letter to the Secretary of Defense, Secretary Brown, and asked for clarification of the policy of both the Defense Department and the Air Force on these two issues:

First, the question of study of the so-called alternatives, and second, the question of construction at those alternative facilities during the pendency of the investigation and study. Unfortunately, at this point I have not received response from the department to that correspondence.

I understand from the Defense Department directly, and indirectly through the majority leader, that it is the intention of the Department, on behalf of the Secretary, to respond to that correspondence at the earliest possible time—by no later than 1 o'clock today, it is hoped.

I am authorized by the majority leader to postpone final passage of this measure, the pending business, until we receive the response to the questions raised in that June 23 correspondence.

I have discussed this matter with the distinguished manager of the bill on the minority side, and I believe he is in agreement with this procedure. At such time as we go to third reading and prepare for final passage, I will propound a unanimous-consent request that final passage be delayed until we receive that correspondence.

I think it is crucial to the policies of the Defense Department and the activities of both our subcommittee and the full committee to understand what the departmental policies are in these matters.

These answers have far-reaching implications, I think, for base realinement and consolidation issues across the country, and I think we are entitled to have answers to them before we act on this bill.

First of all, may I say I think we will be able to pass this bill, unless there is a request for the yeas and nays, by voice vote. It would be my intention in that unanimous-consent request to ask that final passage of the bill be put off to no later than 5 o'clock today if in fact we do voice vote the bill and if there will be a request for the yeas and nays to move that unanimous-consent request to no later than 2:30 p.m. and certainly not before response to the correspondence to the Department.

I will postpone making the request but merely ask the Senator from Texas if he has any thoughts on the matter.

Mr. TOWER. I am sure as soon as I sort it all out in my mind it is going to sound good. So at the appropriate time I do not think I would object.

Mr. PERCY. Madam President, Senator GARY HART, chairman of the Senate Armed Services Subcommittee on Military Construction and Stockpiles, today told the Senate about a letter he had written to the Secretary of Defense regarding the Defense Department's policy on base realinements. Senator HART has asked that a vote on the military construction authorization bill be postponed until he receives a response to his inquiry about how bases will be considered or reviewed for possible realinement.

Madam President, I am very sympathetic with Senator HART's interest in getting a response to his letter, and I trust that he will get such a response.

I made a similar inquiry to the Secretary of Defense in a letter dated May 23. In that letter, as well as during a meeting with Secretary Brown and Chairman of the Joint Chiefs, General David Jones, I expressed concern that Chanute Air Force Base in Rantoul, Ill., which has been placed on a list of candidates for possible closure, not be considered in a vacuum. I was gratified to be told both by the Secretary of Defense personally and in a June 15 letter from the Department of the Air Force that all five Air Force technical training centers will be reviewed. The letter stated:

> As we indicated all five bases hosting technical training centers will be reviewed from the standpoint of the contribution to the training effort and for the feasibility of closing or reducing the installation.

The President has also made clear his policy regarding the comprehensiveness of the ongoing studies. In a May 25 press conference in Chicago, President Carter said:

> The fact that these bases are on a potential list to be assessed has no significance at all. For instance, if we have three major Marine recruit training facilities in our nation and Defense Department decides that we only need two of them and will close one, they put all three on the list to be assessed so that after their assessment is complete, they will present to me and to the Congress proposals for the closing down of a base or changing its character.

It, therefore, seems that the President's policy is quite consistent with the letter that I have received from Secretary Brown and the conversation that I have had with him. I do urge that the military construction bill now before us be voted upon no later than today.

I respectfully ask my distinguished colleague from Colorado whether or not he has received a reply and whether or not we can go ahead and vote up or down today on the military bill before us.

Mr. HART. If the Senator will yield, I appreciate his remarks. The answer to the specific question is that a response is expected and it is my intention to bring the bill to a vote, hopefully a voice vote, later this afternoon.

I might say, however, that the disturbing factor here is not what the President's policy is or was stated to be at the Chicago press conference, or what representations the Department of Defense officials made to the Senator from Illinois in a private meeting.

The concern of this Senator, as chairman of the appropriate responsible subcommittee, is that the policy was never stated to me by those same departmental representatives in outlining their base closure program. That has been the subject of concern that affects not only bases in Illinois and Colorado; it affects bases and facilities all over this country. It is a very serious policy question which has been brought before our committee.

The issue here is not what the Senator from Illinois was told in a private meeting or what the President said in a press conference, which does not square with what the Department has told me as the appropriate subcommittee chairman. That has been in dispute and that has been of concern. That is what has to be answered before that bill can go forward, as far as I am concerned.

Mr. PERCY. I thank my distinguished colleague. I have discussed this with the Defense Department, and I did receive the information from the Defense Department that all bases would be put on an equal basis and all actions would be consistent with that. In other words, if construction is halted at one base it would also be halted at others.

The Senator from Illinois wishes to cooperate with the Department of Defense in not having excess facilities, but we wish to have Chanute judged strictly on the basis of its cost effectiveness and its record. I believe that it would be the intention of my own distinguished colleague to look at the overall well-being of the Defense Department as he always has and we will simply present the best possible case that we can. The Senator from Illinois has indicated he will visit Lowry Air Force Base and would be very happy to be accompanied by the distinguished Senator from Colorado when he and Congressman ED MADIGAN visit that base, and possibly Sheppard, as well, so that we can acquaint ourselves with the problems that the Defense Department now faces.

I thank my distinguished colleague.

Mr. STENNIS. Madam President, before the Senator from Colorado concludes I wish to be recognized. Am I recognized?

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. I thank the Chair.

Madam President, I will take only a few minutes of the Senate's time to make a statement here about this subcommittee and their work and the importance of the bill. There are some aspects of the bill before us that I wish to emphasize.

Madam President, this is an important bill. It provides the necessary capital investment program to go with the military manpower and weapons systems that we have just completed debate on. This military facilities bill provides the physical resources where our military personnel live and work. Like any big

corporation, the capital investment program must be carefully and adequately addressed to insure that we get the most for our money. I want to acknowledge the outstanding work of one of our committee's fine young Senators—Senator GARY HART—who chairs the Subcommittee on Military Construction and who has spent a great deal of time on this highly complicated bill. This bill includes over 700 different projects all around the world and I know Senator HART's subcommittee has given them thorough analysis.

I have been interested and have had a chance to give the subcommittee's work some attention, and I thank Senator HART and the ranking minority member of the subcommittee, Senator THURMOND, and all members of the subcommittee, as far as that is concerned. This subcommittee, as usual, does a fine job and all the members give it attention.

It is a highly important bill. It is the basis of a lot of different military programs, and I have found that the beginnings of various weapons programs and other matters often surface in this bill first.

The committee is all grateful to the subcommittee for the work they do on the matter.

I wish to say a special word about the committee action regarding construction for NATO.

As the Senator from Colorado has said, significant reductions have been made in the requests for NATO construction. We have done this—the committee has—because, in our opinion, much of the requested construction is an alliance responsibility which should not be unilaterally funded by the United States.

This has been the pattern in recent years. We are called on to go outside of the mechanisms of the alliance—the infrastructure program it is called—and it falls on us to unilaterally fund these projects.

We contribute to the NATO infrastructure program which is designed to provide facilities through the NATO forum. In recent years, we have contributed $80 to $90 million each year as our share of this program. However, the Defense Department has continued to request more and more money each year for NATO construction, and this year that request was nearly $650 million.

As one who has been a long time connected with this subcommittee, I was really shocked to see such a large figure.

More importantly, the Defense Department provided the committee a report which indicates a construction backlog requirement in NATO of $6 billion. In taking this action this year to substantially reduce the NATO construction request, the committee is telling the Defense Department that the NATO construction backlog must be addressed by our NATO allies; we will not bear the financial burden alone.

We should not. And, in fact, the original agreement has been to the contrary.

I know there is always some reason given or some excuse given, and we do not mean to be just unbending or deaf to reason at any time, but this is an old pattern to fall back on the United States this way.

I know some 10 or 12 years ago this subcommittee just insisted that we not have any construction in NATO for a couple years beyond the infrastructure agreement under which we were paying our part.

I have a record of consistent support for NATO, but that does not mean NATO is going to be taken care of beyond our part, over and over, at the expense of other obligations that we have, and I mean other obligations beyond our shoreline. There are other obligations, whether tied to a treaty or not, that are vital to our interests, and they should be taken care of.

So as one member of the committee I give warning again that we cannot ignore this situation, and we will follow a pattern of this kind, I hope, in years to come and let this infrastructure program control. If there is reason for its revision, we would consider going into the matter of revising the agreement.

But I commend the committee for their concern about this and thank them again for their fine work.

Another important aspect of this bill and the work of Senator HART has to do with energy. Senator HART mentioned it and I want to reinforce his remarks. We have all heard the President speak of the "moral equivalent of war" and Congress is struggling to produce legislation to address this "war." But there are things that can be done—especially in the Defense Department which is the largest Federal user of energy. This bill authorizes over $100 million for conservation projects—everything from insulation to new, highly efficient, coal-fired powerplants. It has new legislative initiatives to accelerate the use of solar and geothermal energy sources. In addition to these specific, tangible initiatives, Senator HART can take a great deal of personal credit and pride in that he has—through the hearing process—developed a new awareness in the Defense Department that they can and must play a positive role in addressing the energy crisis, and he has opened channels of communication between the Departments of Defense and Energy.

Madam President, this is a good bill. It does represent a reduction of $250 million from the budget request, and I urge the Senate to support it.

Mr. HART. Madam President, I appreciate the remarks of the distinguished committee chairman and the support and cooperation he has given us since I have been connected with that subcommittee. It is my understanding that the Senator from New York wishes to speak.

Mr. THURMOND. Madam President, I wish to thank the distinguished chairman of the committee for his kind remarks about the work of the subcommittee.

Mr. TOWER. Madam President. I yield such time as he may require to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. I thank the Senator. I shall take 5 or 6 minutes.

Madam President, I am about to make a statement on the position of my State respecting the military defense appropriations, especially in respect of construction today, which I must say is rather strong for me, but really on the analysis of the figures which we have in this bill and which are simply cumulative over a long period of years, the discrimination which is revealed by the figures against the defense installations in my State, the second largest in population and the first largest in revenue production in the United States, is becoming so marked as to be really scandalous, and it is in that sense that I speak.

For years many who have advocated a larger national defense budget have used the argument that, in addition to expanding U.S. defense capabilities, a larger defense budget also creates jobs and thus strengthens the national economy—an integral part of the Nation's security. However, some of those areas of the country where unemployment is the highest and where the region especially needs Federal help to alleviate chronically depressed economic conditions are the same areas where defense spending and facilities are the most sparse.

And unhappily for us a perfect example is my own State, especially New York City. The Senate has just completed action on legislation to ameliorate New York City's serious economic troubles. Now the Senate is considering the military construction authorization (S. 3079).

The former legislation is crucial for New York to rebuild to solvency, but the latter continues the process of reducing New York's economy, while further unbalancing its relation to the economy of other regions.

While, of course, the object of defense facilities is and should not be to benefit the parochial interests of any State or region—and I am not seeking that—it should not single out any one State or region adverse action. All else being equal, defense facilities can only be properly distributed on basis of merit and should not exclusively benefit or exclusively overlook any single region.

The history of the distribution of defense facilities throughout the continental United States since World War II does not meet the criteria set forth above. Regions, States, and districts have been favored over others on a systematic basis, and I fail to see objective merits to explain this unequal distribution.

The statistics make the point clear. They are appalling. This year the Carter administration has requested $4.247 billion for military construction in the United States and for our Armed Forces in Europe and Asia. The Senate Armed Services Committee has recommended an authorization of $3.998 billion. A study of the Northeast-Midwest Economic Advancement Coalition titled "Proposed Military Base Realignments: The Regional Impact" shows that the 16 States in the Northeast-Midwest region contain 47 percent of the Nation's population, and support 48 percent of the Nation's tax burden. However, it receives only 20 percent of the Nation's principal defense facilities, 17 percent of the defense payroll, 16 percent of defense personnel, and

only 9 percent of the military construction budget in fiscal year 1978.

In the last 15 years, 327 defense installations have been closed in this region—43 percent of all closings; 53 of these closings have been in New York State alone.

Of the $4 billion in this year's military construction authorization only $199 million was requested for the Northeastern 9 States. Only $65.4 million has been requested for New York State—while a considerable improvement from the $3.9 million appropriated last year for New York, the Senate Armed Services Committee has recommended that New York's $46.5 million be reduced by $25 million—more than half. This drastic reduction is almost absentmindedly explained by a four line footnote on page 18 of the committee report on this legislation.

In contrast, California, the only State whose population rivals New York's, will receive $408.8 million in this bill this year. Georgia, with a small fraction of New York's population and tax burden, will receive $121.1 million. The 12 Southern States will receive $685.6 million compared to the $174 million to go to the 9 Northeastern States if this bill becomes law.

Hardly content to let matters stand as they are, the Carter administration announced on April 26 a series of base closings that will further detract from New York's already low standing in the national defense facility structure. Air Force installations in Lockport, Montauk, and Watertown are to be closed. The Army has under study closings at Forts Hamilton, Totten, and Wadsworth. Recognizing that there is hardly anything left to close, the Navy has left New York's few remaining facilities alone.

With all respect to my colleagues on the Senate Armed Services Committee, I do not believe appropriate cognizance has been taken of New York's real and potential contribution to the national defense installation structure. The only cannon tube producing facility in the entire United States is at Watervliet Arsenal in New York. It has not had a major renovation since World War II. Long overdue, the Army sought this year $27.021 million to modernize and upgrade this critical arsenal. The House of Representatives fully funded this request. The Senate Armed Services Committee stripped $25.021 million from this request and explained its action—as I have already stated—with a four line footnote.

By the way, I would like to read that footnote into the record so that we all understand what is going on when I say what I do. It says on page 18, footnote 2:

> The committee felt that the design schedule was such that construction award in fiscal year 1979 was not likely.

It did not say impossible it said was not likely:

> and that the cost might be underestimated. The committee felt that $2,000,000 could be effectively applied in fiscal year 1979. The remaining $25,021,000 is deferred without prejudice.

I fervently hope that this matter can be reasonably and satisfactorily resolved in conference.

There is one action that could go a long way to resolving the gross imbalance that has persisted in the distribution of defense facilities in the Northeast, South, and West. While I have grave doubts as to the wisdom of the withdrawal of the 2d Infantry Division from South Korea for national security reasons, if the President proceeds with his withdrawal plan, that division will be based in the continental United States. Three bases are under serious study to serve as the home base of that division: Fort Bliss, Tex.; Fort Benning, Ga., and Fort Drum, N.Y.

While basing the 2d Division at Fort Drum, where it would be mechanized and restructured for NATO orientation, would not only make a great deal of military sense and restore a considerable degree of balance to the overall U.S. defense base structure, there are numerous indications that the decision to base the 2d Division in New York is far from assured.

Under the guidance and supervision of the Army, a draft "environmental impact statement" was prepared on the effects of basing the 2d Division at Fort Drum. In numerous respects, it was a stacked deck against Fort Drum. Housing costs were overstated, and the available labor supply over a long-term basis was understated—both in a manner inconsistent with the draft environmental impact statements for the other candidate bases.

Another indication that worries me is the total lack of responsiveness of the Carter administration to queries from myself and my New York colleagues regarding Fort Drum. In April the entire New York State congressional delegation wrote to President Carter concerning the regional imbalance of defense facilities throughout the country in general and Fort Drum in particular. The Carter administration never acknowledged or responded to this letter in any way. After months of waiting and receiving no reply, along with Senator MOYNIHAN and the New York delegation in the House of Representatives, I sought to meet with President Carter. I was informed that my request was rejected on the grounds that to meet with the President on this "parochial" matter would justify other similar meetings with the President from other congressional delegations on similar matters and this would be a bad precedent. I was asked to meet with the Secretary of Defense instead.

I find it hard to understand this refusal of my request to meet with the President because on April 19 the Speaker of the House sent President Carter a letter; the first line read, "I would like to thank you for the courtesy of meeting with the Massachusetts congressional delegation on the Fort Devens situation."

In addition, when my staff attempted to follow up on the proposed meeting with the Secretary of Defense, the response then became that perhaps it would be more appropriate to meet with the Secretary of the Army. When I persisted in my desire to meet with the Secretary of Defense, my staff's phone calls were no longer returned.

Madam President, I do meet with the President from time to time on many matters, but I never would go to the President without giving him notice of what it was all about, and so when we gave him notice apparently all lines of communication froze.

A decision on where to base the 2d Division is expected imminently: If not today, very, very soon. I fervently hope I am wrong, but it looks very much to me as if once again there is grave danger that someone else will get the gold mine and New York State may get the shaft. [Laughter.]

Madam President, as I say, I rarely speak in this tone, but I am very, very concerned about this worsening situation in respect of my State. I have tried objectively to see if it is warranted to the degree that it is apparently being carried out. That is a very positive and a very dangerous drift, and I rise to protest against it, and I hope very much that the President, the Department of Defense, and the appropriate congressional committees will heed our words both here in the Senate and in the other body.

I yield.

Mr. HART. Madam President, I, of course, would not undertake to speak for the administration. The Senator from New York has lumped together his grievances with the administration and with our committee and, therefore, my remarks will only be addressed to the portion of his remarks that commented on the actions of our committee. His grievances with the administration will have to await a response from the administration.

I can only say, after listening to the Senator from New York, that I was reminded of a statement President Kennedy made about the time of his inaugural, about whether he intended to take race into consideration in the appointment of his Cabinet. His statement, as I recall, was that he did not promise to take race into consideration in appointing his Cabinet members; he promised not to take race into consideration in appointing his Cabinet members.

I think that is what our committee has tried to do with regard to geography and funding of base facilities. We have not promised to take geography into consideration; we have promised not to take geography into consideration.

There is no policy on the part of the Senate Armed Services Committee that this Senator is aware of which discriminates against any part of this country, and no action which is represented by this bill should be, nor do I think could be, construed as discrimination against one State or one region. There is certainly no pattern that this Senator has observed, in almost 4 years, of service on that committee, of discriminating in military expenditures for or against any region of the country, and certainly not with regard to military construction.

Obviously, the age of facilities and bases around the country plays a role when consolidations, closures, and realinements are concerned. I think any part of the country where facilities tend to be older because they were constructed earlier have that going against them. That is just my own personal observation. I do not know. Our committee does not

put that realinement and consolidation list together. In fact, we have done our best to stay out of that because of the political implications.

I would only make one other observation with regard to the specifics of this bill and the footnote which I think the Senator from New York has described as casual, or something like that. That has to do with the Watervliet Arsenal, which I have discussed with the Senator from New York and also his colleague, Mr. MOYNIHAN.

The reason why our committee reduced the authorization request from $27 million to $2 million was our serious, and the staff's professional judgment, that the project, according to the proposal upon which it was based, was seriously underfunded. What that footnote refers to is a mandate to the Army to come forward with a realistic budget authorization statement for the construction work which they propose at Watervliet.

The reason why the term "without prejudice" is used there is to say that our committee does not reach a final judgment as to how much money should be spent there. What we are saying is that we will give $2 million in this bill to go forward with the project, "But, gentlemen, be realistic." If it is a project that runs out of money, they end up with plastic roofs and cellophane windows on a facility because it was not designed properly and the amount of money to carry out the design was not sufficient. We have tried to be as honest, realistic, and professional about this matter as we have tried to be with regard to all other matters, and that is without regard as to whether any of us are from the sun belt, the snow belt, or any other belt.

On the particular facility that the Senator referred to, that was the basis of our judgment. It is not that we dislike New York, that we tried to harm New York, that we had written off New York, that we were unconcerned about New York, or that we were part of some effort to discriminate against New York, the Northeast, or anything else.

We are just serving notice in regard to this project as well as others that we are not going to authorize an amount of money that is unrealistic to carry out the work which is described. That is exactly what happened here.

Finally, I would only point out that there are two installations in New York for which this committee added money. I think that is a sufficient indication that we are not out to hurt or harm any State of the Union.

Further, I would say finally for my own part that I do not think the Defense Department authorization bills should be public works projects. If we are going to help any area of this country which has high unemployment, I do not think we ought to use the Defense Department authorization, the military construction authorization, to do that. There are a variety of other economic means that we can use to put people back to work, such as building bridges, highways, and public facilities of all kinds. But if there is any area of the budget which should not be used as a public works forum platform, in my judgment, it is the military construction bill and the Defense Department authorization.

Mr. JAVITS. Will the Senator yield for a brief reply?

Mr. HART. I yield.

Mr. JAVITS. I appreciate the good will of the Senator. He and I have worked together on too many things that I would challenge him. But when we look at the overall condition of my State over a period of years, this has resulted in really devastating effects when reducing the Defense presence in the State, which really results in discrimination against New York. I am not charging evil motives to anyone.

To refer to this Watervliet matter that is about the only thing that can be done for New York in terms of perhaps a little generosity in this reconstruction.

I was calling attention to the fact that we know very well if the money is available the construction could be accelerated. With New York still about 2 or 3 percentage points behind the Nation in terms of its unemployment picture, where you could do it we felt it should be done.

In the conference between the Senate and the House we will try to submit additional data to our Senate conferees and, hopefully, there may be a different result.

Fort Drum was the big thing which New York might get to somewhat redress the circumstances. But we have run into so many discouragements, including, for example, the rumor which was about—and rumors are very important up here as my colleague knows—that this was going to be decided within a day, that it would be decided by now. Then we hear no, it is not going to be decided by now, but it may be decided sometime later in the summer. When we get the inhospitable feeling which I described, naturally we become very deeply concerned about the way in which the decision will be made and how it will go.

So I raised these points hoping that they may have some therapeutic effect upon the way in which my State will be regarded. After all, if you are aggrieved and if you do not holler, nobody is going to hear you. I thank my colleague very much.

Mr. HART. I thank the Senator from New York.

Madam President, I will only observe when use is made of the term charity, there are those in recent weeks who believe Mr. JARVIS and a majority of the voters in California have put a knife in the back of their favorite charity, but that is for each of us to decide.

Madam President, I believe we are ready for third reading.

● Mr. MUSKIE. Mr. President, I congratulate the Subcommittee on Military Construction for their effort represented in the military construction bill for fiscal year 1979. I am pleased that the committee has authorized continued modernization efforts at the Kittery Naval Shipyard at the level of $14.55 million.

This modernization effort will assure that the combat readiness of our submarine fleet will be supported by the Kittery Shipyard. The modernization program will enable the naval yard at Kittery to overhaul and repair the larger *Los Angeles*-class submarines which will be joining our fleet in the early 1980's. Authorizing this work now will assure that work at the yard proceeds in an orderly manner toward accommodating the future needs of our fleet.

I join with my colleague from New Hampshire (Mr. MCINTYRE) in urging the Senate conferees to give favorable consideration to an additional provision in the House bill which adds $1.6 million for waterfront support facilities at Kittery. This work is now scheduled for fiscal year 1980 but authorizing the construction at this time would expedite the yard's efforts to accommodate the *Los Angeles*-class submarines.

In addition to the funds for the Kittery Naval Shipyard, Mr. President, the bill contains $18.359 million for construction at five other military facilities in Maine.

About $16.490 million is authorized for work at Brunswick Naval Air Station including $7,800,000 for a maintenance hangar and $2,860,000 for an avionics shop needed for engine airframe and avionics maintenance of 54 P–3 antisubmarine warfare aircraft; $540,000 is provided for pollution abatement for the naval security group in Winter Harbor. Construction of 20 housing units at the naval communications unit in Cutler, Maine, is authorized. Other construction projects at Loring Air Force Base in Limestone, the Air National Guard facilities at the International Airport in Bangor, and the Army National Guard facilities at Brunswick Naval Air Station are authorized in amounts totaling $624,000.●

● Mr. MOYNIHAN. Mr. President, I shall take but a moment to comment on a matter in the military construction bill which is of important interest to the people of New York and, I believe, to the people of the Nation generally.

I refer to the Watervliet Arsenal. As a brief information paper on the history of the arsenal—which I shall ask be printed in the RECORD (exhibit 1)—states, the arsenal produces cannon and spare artillery tools for the Army, Navy, for the Marine Corps and for foreign export purposes. The modernization of the arsenal is critical, in my view, as it is the sole facility producing cannon in any substantial quantity. Indeed, the military construction authorization and the military construction appropriation as considered in the other body provide funds adequate for the continued operation and modernization of the arsenal. The measure before us authorizes but $2.5 million for the arsenal, funds sufficient only for the demolition of the existing building. I know that the Armed Services Committee considered this matter in substantial detail; it is not my purpose here to propose a legislative remedy of my own as a substitute for the committee's deliberation.

But I must say that this episode raises important questions about the disposition of Federal military construction funds among the States. From the beginning of my service here, I have found it most distasteful to attempt to relate the security requirements of the country as a whole on the one hand to the socio-

economic realities of individual States on the other. And yet one observes that in the past 16 years that New York's percentage of this Federal total has generally declined. It now fluctuates in the neighborhood of 1½ percent. And the absolute dollar volume—even in terms of our current grossly inflated dollars—has declined also. I ask unanimous consent that a table summarizing this trend be printed in the RECORD.

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

(See exhibit 1.)

Mr. MOYNIHAN. I have remarked on a previous occasion that it appeared as if the U.S. Army had decided that the next war would inevitably be fought in a Central American jungle. Those of us who have argued for the relocation of one of the divisions scheduled from withdrawal from Korea to the Northeast, where it snows, should at least be given credit for recognizing that training and preparation for war ought to envision the possibility that a future conflict will erupt in other than tropical localities. The same can be said—in the larger sense—for the distribution of military activity among the various States. Perhaps it is inevitable that the focus on such activity will shift over time among the various parts of the country. And yet it seems to me—and to my distinguished senior colleague—that the preservation of a unique arsenal at a small expense—as these things go—is not a large claim. Indeed, I raise this matter solely because it strikes me as one where the interest of the country and the interests of New York intersect exactly.

EXHIBIT 1

HISTORY OF WATERVLIET ARSENAL AND ITS CURRENT STATUS

The Watervliet Arsenal, a National Registered Historic Landmark and the Nation's oldest arsenal, came into being in 1813. Its first mission was to supply arms and materiel to troops fighting the British on the western and northern borders of New York. The principal products were ammunition, harnesses, and gun carriages. The years following the War of 1812 brought rumors of closing but the Arsenal was to endure.

Constructed between 1817 and 1824, the Erie Canal provided transportation, power for the shops, and water for fire protection, and greatly enhanced the Arsenal's value to the War Department. In subsequent years the Arsenal expanded and several new buildings were constructed including the Commander's quarters and a large limestone barracks, both still in use.

During the Civil War the Arsenal was to prove itself extremely versatile and responsive, dwarfing all previous production efforts. Not only were immense quantities of small arms and artillery ammunition produced but also gun carriages, scabbards, saddles, cap pouches, cartridge boxes, lariats, and nosebags and brushes for horses.

After Appomattox the Arsenal faced lean years as activity dwindled to little more than storage, but in 1887 the Arsenal was revitalized with its selection to be the "Army Gun Factory." Construction was soon underway to convert the Arsenal to cannon production. When the Spanish-American War began in 1898 Watervliet Arsenal was ready to answer the call with the nation's first 16 inch gun.

The beginning of World War I again brought substantial growth in buildings, roadways and equipment. But with the end of the war there again followed a lull in activity. Between 1935 and 1938 employment averaged about 350 and only 90 guns a year were produced. Then, in 1939 the Arsenal responded to the still far-off rumblings of the impending World War. The shops began to hum and an apprentice school was reactivated. By late 1942 peak production was reached and employment climbed to 9,332. In the month of December, 3,458 guns were manufactured ranging from 37 mm anti-tank guns to 240 mm howitzers!

Following the war, the Arsenal assumed a major role in research and development of cannon, mortars, and recoilless rifles to complement the manufacturing mission. One of the Arsenal's first efforts included design of the 280mm atomic cannon. The long range 175mm and 155mm artillery cannon and the 105mm tank cannon were developed in the following decade. In the 1970's came the 152mm gun launcher, lightweight 60mm mortar and a new 8 inch gun/howitzer. Throughout this 230-year period the Arsenal was also heavily committed in support of the Korean and Vietnam conflicts.

Today the Arsenal produces cannon and spare tubes for the Army, Navy, Marine Corps, and foreign military sales. Current employment is 2800 with an annual program of $120 mil and payroll of $47 mil. Production workload is very heavy, averaging 500 cannon and spare tubes per month (against a maximum capacity of 632 cannon per month). Examples of current production are as follows:

	Quantity per month
105-mm. tank gun	280
8" cannon for self-propelled howitzer	65
155-mm. cannon for self-propelled howitzer	60

No other capability exists in this country to make cannon, with the exception of a small Navy prototype facility in Louisville, Kentucky. Due to the unique, "elephant-size" equipment, facilities, and technology required, private industry has not expressed an interest in cannon manufacture. From an investment standpoint, there is virtually no commercial counterpart for these reasons;

High initial investment (equipment and facilities).

Low volume of orders on an annual basis.

Sporadic nature of orders.

The Arsenal today is a National Resource. The country is totally dependent on Watervliet's capability for the first two years of conflict to supply weapons in support of combat operations.

MILITARY CONSTRUCTION AWARDS OF $10,000 OR MORE

[Dollar amounts in thousands]

	New York	U.S. total, all States	New York percent of United States
Fiscal year:			
1976	$25,561	$2,207,760	1.2
1975	63,880	2,663,181	2.5
1974	25,142	1,632,271	1.5
1973	36,618	1,741,179	2.1
1972	42,290	1,612,405	2.6
1971	47,858	1,283,238	3.7
1970	35,969	999,212	3.6
1969	43,762	1,301,526	3.4
1968	27,965	1,217,130	2.3
1967	28,590	1,157,202	2.5
1966	43,678	1,002,866	4.4
1965	21,858	1,272,789	1.7
1964	22,775	1,296,351	1.8
1963	47,191	1,117,439	4.2
1962	42,024	1,205,142	3.5

Source: Military prime contract awards by region and State: Fiscal years 1962-76. Issued annually by Department of Defense. Prepared by the Congressional Research Service.

Military construction appropriations (in thousands):	New York[1]
Fiscal year 1977	$15,753
Fiscal year 1978	3,692
Proposed program, fiscal year 1979	65,475

[1] U.S. total not available.

The PRESIDING OFFICER. Are there further amendments?

If not, the question is on the engrossment and third reading of the bill.

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

Mr. HART. Madam President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 12602, Calendar No. 842.

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

The assistant legislative clerk read as follows:

A bill (H.R. 12602) to authorize certain construction at military installations for fiscal year 1979, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. HART. Madam President, I move to strike all after the enacting clause of H.R. 12602 and to substitute therefor the text of S. 3079, as reported and as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Colorado.

The motion was agreed to.

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

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

The bill was read the third time.

Mr. HART. Madam President, I ask unanimous consent that consideration of S. 3079 be indefinitely postponed.

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

UNANIMOUS-CONSENT REQUEST

Mr. HART. Madam President, I ask unanimous consent that passage of the pending legislation be postponed until not later than 5 p.m. today; that if the yeas and nays are requested and a rollcall vote is ordered, that occur not later than 2:30 today; and that in no case should passage of the bill occur until the committee has received a response from the Department of Defense to the correspondence which I have just placed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. TOWER. Reserving the right to object, will the Senator amend that to provide that no rollcall vote on this matter occur before 1:30 p.m.?

Mr. HART. I so amend my unanimous-consent request.

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

Mr. HART. I thank the Chair.

Mr. TOWER. Madam President, what is the parliamentary situation? It is my understanding that now that we have proceeded to consideration of H.R. 12602, that abrogates any controlled time elements that were pending on S. 3079.

The PRESIDING OFFICER. That is correct, and that bill is ready for passage.

Mr. HART. Madam President, I should like to add a word of thanks to our, as usual, very able Senate Armed Services Committee staff, particularly Mr. Jim

Smith, Mrs. Jeanie Killgore, Ms. Phyllis Bacon, Mr. Ed Kenney, and Mr. Robert Old, all of whom have labored long and hard on behalf of those of us who have had the responsibility of guiding this legislation. They perform so professionally and so consistently that it is often easy to overlook the amount of work that they do, but those of us who work with them and who are dependent upon them, I think, rely heavily on them and realize daily that we could not carry out our function and task without their help. I, for one, am extremely grateful to all of them for their work on this legislation.

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

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

COMMODITY EXCHANGE ACT

Mr. HART. Madam President, I ask unanimous consent that it be in order to lay down S. 2391 and make it the pending business.

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

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2391) to extend the Commodity Exchange Act.

The Senate proceeded to consider the bill which had been reported from the Committee on Agriculture, Nutrition, and Forestry with an amendment to strike all after the enacting clause and insert the following:

COMPOSITION OF THE COMMISSION; CONFLICT OF INTEREST; CONFORMING AND TECHNICAL AMENDMENTS

SECTION 1. Section 2(a) of the Commodity Exchange Act is amended by—

(1) striking out in the first sentence of paragraph (1) (7 U.S.C. 2) "section 217 of the Commodity Futures Trading Commission Act of 1974" and inserting in lieu thereof "section 19 of this Act";

(2) inserting "(A)" immediately after the designation of paragraph (2) (7 U.S.C. 4a (a));

(3) striking out in the second sentence of paragraph (2) "a Chairman and four other Commissioners" and inserting in lieu thereof "five Commissioners";

(4) striking out in the last sentence of paragraph (2) "(A)" and "(B)" and inserting in lieu thereof "(i)" and "(ii)", respectively;

(5) adding at the end of paragraph (2) a new subparagraph (B) as follows:

"(B) The President shall appoint, by and with the advice and consent of the Senate, a member of the Commission as Chairman, who shall serve as Chairman at the pleasure of the President. An individual may be appointed as Chairman at the same time that person is appointed as a Commissioner. The Chairman shall be the chief administrative officer of the Commission and shall preside at hearings before the Commission. Subject to the provisions of the first sentence of this subparagraph, the President may, from time to time, designate a different Chairman, and the Commissioner previously appointed as Chairman shall complete his term as a Commissioner.";

(6) striking out in paragraph (5) (7 U.S.C 4a(d)) ", by and with the advice and consent of the Senate,";

(7) inserting "(A)" immediately after the designation of paragraph (7) (7 U.S.C. 4a (f));

(8) adding at the end of paragraph (7) a new subparagraph (B) as follows:

"(B) No Commissioner or employee of the Commission classified as a GS-15 or higher of the General Schedule under section 5332 of title 5, United States Code, may, for a period of one year beginning on the last day of service as such Commissioner or employee—

"(i) make any appearance before the Commission; or

"(ii) make any written or oral communication to the Commission, or any Commissioner or employee of the Commission, on behalf of any person (other than the United States) on any particular matter that is before the Commission.

The restrictions in this subparagraph shall not apply to an appearance or response under a subpena issued by the Commission, or any matter of an exclusively personal and individual nature.";

(9) striking out in the first sentence of paragraph (8) (7 U.S.C. 4a(g)) "establish a separate office within the Department of Agriculture to be staffed with employees of the Commission for the purpose of maintaining" and inserting in lieu thereof "maintain";

(10) striking out in subparagraph (9)(A) (7 U.S.C. 4a(h)(1)) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry"; and

(11) striking out in subparagraph (9)(B) (7 U.S.C. 4a(h)(2)) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry".

OPTIONS TRANSACTIONS; TECHNICAL AMENDMENTS

SEC. 2. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by—

(1) striking out in the last sentence of subsection (a) "not have been disapproved" and inserting in lieu thereof "have been approved";

(2) striking out in subsection (b) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry"; and

(3) adding at the end thereof new subsections (c), (d), and (e) as follows:

"(c) Notwithstanding the provisions of subsection (b) of this section, it shall be unlawful for any person to offer to enter into, enter into, or confirm the execution of, any transaction subject to the provisions of subsection (b) of this section, except where both parties to such transaction are either a producer, processor, or commercial user of, or a merchant handling, the commodity involved in the transaction, or the products or byproducts thereof, and offer to enter into, or enter into, or confirm the transaction solely for the purposes of their business as such, until (1) the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry documentation of its ability to regulate successfully such transactions, and (2) the expiration of thirty calendar days of continuous session of Congress after the date of such transmittal without either House of Congress adopting a resolution disapproving such regulation: *Provided*, That the Commission is not precluded from transmitting documentation relating to its ability to regulate such transactions regarding individual commodities, classes of commodities, or regulation of such transactions on specific boards of trade, at such time as the Commission deems appropriate. Nothing in the preceding sentence shall affect any rights or obligations arising out of any transactions subject to the provisions of this subsection entered into, or the execution of which was confirmed prior to October 1, 1978.

"(d) Notwithstanding the provisions of subsections (b) and (c) of this section or section 8a(5) of this Act, a registered futures commission merchant may offer to enter into, enter into, or confirm the execution of, any transaction subject to the provisions of subsection (b) of this section if—

"(1) the grantor in the transaction is a person who—

"(A) is in the business of buying, selling, producing, or otherwise using the underlying commodity;

"(B) at all times has a net worth of at least $10,000,000 certified annually by an independent public accountant using generally accepted accounting principles;

"(C) agrees to notify such futures commission merchant if the grantor has reason to believe the grantor's net worth has fallen below $10,000,000;

"(D) segregates daily, exclusively for the benefit of purchasers, money, exempted securities (within the meaning of section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)), commercial paper, bankers' acceptances, commercial bills, or unencumbered warehouse receipts, equal to an amount by which the value of each transaction exceeds the amount received or to be received by the grantor for such transaction;

"(E) provides an identification number for each transaction; and

"(F) provides confirmation of all orders for such transactions executed, including the execution price and a transaction identification number;

"(2) the futures commission merchant has evidence that the grantor meets the requirements set forth in clause (1) of this subsection; and

"(3) the futures commission merchant—

"(A) treats and deals with an amount of money, exempted securities (within the meaning of section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)), commercial paper, bankers' acceptances, commercial bills, or unencumbered warehouse receipts, equal in value to the value received from its customers as payment of the purchase price in connection with such transactions, as security for performance of the transactions until the expiration or liquidation of those transactions;

"(B) records each transaction in its customer's name by the transaction identification number provided by the grantor; and

"(C) provides a disclosure statement to its customers, under regulations of the Commission, that discloses, among other things, all costs, including any markups or commissions involved in such transaction.

"(e) The provisions of subsections (c) and (d) of this section shall be effective for the period beginning October 1, 1978, and ending September 30, 1984.".

CUSTOMERS' FUNDS AND PROPERTY

SEC. 3. Section 4d(2) of the Commodity Exchange Act (7 U.S.C. 6d(2)) is amended by—

(1) inserting in the first paragraph after *"Provided, further,"* the following: "That in accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, such money, securities, and property of the customers of such futures commission merchant may be commingled and deposited as provided in this section with any other money, securities, and property received by such futures commission merchant and required by the Commission to be separately accounted for and treated and dealt with as belonging to the customers of such futures commission merchant: *Provided further,*"; and

(2) adding at the end thereof a new paragraph as follows:

"Notwithstanding any other provision of law, no such person, nor any trustee or receiver of such person, shall assert any rights with respect to such money, securities, and property or with respect to customer accounts held by such person, or any trustee or receiver of such person, which would prohibit, delay, or condition a transfer of such money, securities, property, or customer accounts to another futures commission merchant: *Provided*, That such a transfer is required under the rules, bylaws, or regulations of any contract market or clearinghouse organization of which such person is a member or under the rules and regulations of the Commission.".

REGISTRATION OF FUTURES COMMISSION MERCHANTS AND FLOOR BROKERS

SEC. 4. Section 4f(1) of the Commodity Exchange Act (7 U.S.C. 6f(1)) is amended by—

(1) striking out in the third sentence "All registrations" and inserting in lieu thereof "Each registration"; and

(2) inserting in the third sentence after "issued," the following: "or at such other time, not less than one year from the issuance thereof, as the Commission may by rule, regulation, or order prescribe,".

TECHNICAL AMENDMENT

SEC. 5. Section 4g(3) of the Commodity Exchange Act (7 U.S.C. 6g(3)) is amended by striking out "Brokers" and inserting in lieu thereof "Floor brokers".

REGISTRATION OF ASSOCIATED PERSONS; AUTHORIZATION FOR REGISTRATION OF ASSOCIATED PERSONS BY A TITLE III ASSOCIATION

SEC. 6. Section 4k of the Commodity Exchange Act (7 U.S.C. 6k) is amended by—

(1) amending the last sentence of subsection (2) to read as follows: "Such registration shall expire two years after the effective date thereof or at such other time, not less than one year from the issuance thereof, as the Commission may by rule, regulation, or order prescribe, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked after notice and hearing as prescribed in section 6(b) of this Act: *Provided*, That upon initial registration, unless the Commission otherwise prescribes by rule, regulation, or order, the effective period of such registration shall be not more than two years nor less than one year from the effective date thereof."; and

(2) adding at the end thereof a new subsection (3) as follows:

"(3) The Commission may authorize a registered futures association to perform the registration functions of this section, in accordance with rules approved by the Commission, and subject to the provisions of this Act applicable to registrations granted by the Commission.".

REGISTRATION OF COMMODITY TRADING ADVISORS AND COMMODITY POOL OPERATORS

SEC. 7. Section 4n of the Commodity Exchange Act (7 U.S.C. 6n) is amended by—

(1) striking out subsection (2) and redesignating subsections (3), (4), (5), (6), and (7) as subsections (2), (3), (4), (5), and (6), respectively;

(2) striking out in subsection (3) "All registrations" and inserting in lieu thereof "Each registration"; and

(3) inserting in subsection (3) after "year," the following: "or at such other time, not less than one year from the effective date thereof, as the Commission may by rule, regulation, or order prescribe,".

PROHIBITION ON FRAUDULENT TRANSACTIONS BY COMMODITY TRADING ADVISORS AND COMMODITY POOL OPERATORS

SEC. 8. Section 40(1) of the Commodity Exchange Act (7 U.S.C. 60(1)) is amended by striking out "registered under this Act".

ARBITRATION

SEC. 9. Section 5a(11) of the Commodity Exchange Act (7 U.S.C. 7a(11)) is amended by inserting before "provide" the following: "unless available under the rules of a registered futures association,".

REFUSAL, SUSPENSION, OR REVOCATION OF "CONTRACT MARKET" DESIGNATION—HEARING ON THE RECORD; COMMISSION SUBPENA POWER

SEC. 10. Section 6 of the Commodity Exchange Act (7 U.S.C. 8) is amended by—

(1) inserting "on the record" after "hearing" in the second sentence;

(2) inserting "on the record" after "hearing" in the second sentence of subsection (a);

(3) striking out the third sentence of subsection (b) and inserting in lieu thereof the following: "For the purpose of securing effective enforcement of the provisions of this Act and for the purpose of any investigation or proceeding under this Act, any member of the Commission or any Administrative Law Judge or other officer designated by the Commission is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission deems relevant or material to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States or any State at any designated place of hearing. In case of contumacy by, or refusal to obey a subpena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction in which such investigation or proceeding is conducted, or where such person resides or transacts business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records. Such court may issue an order requiring such person to appear before the Commission or member or Administrative Law Judge or other officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district wherein such person is an inhabitant or transacts business or wherever he may be found.".

ISSUANCE OF A CEASE AND DESIST ORDER OR IMPOSITION OF A CIVIL MONEY PENALTY AGAINST A CONTRACT MARKET—HEARING ON THE RECORD

SEC. 11. Section 6b of the Commodity Exchange Act (7 U.S.C. 13a) is amended by inserting "on the record" after "hearing" in the first sentence.

JURISDICTION OF THE STATES

SEC. 12. The Commodity Exchange Act is amended by adding after section 6c a new section 6d as follows:

"SEC. 6d. (1) Whenever it shall appear to the attorney general of any State (or other official as the State may designate) that the interests of the residents of that State have been, are being, or may be threatened or adversely affected because any person (other than a contract market or floor broker) has engaged in, is engaging in, or is about to engage in, any act or practice constituting a violation of any provision of this Act or any rule, regulation, or order of the Commission thereunder, the State may bring an action on behalf of its residents in the proper district court of the United States in such State, to enjoin such act or practice, or to enforce compliance with this Act, or any rule, regulation, or order of the Commission thereunder, and that court shall have jurisdiction to entertain such action and, upon proper application, shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this Act or any rule, regulation, or order of the Commission thereunder, including the requirement that the defendant take such action as is necessary to remove the danger of violation of this Act or of any such rule, regulation, or order.

"(2) No action may be brought under this section without the prior approval of the Commission, unless the Commission specifies by rule or regulation that prior approval shall not be required.

"(3) Immediately upon bringing any such action, the State shall serve written notice thereof upon the Commission, and the Commission may intervene in the action by filing a notice of appearance in the action and, upon doing so, the Commission shall have the right to be heard on all matters arising therein and to file petitions for appeal.

"(4) No restraining order, injunction, writ of mandamus, or order affording like relief, shall be issued ex parte in any action brought under this section. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

"(5) Any action under this section may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the act or practice occurred, is occurring, or is about to occur, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

"(6) For purposes of bringing any action under this section, nothing in this Act shall prevent the attorney general or other duly authorized State official from exercising the powers conferred on them by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(7) For purposes of this section, the word 'State' means any State of the United States, the District of Columbia, or any territory or possession of the United States.".

DISCLOSURE OF TRADERS AND THEIR POSITIONS ON BOARDS OF TRADE TO THE PUBLIC

SEC. 13. Section 8 of the Commodity Exchange Act (7 U.S.C. 12–1) is amended by striking out in the second paragraph "and make public" the second time that phrase appears.

FINGERPRINTING OF APPLICANTS FOR REGISTRATION; DISCLOSURE OF IMPROPER TRANSACTIONS

SEC. 14. Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended by—

(1) inserting in subsection (1) after "by the Commission" the following: ", which may require the applicant, and any persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing"; and

(2) striking out "and to publish" in subsection (6).

DISCLOSURE OF RESULTS OF EXCHANGE DISCIPLINARY PROCEEDINGS

SEC. 15. Section 8c(1)(B) of the Commodity Exchange Act (7 U.S.C. 12c(1)(B)) is amended by amending the last sentence to read as follows: "An exchange shall make public its findings and the reasons for the exchange action in any such proceeding, including the action taken or the penalty imposed, but shall not disclose the evidence therefor, except to the person who is suspended, expelled, or disciplined, or denied acces, and to the Commission: *Provided*, That the restriction on disclosure of evidence in this sentence shall not apply to criminal investigations or proceedings.".

CRIMINAL PENALTIES

SEC. 16. Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by——

(1) striking out in subsection (a) "$100,000" and inserting in lieu thereof "$500,000";

(2) striking out in subsection (b) "$100,000" and inserting in lieu thereof "$500,000";

(3) inserting before the period at the end of subsection (b) the following: ", or to violate the provisions of section 4, section 4b, section 4c, section 4h, or section 4o(1) of this Act, or any rule, regulation, or order of the Commission thereunder, the violation of which is made unlawful or the observance of which is required, or to make any false or misleading statement of a material fact in any registration application or report filed with the Commission, or to omit to state in any such application or report any material fact that is required to be stated therein"; and

(4) amending subsection (c) to read as follows:

"(c) Except as provided in subsections (a), (b), (d), and (e) of this section, it shall be a misdemeanor punishable by a fine of not more than $100,000 or imprisonment for not more than one year, or both, together with the costs of prosecution, for any person to violate any provision of this Act, or any rule, regulation, or order of the Commission thereunder, the violation of which is made unlawful or the observance of which is required.".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 17. Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There are hereby authorized to be appropriated to carry out the provisions of this Act such sums as may be required for the fiscal year ending June 30, 1975, for the period beginning July 1, 1975, and ending September 30, 1976, and for each of the fiscal years during the period beginning October 1, 1976, and ending September 30, 1984.".

REPARATIONS

SEC. 18. Section 14 of the Commodity Exchange Act (7 U.S.C. 18) is amended by—

(1) striking out in subsection (a) "registered" and inserting in lieu thereof "who is registered or required to be registered";

(2) striking out in subsection (b) all after "*Provided*," and inserting in lieu thereof the following: "That in complaints wherein the amount claimed as damages does not exceed the sum of $5,000, a hearing limited to the basic or novel issue or issues of the case shall be held, and additional proof in support of the complaint and respondent's answer may be supplied in the form of depositions or verified statements of fact."; and

(3) amending subsection (c) to read as follows:

"(c) After opportunity for hearing has been waived or a hearing is held on a complaint filed under this section, the Commission shall determine whether the respondent has violated any provision of this Act or any rule, regulation, or order of the Commission thereunder."; and

(4) adding at the end thereof a new subsection (j) as follows:

"(j) Notwithstanding any other provision of this section or Act, a futures association registered under section 17 of this Act may, with the Commission's approval, adopt rules establishing a procedure whereby persons complaining of a violation of any provision of this Act or any rule, regulation, or order of the Commission thereunder by a member of the association who is registered or required to be registered under section 4d, section 4e, section 4k or section 4m of this Act, may obtain an adjudication of such claims by the association, and the rules of that are or could be brought thereunder, the association shall govern all such claims in lieu of the procedures set forth in this section: *Provided*, That the decisions of the association shall be subject to subsection (f), (g), and (h) of this section to the same extent as reparations orders entered by the Commission.".

REGISTERED FUTURES ASSOCIATION

SEC. 19. Section 17 of the Commodity Exchange Act (7 U.S.C. 21) is amended by—

(1) striking out in subsection (b)(10) "$5,000" and inserting in lieu thereof "$15,000"; and

(2) redesignating subsection (m) as subsection (n), and inserting after subsection (l) a new subsection (m) as follows:

"(m) Notwithstanding any other provision of law, the Commission may approve rules of a futures association or of a contract market that, directly or indirectly, require persons eligible for membership in such association to become members thereof, if the Commission determines that such rules are necessary or appropriate to achieve the purposes and objectives of this Act.".

LEVERAGE TRANSACTIONS; FORWARD CONTRACTS

SEC. 20. The Commodity Exchange Act is amended by adding at the end thereof new sections 19 and 20 as follows:

"SEC. 19. No person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of any commodity specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974, under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract. Notwithstanding any other provision of this Act, the Commission may prohibit or regulate any such transactions involving any other commodities under such terms and conditions as the Commission shall initially prescribe by October 1, 1979: *Provided*, That any such order, rule, or regulation may be made only after notice and opportunity for hearing: *Provided further*, That the Commission may set different terms and conditions for such transactions involving different commodities. If the Commission determines that any such transaction is a contract for future delivery within the meaning of the Act, such transaction shall be regulated in accordance with the applicable provisions of this Act.

"SEC. 20. (a) The Commission shall, for the period beginning October 1, 1978, and ending September 30, 1984, monitor forward contracting for domestic agricultural commodities and maintain records of defaults on any such contracts.

"(b) The Commission shall include in its annual reports to Congress information concerning its monitoring activities under subsection (a) of this section, any defaults on forward contracts for domestic agricultural commodities during the immediately preceding fiscal year, and any observations, recommendations, or comments on forward contracts for domestic agricultural commodities and the regulation of those transactions or the need for legislation in this area as the Commission deems appropriate.

"(c) Of the sums appropriated annually to carry out this Act, not to exceed $75,000 may be used to carry out the provisions of this section.".

REPEAL OF LEVERAGE TRANSACTION PROVISION IN THE 1974 ACT

SEC. 21. Title II of the Commodity Futures Trading Commission Act of 1974 (7 U.S.C. 15a) is amended by repealing section 217.

USE IMMUNITY

SEC. 22. Section 6001 of part V of title 18 of the United States Code (18 U.S.C. 6001) is amended by inserting after "Civil Aeronautics Board," the following: "the Commodity Futures Trading Commission,".

NATIONAL COMMISSION ON THE EFFECTS OF FUTURES MARKETS ON FARM INCOME

SEC. 23. (a) There is hereby established a National Commission on the Effects of Futures Markets on Farm Income (hereinafter referred to as the "Commission").

Organization

(b)(1)(A) The Commission shall be composed of nine members, appointed by the President, none of whom may be employees of the Federal Government or Members of Congress. One of the members of the Commission, who, by background, experience, and education, is particularly suited to the position, shall be designated as Chairman at the time of his or her appointment.

(B) At least four of the Commission members shall be agricultural producers. The other Commission members shall represent, insofar as practicable, the interests of processors and distributors of agricultural commodities and their products, economists, commodity exchanges, national agricultural organizations, and consumers.

(C) A vice-chairman shall be selected by a majority vote of the Commission.

(2) A vacancy in the Commission shall not affect its powers, except for the selection of vice-chairman. Any vacancy in the Commission shall be filled in the same manner as the original position.

Compensation of Members

(c) Each member of the Commission may receive compensation at the highest rate of pay for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the work of the Commission, and shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized under section 5703 of title 5, United States Code.

Duties of the Commission

(d)(1) The Commission shall study and appraise—

(A) The relationships between the prices established on futures markets and the cash prices of the commodities;

(B) the concentration and magnitude of trading by foreign individuals, corporations, or governments on United States futures markets;

(C) the actions necessary to stimulate greater use of futures markets by American farmers, if advisable;

(D) the reasons for the differentials in the prices farmers receive for their crops and the futures prices for the same commodity;

(E) the effect of increasing the number of delivery points under a futures contract on the prices received by producers of that commodity; and

(F) the need for changes, if any, in the Commodity Exchange Act or the regulations thereunder.

(2) The Commission shall make such interim reports as it deems advisable, and it shall make a final report of its findings, conclusions, and legislative recommendations to the President and Congress by October 1, 1981, and shall cease to exist not later than ninety days thereafter.

(3) All books, papers, reports, memoranda and all the documents collected, produced, obtained or in the custody or possession of the Commission shall, prior to the termination of the Commission, be transmitted to the Commodity Futures Trading Commission

Powers of the Commission

(e)(1) The Commission, or any three members thereof authorized by the Com-

mission, may conduct hearings anwhere in the United States or otherwise secure data and expressions of opinions pertinent to the study. In connection therewith, the Commissioners may—

(A) require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe and within such reasonable period and under oath or otherwise as the Commission may determine;

(B) administer oaths;

(C) require by subpena the attendance and testimony of witnesses in the production of all documentary evidence relating to the execution of its duties;

(D) invoke the aid of any district court of the United States in requiring compliance with such subpena or order in the case of disobedience of a subpena or order issued under this subsection;

(E) order testimony to be taken in any proceeding or investigation by deposition before any person who is designated by the Commission and who has the power to administer oaths, and in such instances to compel testimony in the production of evidence in the same manner as authorized under clauses (C) and (D) of this paragraph; and

(F) to pay witnesses the same fees and mileages as are paid in like circumstances by the courts of the United States.

(2) Any district court of the United States within the jurisdiction of which an inquiry under this section is conducted may in case of refusal to obey a subpena or order of the Commission issued under this subsection, issue an order requiring compliance therewith; and failure to obey the order of the court may be punished by the court as contempt thereof.

(3) Notwithstanding any other provision of law, the Commission may require from the head of any executive department, agency, or independent establishment of the Federal Government available information deemed useful in the discharge of its duties, and all such departments, agencies, and establishments shall cooperate with the Commission and furnish all information requested by the Commission.

(4) The Commission may enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties. The authority provided by this paragraph shall be effective for any fiscal year only to the extent provided in appropriation Acts.

(5) Subject to the provisions of section 552 of title 5, United States Code, when the Commission finds that publication of any information obtained by it is in the public interest and would not give an unfair competitive advantage to any person, the Commission may publish such information in the form and manner deemed best adapted for public use, except that information that would separately disclose the business transactions of any person, trade secrets, or names of customers shall be held in confidence and shall not be disclosed by the Commission.

Administrative Arrangements

(f)(1) The Commission shall appoint and fix the compensation of an executive director and a chief economist without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and 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. The executive director, with the approval of the Commission, shall employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Commission, except that no individual so appointed shall be paid at a rate in excess of the rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(2) The executive director, with the approval of the Commission, is authorized to obtain the services of experts and consultants as provided under section 3109 of title 5, United States Code.

(3) The head of any executive department, agency, or independent establishment of the Federal Government may detail, on a reimbursable basis, any of its personnel to assist the Commission in conducting its work.

(4) Financial and administrative services (including those relating to budgeting and accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator of General Services.

Authorization of Appropriations

(g) There are hereby authorized to be appropriated to the Commission such sums, not in excess of $1,000,000 for each year of its existence, as may be necessary to carry out the provisions of this section.

EFFECTIVE DATE

SEC. 24. The provisions of this Act shall become effective October 1, 1978.

RECESS UNTIL 1:15 P.M.

Mr. HART. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 1:15 p.m. today.

There being no objection, the Senate at 11:25 a.m., recessed until 1:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SASSER.)

COMMODITY EXCHANGE ACT

The Senate continued with the consideration of S. 2391.

The PRESIDING OFFICER. The pending business is S. 2391. The time for debate on this bill is limited to 2½ hours, to be divided and controlled with 1 hour each to the Senator from Vermont (Mr. LEAHY) and the Senator from Kansas (Mr. DOLE), and with 30 minutes to the Senator from Montana (Mr. MELCHER); with a time limitation of 30 minutes on any amendment except one to be offered by the Senator from Montana (Mr. MELCHER), and on that amendment there will be a limitation of 1 hour; and with a limitation of 15 minutes on any debatable motion, appeal, or point of order.

Who yields time?

Mr. LEAHY. Mr. President, I ask unanimous consent that throughout all deliberations and proceedings on this bill, Martin Franks and Liam Murphy of my office have the privilege of the floor, including votes on the measure.

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

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

Mr. LEAHY. I yield.

Mr. HELMS. Mr. President, I make a similar request on behalf of John Carbaugh of my staff.

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

Mr. HODGES. Mr. President, I ask unanimous consent that Bill Kennedy of my staff be granted privilege of the floor during discussion and voting on this matter.

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

Mr. DOLE. Mr. President, I ask unanimous consent that Barbara Washburn of Senator JAVITS' staff be granted the privilege of the floor.

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

Mr. LEAHY. Mr. President, S. 2391 has as its major purpose the reauthorization of the Commodity Futures Trading Commission for 6 years. The Committee on Agriculture, Nutrition, and Forestry has unanimously agreed to reauthorize the CFTC despite disclosures of deficiencies in the past administration of the Commission.

The basic structure of the Commission is sound. The Commission is properly separate from any Cabinet department identified with a particular economic constituency or other Federal agency.

I believe it is useful to briefly retrace the historical development of futures markets in order to appreciate the significance of this form of commercial activity. The functioning futures markets is both a refined development of free and competitive markets and an essential adjunct of an international and interdependent world economy. Futures markets are an essential tool to measure the several demands for real resources over time and to allocate them most efficiently. Seldom can it be said of an essentially private economic institution that, if it functions well, both producer and consumer are significantly well served—but that is true of futures markets at their best.

Rudimentary futures markets are as old as modern commercial civilization, having grown up along with the "commercial revolution" that marked the shift from medieval society to the modern age. A recent article by Prof. Robert S. Lopez of Yale, a specialist in medieval history, briefly explains how and why it was that the techniques and instruments of modern commerce came to life in Italy in the 10th through 13th centuries rather than in the then flourishing Arab world or Japan—and led directly to 10 centuries of Western ascendancy and prosperity, from which we still benefit. He points out that investments in agriculture are fundamental for survival, but unlikely to multiply as fast as those of merchants taking high risks for high profits and exploiting the difference in price from one place to another.

Roman society, he observes, was dominated by gentlemen farmers and great landowners who regarded comfortable stability as a more desirable goal than adventurous growth, and looked down upon traders and loathed moneylenders. The merchants of Venice and some seaports of southern Italy in particular were neutral intermediaries between mutually hostile parties who needed each other's commodities. In these city-states even the aristocracy worked at business and trade, while those who had no money to invest offered their labor, and pooled commodities rather than cash.

I am told that the Graham L. Rees Standard History of Britain's Commodity Markets also points out just how powerful and inventive the influence of Italian and Hanseatic merchants was in developing the commerce of England. Between the 10th and 14th centuries the sealane between Italy and Flanders was not secure. At that time, these merchants promoted a land route through the French Champagne. The seasonal fairs held along that route became the nerve centers of international commerce, according to Rees. There developed, in rudimentary form, public markets adjusting anticipated value differences of goods between present and future, and anticipated value differences of money between present and future. Even interest rate futures, it would seem, are very old institutions—in one form or another.

American futures markets today are still an exciting, useful, and expanding adjunct of domestic and international agricultural marketing and also facilitate real estate financing, international dealings in metals and tropical commodities, and the newly-important quest to protect against avoidable adverse economic impact of inflation and the fluctuating value of the U.S. dollar and other currencies. The commodity futures markets now encompass certain Government securities and domestic and foreign currencies.

The Commodity Futures Trading Commission Act of 1974 authorizes appropriations for the Commission through the end of this fiscal year. This provision, which has been characterized as a "sunset" provision, compelled the committee to conduct an extensive investigation of the assumptions underlying the 1974 Act and the Commission's performance.

Last year, the Committee on Agriculture, Nutrition, and Forestry began its preparations for consideration of the Commission's reauthorization by requesting the General Accounting Office to conduct a thorough investigation of the Commission's organization, management, and performance. Also, the Subcommittee on Agricultural Research and General Legislation held 6 days of hearings on this legislation.

I would like to take this opportunity to express appreciation to Senators CLARK, LUGAR, HAYAKAWA, and HELMS for their interest and aid during this process. Particular thanks must go to Senator HUDDLESTON, the author of S. 2391 as originally introduced. As we on the committee have grown to expect, Chairman TALMADGE afforded every member an opportunity to express their views on the bill while assuring that our deliberations did not get bogged down. The chairman's leadership was particularly evident during our debates on issues in this very technical area.

The regulation of our Nation's futures markets is frequently viewed as being unfathomable by the layman. Although there is a degree of truth to this proposition, hard work on the part of the committee enabled us to understand this unique field of commerce.

During our deliberations it became clear that we could do nothing and allow the CFTC to die, make merely cosmetic alterations, or engage in the difficult project of reauthorizing the Commission and including changes that would allow it to grow stronger. The committee chose the last course.

It would be inaccurate to say that the Commission has been without its problems. Many of the problems that confronted the Commission were, however, a direct outgrowth of the growing pains of a new agency and failures to anticipate or expeditiously react to changing circumstances in the marketplace.

The CFTC is a relatively small agency with limited resources. One thing became abundantly clear during our deliberations, the Commission cannot do all of the necessary investigatory work and engage in all of the prosecutorial activities necessary to protect the American public. The recent press accounts of customer fraud in the sale of commodity options attests to this fact. S. 2391 addresses this problem in a few major ways.

The sale of commodity options would be banned, with carefully drawn and limited exceptions, until the Commission justifies to Congress its ability to regulate successfully this form of trading.

S. 2391 also confers jurisdiction on the States to prosecute violations of the Commodity Exchange Act in Federal district courts. While assuring a uniformity of approach, since the Commission would approve the bringing of these sections, another prosecutorial force would be employed.

The 1974 act authorized the establishment of registered futures associations. S. 2391 contains provisions to speed the establishment of these associations and to allow them to assume some of the duties currently being conducted by the Commission. These associations could free Commission personnel to engage in other activities.

It should be noted that under existing law the Commission imposed a ban on commodity option sales, which became effective on June 1, 1978. This action is commendable and is consistent with the spirit of S. 2391 and its companion bill, H.R. 10285. However, it would be a mistake to assume that the same problems that surrounded options sales will not resurface in a different context. The committee recognized the dynamic nature of the markets for future delivery, both when trading occurs on contract markets, as well as when trading occurs off-exchange, and included in S. 2391 provisions on all leverage transactions similar to the provisions of current law on options. We have been informed that leverage transactions are susceptible to the same type of huckstering as was experienced with options and that previous purveyors of options could easily redesign their operations and begin selling leverage contracts.

As economic uncertainties propel more and more noncommercial interests into the futures markets the need for customer protection and for assuring the integrity of entities trading futures-related instruments, and the instruments themselves, is heightened.

The dynamic nature of the futures industry calls for providing the Commission with the tools to address changes in the marketplace. The Commodity Futures Trading Commission Act of 1974 provided the framework for this flexibility and S. 2391 embellishes on that framework.

At this point, I would ask unanimous consent to have printed in the RECORD a summary of the major provisions of S. 2391.

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

SUMMARY OF MAJOR PROVISIONS

The major provisions of S. 2391, as amended by the committee, are as follows:

1. Composition of the Commission.—The bill provides that the Commodity Futures Trading Commission will be composed of five Commissioners, one of whom will be appointed by the President as Chairman to serve at the President's pleasure. (Under existing law, the individual appointed as Chairman serves as Chairman of the five-member Commission for a 5-year term.) (Section 1 (2)–1(5).)

2. Senate confirmation of the Executive Director.—The bill removes the requirement for Senate confirmation of the Commission's Executive Director. (Section 1(6).)

3. Conflict of interest.—The bill prohibits any Commissioner or GS–15 or higher Commission employee from transacting business for others with the Commission for 1 year after leaving the Commission. (Section 1(7) and 1(8).)

4. Liaison with Department of Agriculture.—The bill removes the requirement that the Commission establish and staff a liaison office within the Department of Agriculture and substitutes a requirement for maintenance of liaison. (Section 1(9).)

5. Options transactions.—The bill suspends all commodity options trading, except trade options and a designated class of dealer options in which the grantor's net worth and customer protection practices conform to certain specified requirements, until the Commission documents its ability successfully to regulate these transactions and 30 days pass following receipt of this documentation without either House adopting a resolution disapproving the proposed action. (Section 2(3).)

6. Customers' funds and property.—The bill authorizes the Commission to permit futures commission merchants to commingle customers' segregated funds for different classes of transactions subject to such terms and conditions as the Commission may prescribe. The bill also protects customer segregated funds and margin accounts in the event of insolvency of a futures commission merchant. (Section 3.)

7. Prohibition on fraudulent transactions by commodity trading advisors and commodity pool operators.—The bill makes it clear that the antifraud provisions of the Commodity Exchange Act apply to all commodity trading advisors and commodity pool operators regardless of whether they have registered or whether they are required to register. (Section 8.)

8. Commission subpena power.—The bill makes the Commission's power to conduct investigative proceedings independent from authority in existing law based on the Interstate Commerce Act. (Section 10(3).)

9. Hearing on the record. The bill requires that a hearing on the record be afforded a board of trade whose designation as a contract market has been denied, suspended, or revoked, and that a hearing on the record take place before the Commission issues a cease and desist order, or imposes a civil money penalty against a contract market for noncompliance with the Act or regulations thereunder. (Sections 10(1), 10(2), and 11.)

10. Jurisdiction of the States.—The bill creates a statutory cause of action for States, in Federal district courts, to seek injunctive relief for violations of the Commodity Exchange Act or Commission regulations thereunder, that would exist in addition to any causes of action under State general civil or criminal antifraud laws that are not preempted by the Act. (Section 12.)

11. Disclosure of traders and their positions on boards of trade to the public.—The bill removes the requirement that the Commission make public the information it has available on traders on boards of trade (including their market positions) when such information is requested by a congressional committee. (Section 13.)

12. Fingerprinting of applicants for registration.—The bill authorizes the Commission to require fingerprinting of applicants for registration. (Section 14(1).)

13. Disclosure of improper transactions.—The bill removes the Commission's authority to publish the open market positions of any traders when the Commission communicates with exchange business conduct committees or officers concerning transactions or market operations that the Commission believes will endanger the market or are otherwise harmful or against the best interests of producers and consumers. (Section 14(2).)

14. Registered futures association.—The bill amends the enabling authority in existing law under which, subject to the Commission's approval and at its discretion, persons registered under the Commodity Exchange Act and in the commodity trading business may establish voluntary associations for regulating the practices of the members. The bill would—

(a) allow the Commission to register an association that requires membership of all eligible persons (section 19(2));

(b) increase the upper limit for the amount in controversy in customer arbitration proceedings before an association from $5,000 to $15,000 (section 19(1));

(c) allow the Commission to permit a registered association to assume some of the Commission's authority in reparation proceedings (section 18(4)); and

(d) authorize the Commission to permit a registered association to register associated persons (section 6(2)).

15. Disclosure of results of exchange disciplinary proceedings.—The bill requires each exchange to make public, except in criminal investigations or proceedings, its findings and the reasons therefor in any disciplinary or denial of membership proceeding. (Section 15.)

16. Criminal penalties.—The bill—

(a) increases from $100,000 to $500,000 the maximum fine for (i) any futures commission merchant, or any employee or agent of a futures commission merchant, convicted of embezzling, stealing, purloining, or criminally converting customers' property, or (ii) any person convicted of manipulating or attempting to manipulate commodity prices;

(b) makes it a felony punishable by a fine of not more than $500,000 or imprisonment for not more than 5 years, or both, together with the costs of prosecution, to violate the provisions of the Act relating to (i) the requirement that futures transactions be executed only on designated contract markets; (ii) cheating, defrauding, deceiving, and bucketing in connection with futures transactions; (iii) engaging in wash sales, fictitious transatcions, and prohibited commodity option transactions; (iv) perpetration of any fraud or deceit by commodity trading advisors or commodity pool operators; (v) the requirement that futures transactions be executed only through a member of a designated contract market; and (vi) making false representations respecting the registration of such a contract market member as a futures commission merchant (under existing law, the offenses in items (i) through (vi) are classified as misdemeanors and punishable by a fine of not more than $100,000 or imprisonment for not more than 1 year, or both);

(c) provides that all misdemeanors under the Act would be punishable by a fine of not more than $100,000 or imprisonment of not more than 1 year, or both, plus the costs of prosecution. (Section 16.)

17. Authorization for appropriations.—The bill extends the authorization for appropriations for the Commission for 6 years (fiscal years 1979 through 1984). (Section 17.)

18. Reparations.—The bill—

(a) makes it clear that reparations proceedings may be instituted by persons aggrieved by the actions of any person who is registered or required to be registered under the act; and

(b) provides that in reparation cases where the damages claimed do not exceed $5,000, a hearing would be held limited to the basic or novel issues of the case (under existing law, no hearing is required in cases where the amount claimed as damages does not exceed $2,500). (Section 18(1)–18(3).)

19. Leverage transactions.—The bill—

(a) bans all leverage transactions on domestic basic agricultural commodities and authorizes the Commission to ban or regulate leverage transactions on all other commodities by October 1, 1979; and

(b) repeals section 217 of the Commodity Futures Trading Commission Act of 1974, which requires the Commission to regulate leverage transactions for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins. (Sections 20 and 21.)

20. Forward contracts.—The bill—

(a) requires the Commission to monitor forward contracts on domestic agricultural commodities and maintain records of defaults on these contracts during the period October 1, 1978, through September 30, 1984; and

(b) requires the Commission to include in its annual reports to Congress information on its forward contract monitoring activities and forward contract defaults. (Sestion 20.)

21. Use immunity.—The bill authorizes the Commission to grant use immunity to witnesses appearing before the Commission. (Section 22.)

22. National Commission on the Effects of Futures Markets on Farm Income.—The bill establishes a nine-member National Commission on the Effects of Futures Markets on Farm Income, at least four members of which shall be agricultural producers. The new commission would—

(a) study and appraise (i) the relationships between the prices established on futures markets and the cash prices of the commodities; (ii) the concentration and magnitude of trading by foreign individuals, corporations, or governments on United States futures markets; (iii) the actions necessary to stimulate greater use of futures markets by American farmers (if advisable); (iv) the reasons for the differentials in the prices farmers receive for their crops and the futures prices for the same commodity; (v) the effect of increasing the number of delivery points under a futures contract on the prices received by producers of that commodity; and (vi) the need for changes, if any, in the Commodity Exchange Act or the regulations thereunder;

(b) make its final report of its findings, conclusions, and legislative recommendations to the President and Congress by October 1, 1981, and cease to exist not later than 90 days thereafter; and

(c) have an authorization for appropriations of $1 million for each year of its existence. (Section 23.)

Mr. LEAHY. I believe that S. 2391 contains viable solutions to the problems confronting the Commission. It is a bill that has received thorough consideration from all interested parties and represents the culmination of extensive deliberations by the committee. I urge the Members of the Senate to join me in voting for S. 2391.

Mr. President, I ask unanimous consent that Bill Motes of Senator CLARK's staff, and Owen Donnelly of Senator MCGOVERN's staff, Glenn Clark, the Agriculture Committee's consultant, and the following staff members of the Committee on Agriculture, Nutrition, and Forestry be granted the privilege of the floor during consideration of S. 2391, including all rollcall votes thereon: Henry Casso, Carl Rose, Bill Lesher, Steve Storch, Bill Taggart, and Stu Hardy.

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

Mr. LEAHY. Mr. President, I ask unanimous consent that the amendment of the Committee on Agriculture, Nutrition and Forestry to S. 2391 be agreed to and the bill as amended be considered as the original text for the purpose of further amendment.

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

ORDER FOR VOTE ON TREATIES AT 2:15 P.M. TODAY

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

Mr. LEAHY. Certainly.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, as in executive session, that at the hour of 2:15 p.m. today, the Senate go into executive session and, without debate, motion, and so on, vote en bloc on the five treaties for which the order was entered on yesterday; and that, immediately after the vote, the Senate return to legislative session.

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

COMMODITY EXCHANGE ACT

The Senate continued with consideration of the bill.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

Mr. MELCHER. Reserving the right to object, equally divided among whom?

Mr. LEAHY. The majority and minority on the bill. That would be Senator DOLE and myself.

Mr. MELCHER. I have no objection.

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. LEAHY. 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. LEAHY. Mr. President, I yield to my distinguished colleague from Kentucky, the author of S. 2391.

Mr. HUDDLESTON. I thank the distinguished Senator from Vermont, the chairman of the subcommittee.

Mr. President, I ask unanimous consent that Mr. Bill Seale of my staff be granted the privilege of the floor during the discussion and voting on this measure.

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

Mr. HUDDLESTON. Mr. President, the regulation of futures trading and the related options and leverage areas is extremely technical and complex. S. 2391 is the product of a joint effort. I commend the Senator from Vermont (Mr. LEAHY) for his efforts as chairman of the subcommittee having jurisdiction over this legislation. I think the hard work of Senators CLARK, LUGAR, and HAYAKAWA have added immeasurably to the deliberations. Senator BELLMON was an active participant, and his views have been extremely helpful to the committee.

Of course, as the subcommittee chairman has pointed out, Chairman TALMADGE of the Committee on Agriculture, Nutrition, and Forestry, has always given wise counsel and direction during the course of our deliberations.

The Commodity Futures Trading Commission has been in the public spotlight for the past year. Rampant fraud in the marketing of so-called "London options" cheated unsuspecting customers nationwide out of their money. It would have been easy for the committee to shut its eyes to the realities of commodity options trading in the United States and simply ban all commodity options. However, I firmly believe that it is wrong to put reputable businessmen out of business because of the sins of others.

Recognizing the potential for abuse of the general public in off-exchange commodity options transaction, the Committee has exempted a very limited class of dealer options from the congressionally imposed ban on commodity options transactions contained in S. 2391. While the exception is tightly drawn, it does allow for competition between firms granting options who can satisfy the stringent customer protection requirements contained in the bill. It is satisfying to see that the exception to the Commission imposed ban on commodity option trading, which went into effect on July 1, 1978, is basically patterned on this provision of S. 2391.

The off-exchange trading of commodity options always holds out the potential for abuse. It is our hope that the Commission will move expeditiously for a program of exchange-traded commodity options. When this is accomplished the forces of the free marketplace will greatly reduce the attraction of off-exchange options transactions and could ultimately result in their demise.

S. 2391 prohibits leverage transactions involving basic domestic agricultural commodities and requires the Commission either to prohibit or regulate leverage transactions on all commodities by October 1, 1979.

The committee report on the bill states what the committee believes the Commission should do in its approach to regulation of leverage transactions. It warns against rash action—or a quick and easy ban. I quote from that report:

> The Commission should make a careful evaluation of the public interest served by leverage transactions, if any, and the framework necessary to enable the Commission effectively to regulate these transactions. Only if the Commission concludes that these transactions or any class thereof are contrary to the public interest or cannot be regulated successfully to ensure the financial solvency of the transactions and prevent manipulation or fraud, should the Commission prohibit leverage transactions in their entirety or prohibit certain classes of such transactions.

As is the case with commodity options grantors, not all writers of leverage transactions are crooks or thieves. It is my belief, given the time S. 2391 allows the CFTC to make a decision on this matter, that the Commission can construct regulatory requirements that will enable existing legitimate leverage operations to remain in operation while assuring the necessary customer protection. Indeed, a workable set of draft regulations may already exist.

Although substantially different from commodity options transactions, leverage transactions do present some of the same potential problems in that they are off-exchange traded instruments. It is my hope that the Commission has learned from its past miscalculations in the commodity options area and will be able to easily transfer this knowledge to the regulation of leverage transactions. Easy, unexamined entry of salesmen into this activity should not be tolerated.

In 1974, Congress directed the Commission to establish a reparation procedure for adjudicating customer complaints against commodity professionals and firms inexpensively and quickly. During the past 3 years, an unexpected number of reparation cases have been filed with the Commission, resulting in a substantial backlog in the processing of these customer claims. Compounding the undue stress placed on the reparation program, certain Federal district courts have taken the unfortunate position that Congress intended reparations to be the exclusive forum for adjudicating commodity customer claims. (See *Bartels* v. *International Commodities Corp.*, 435 F. Supp. 865, 870 (D. Conn. 1977) and *Churchwell* v. *Rosenthal & Co.*, Civ. Act. No. 77–F–252 (D. Col. April 4, 1977).) In order to alleviate the burden on the Commission's reparation program, the committee adopted an amendment that provides—for reparation complaints where the amount claimed as damages does not exceed $5,000—that a hearing be held only on the novel or basic issues that are determinative of the case. Thus, an aggrieved commodity customer will be able to obtain more expeditious treatment of his claim should the customer elect to pursue a claim in reparations rather than proceed to arbitration or pursue in court the private right of action which has been judicially implied for violations of certain provisions of the Commodity Exchange Act, or which in the future courts may recognize for other provisions of the act. (*See e.g., Hirk* v. *Agri-Research Council Inc.*, 561 F. 2d 95, 103 N. 8 (7th Cir. 1977); *Deaktor* v. *L. U. Schreiber & Co.*, 479 F. 2d 529, 534 (7th Cir. 1972), *Rev'd on other ground sub. nom., Chicago Merchantile Exchange* v. *Deaktor*, 414 U.S. 113 (1973); *Booth* v. *Peavy Co. Commodity Services*, 430 F. 2d 132, 133 (8th Cir. 1970); *Goodman* v. *H. Hentz & Co.*, 265 F. Supp. 440, 447 (N.D. 111, 1967).)

S. 2391 contains provisions that would create a National Commission on the Effects of Futures Markets on Farm Income.

The Committee on Agriculture, Nutrition, and Forestry has proceeded cautiously in the creation of new commissions. However, through the course of recent hearings on the current crisis in American agriculture and discussions with farm strikers, the committee was repeatedly presented with fear, distrust, and skepticism of the futures market by farmers.

The primary objective behind the creation of this new Commission is to conduct research and determine whether the futures markets reflect prices or whether they set commodity prices.

The primary beneficiaries of the futures markets should be the farmers of America. It is necessary that we have factual information upon which they can establish their opinions of these institutions. It is important that the group conducting the study be independent so that its conclusions will not be subject to charges of bias or prejudice.

Mr. President, as I have mentioned, and as the distinguished Senator from Vermont has indicated, this is a complex and complicated field.

I believe the legislation that is now before the Senate represents the best effort that can be made to bring order into the regulation of the futures trading industry.

I urge my colleagues to join in support of this legislation.

Mr. LEAHY. The Senator from Kansas, the ranking member of the committee and one of the managers of the bill, and the one controlling half the time, has opening remarks.

Mr. DOLE. Mr. President, I have very brief opening remarks.

I apologize for not being here to hear all the remarks of the distinguished Senator from Vermont, and those of my friend from Kentucky. But, Mr. President, I get the feeling in walking around the Chamber that some Senators would like to recommit this bill and figure out some way they might eliminate Mr. Gartner from the Commission.

That may or may not be germane to what we are doing.

I want to address the bill itself because it took a long time to develop. We

had a lot of hearings. I hope that the Senate will act on S. 2391.

Mr. President, this legislation (S. 2391) comprises the first reauthorization of the Commodity Futures Trading Commission (CFTC) since its inception in 1974.

There is no doubt about it. We have heard some testimony. The Commission had a great number of well-publicized growing pains during the past 4 years. Those areas were addressed at great length, and the Committee on Agriculture, Nutrition, and Forestry went to great lengths to assure a thorough and detailed evaluation of the new agency, its mission, its successes, and its failures.

The reauthorization process began more than a year ago when the committee asked the General Accounting Office to do an in-depth assessment of the CFTC's operations.

More recently, the committee submitted a series of questions to CFTC dealing with a broad range of issues including options trading, leverage contracts, the reparations process, and the question of regulatory jurisdiction on recent market controversies, such as last year's default on the Maine potato contract, the Hunt family's involvement in the 1977 soybean market, and the Commission's emergency order for the December 1977, coffee contract.

These questions, and the responses that CFTC subsequently provided, helped to prepare the committee for 6 days of public hearings conducted in March 1978 The hearings produced testimony from several of the commodity exchanges, commodity producers, representatives of the futures trading community, and officials of four related Federal agencies. And, of course, the five CFTC Commissioners.

The testimony indicated a strong concensus that the Commission should continue as an independent agency, and that its basic structure, mission, and jurisdiction should be maintained.

I assume there will be some amendment directed at this particular area.

While several witnesses suggested a transfer of some or all of the CFTC's functions to the Department of Agriculture, the Securities and Exchange Commission, or the Department of the Treasury, the overwhelming sentiment was in favor of leaving the present jurisdictional framework in place.

Witnesses did not hesitate to criticize the serious management problems and other operational shortcomings of the CFTC, but most problems were traced back to the agency's inevitable growing pains and to the enormous task it had to confront from the day of its birth.

The commodity futures business is a boom industry. In the past 5 years, the number of contracts almost tripled, the volume of contracts traded annually more than doubled, and the dollar volume reached more than 1.2 trillion in 1977.

The CFTC's predecessor agency, the old Commodity Exchange Authority, had limited jurisdiction largely directed to overseeing seven commodity exchanges and auditing those brokers trading in certain agricultural commodities. In contrast, the CFTC is charged with regulatory oversight of 10 exchanges, including the newly regulated commodities: Metals, lumber, foreign currencies, and the new financial futures. The Agency's jurisdiction and powers were vastly expanded, including the power to rewrite contract terms and exchange rules. Regulatory jurisdiction was expanded to cover all sales activities of 36,000 commodity sales persons, and the Commission was charged to oversee the implementation of uniform standards on all exchanges and in all brokerage houses regardless of what commodity is traded where and by whom.

Given this vast and difficult mission, it is little wonder that the new Agency's initial performance has been less than perfect.

Our oversight efforts in the Agriculture Committee, however, were concerned less with the CFTC's past problems and history than with devising amendments to assure more efficient and expeditious operations in the future. Our efforts culminated in S. 2391, the bill now under consideration.

The general purpose and scope of S. 2391 can be stated in simple and concise terms. This bill extends for 6 years the authorization of the CFTC and makes certain changes in the Commission that are designed to strengthen the regulation of the Nation's $1.2 trillion commodity futures industry. Significant changes are as follows:

The bill suspends all commodity options trading, except trade options and a designated class of dealer options in which the grantor's net worth and customer protection practices conform to certain specified requirements, until the Commission documents its ability successfully to regulate these transactions and 30 days pass following receipt of this documentation without either House adopting a resolution disapproving the proposed action.

The bill creates a statutory cause of action for States, in Federal district courts, to seek injunctive relief for violations of the Commodity Exchange Act or Commission regulations thereunder, that would exist in addition to any causes of action under State general civil or criminal antifraud laws that are not preempted by the act.

The bill removes the Commission's authority to publish the open market positions of any traders when the Commission communicates with exchange business conduct committees or officers concerning transactions or market operations that the Commission believes will endanger the market or are otherwise harmful or against the best interests of producers and consumers.

The bill expedites the creation of a National Futures Association for regulating the practices of its members by allowing the Commission to register an association that requires membership of all eligible persons.

The bill expedites the reparations process by limiting most reparations hearings to a consideration of the basic or novel issues of the case in question.

The bill bans all leverage transactions on domestic basic agricultural commodities and authorizes the Commission to ban or regulate leverage transactions on all other commodities by October 1, 1979.

The bill requires the Commission to monitor forward contracts on domestic agricultural commodities and maintain records of defaults on these contracts.

Finally, the bill establishes a nine-member national Commission on the effects of futures markets on farm income, at least four members of which shall be agricultural producers.

Mr. President, these and other provisions of S. 2391 lift unnecessary regulatory burdens from the commodity futures industry and make possible a greater degree of industry self-discipline and self-regulation. They speed up the processing of complaints from the commodity trading public and bring a temporary halt to certain scandal-tainted forms of options and leverage transactions.

Of course, the bill is not letter perfect. Further improvements are possible, and some may be made today. But the broad thrust of this legislation is well disected and merits the support of the distinguished Members of this body.

So perhaps, if we look at it objectively, we have to commend those on the committee who have been conducting the oversight efforts, who are concerned less with the CFTC's past problems and history than with devising amendments to assure more expeditious operating in the future.

I have not studied all the amendments carefully, but I understand there may be some floating around with reference to restructuring the commission to eliminate at least one of the commissioners.

That matter was not addressed and is not, of course, addressed directly in this legislation.

The administration did, at the very last moment, come to the committee. I think the distinguished chairman is here now. I think the very day of our markup we were advised by the administration of some changes they wanted made. I think in the wisdom of the committee we decided not to follow that course.

So, we want to reauthorize. We believe we have had sufficient impact on the CFTC. I think there is a general understanding that the Senate Agriculture Committee and others who have jurisdiction will closely monitor the activity of the CFTC.

I hope that the bill can be passed.

Mr. TALMADGE. Mr. President, will the distinguished manager of the bill yield me 5 minutes?

Mr. LEAHY. I yield such time as the Senator from Georgia may need.

Mr. TALMADGE. Mr. President, I support S. 2391 as reported by the Committee on Agriculture, Nutrition, and Forestry. This bill is the culmination of the outstanding efforts of Senators LEAHY, HUDDLESTON, CLARK, and LUGAR. The

futures markets present unique concerns and require unique regulation. The regulation of these markets by the Commodity Futures Trading Commission is not easily understood by the layman. I believe the committee, guided by the efforts of these distinguished Senators, has done an admirable job in this complex field.

In 1974, Congress decided to place the regulatory responsibility for all futures trading in an independent agency, the Commodity Futures Trading Commission. I believe that Congress made the right decision, and nothing that has taken place since that time has caused me to change my mind.

We recognized in 1974, that rampant inflation would result in more people becoming aware of the hedging possibilities in the futures markets and therefore there would be an impetus for new contracts. These new contracts were not restricted to the traditional agricultural commodities. Contracts were written on mortgage passthrough securities guaranteed by the Government National Mortgage Association (GNMA), 13-week Treasury bills, and Treasury bonds. These new contracts have succeeded with little or no regulatory difficulties.

During the course of the committee's extensive deliberations on this legislation, we heard from the Department of the Treasury, the Securities and Exchange Commission, and the Office of Management and Budget. Their position was that regulatory jurisdiction over futures contracts should be divided up between several Federal agencies. The basis for their position is that the agency that is responsible for regulating or issuing the commodity on which a futures contract is written is the one who should regulate that futures contract. While this approach may have appeal, it overlooks the basic fact that a futures contract is a futures contract regardless of what the underlying commodity may be. The regulation of futures contracts, likewise, is not dependent on the underlying commodity on which the futures contract is written.

I am not saying that the SEC and the Department of the Treasury do not have justifiable concerns over some pending applications before the CFTC for futures contracts on indexes of equity securities or government issued or guaranteed securities. However, we have not been presented any evidence that would indicate that the CFTC will not conduct full and open deliberations on these applications that would include the solicitation of advice and counsel from these two agencies.

Americans are upset by overregulation. Overregulation ultimately must be paid for and it will be paid for by all of us. The division of regulatory responsibility for futures contracts can potentially lead to overregulation or at least different regulations that the same exchange, futures commission merchant, or broker must adhere to. In order for such a change to be deemed advisable, evidence of the shortcomings of the current system must be demonstrated. We have not been presented with any such demonstration.

The Commodity Futures Trading Commission is a new agency, having become operative in April 1975. Like any new agency it has had to deal with growing pains. It has made mistakes, but I believe it has learned from these past mistakes. I do not feel that it is desirable at this time to constrain the jurisdiction of this agency based on the unsubstantiated fears of other Federal entities.

The committee report on S. 2391 contains the statement of committee intent that if futures trading based on commodities under the jurisdiction of the SEC or the Treasury is proposed, the CFTC will actively solicit the views of those agencies when such an application is made. The CFTC has assured the committee that the SEC, the Treasury, or other appropriate agencies will be consulted, and that these agencies will be able to communicate their concerns to the Commission.

The continued vitality of the Commodity Futures Trading Commission can best be assured by leaving the existing regulatory framework in place.

I urge my colleagues to join me in supporting S. 2391.

Mr. LEAHY. Mr. President, I applaud the statement of our distinguished chairman, and I concur completely in what he has said.

We do have before the Senate a very complex piece of legislation, one that has been carefully interrelated, one that has been the subject of months and months of hearings, with all questions raised, one that certainly reflects a realization on the part of the Senate Committee on Agriculture, Nutrition, and Forestry that there have been problems with the CFTC in the past. We are all aware of that.

One of the good factors of a reauthorization process forces us to go back and look at those problems and give them the oversight they need. I think we have done that in this legislation.

The distinguished chairman referred to a plan proposed by the Office of Management and Budget. It should be emphasized that that plan arrived before the committee, I believe, on the morning we were finally marking up the bill, after months of hearings. It was rejected, and rejected soundly, by all members of the committee, of all political ideologies, from all parts of the country.

Mr. HUDDLESTON. Mr. President, will the Senator yield at that point?

Mr. LEAHY. I yield.

Mr. HUDDLESTON. I just point out that, even though the official presentation of that plan arrived on the day we marked up, the concept had been considered from the very beginning.

Mr. LEAHY. And rejected.

Mr. HUDDLESTON. And rejected. The OMB suggestion was dropped on the committee all of a sudden on the day of the full committee markup.

As a matter of fact, I believe that back in the early deliberations, before S. 2391 actually was drafted, and because of the difficulties the Commission had had and some of the publicity it was receiving, that very idea was given very careful consideration and was rejected. It was rejected in favor of what we have here today, a continuation and a strengthening of the present commission.

Mr. LEAHY. I thank the Senator.

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

UP AMENDMENT NO. 1410

(Purpose: To terminate the Commodity Futures Trading Commission and provide for the establishment of a Commodity Exchange Administration to be headed by an Administrator)

Mr. EAGLETON. Mr. President, I have an amendment on behalf of myself and Senator HATCH.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON), on behalf of himself and Mr. HATCH, proposes an unprinted amendment numbered 1410.

Mr. EAGLETON. 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 6, line 5, strike out "Composition of the Commission;" and insert in lieu thereof "Termination of the Commission; Establishment of Commodity Exchange Administration; Appointment of Administrator;".

On page 6, line 7, insert "(a)" after "SECTION 1.".

On page 6, beginning with line 13, strike out all down through line 21 on page 8, and insert in lieu thereof the following:

(2) striking out the fourth sentence of paragraph (1) (7 U.S.C. 2) and inserting in lieu thereof "The words 'the Administration' mean the Commodity Exchange Administration established under paragraph (2) of this subsection."; and

(3) striking out paragraphs (2) through (11) (7 U.S.C. 4a(a)-(j)) and inserting in lieu thereof the following:

"(2) There is hereby established an independent body to be known as the Commodity Exchange Administration.

"(3) There shall be at the head of the Administration an Administrator of the Commodity Exchange Administration (hereinafter referred to as the 'Administrator'). The Administrator shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration and shall have authority and control over all personnel and activities of the Administration and over the use and expenditures of all funds of the Administration.

"(4) There shall be a Deputy Administrator of the Commodity Exchange Administration (hereinafter referred to as the 'Deputy Administrator') who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Administrator shall perform such functions as the Administrator shall from time to time assign or delegate to the Deputy Administrator and shall act as Administrator during the temporary absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

"(5) There shall be not more than four Assistant Administrators of the Commodity Exchange Administration who shall be appointed by the President, by and with the advice and consent of the Senate. Each such Assistant Administrator shall perform such

functions as the Administrator shall from time to time assign or delegate to them.

"(6) There shall be a General Counsel of the Commodity Exchange Administration who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be the chief legal adviser of the Administrator and shall perform such duties as the Administrator shall prescribe.

"(7) No officer or employee of the Administration shall accept employment or compensation from any person, exchange, or clearinghouse subject to regulation by the Administration under this Act during such officer's or employee's term of office, nor shall such officer or employee participate, directly or indirectly, in any contract market operations or transactions of a character subject to regulation by the Administration.

"(8) The Administration shall have an official seal, which shall be judicially noticed.

"(9) The Administrator is authorized to promulgate such rules and regulations as the Administrator deems necessary to govern the operating procedures and conduct of the business of the Administration.".

(b) Except as provided in the amendments made by subsections (a)(3), (c) and (d) of this section, the Commodity Exchange Act is further amended by striking out "Commission" wherever such term refers to the Commodity Futures Trading Commission and inserting in lieu thereof "Administrator".

(c) (1) Clause (2) of section 5a of such Act (7 U.S.C. 7a (2)) is amended by striking out "Commission or" and inserting in lieu thereof "Administration or".

(2) Clause (3) of section 5a of such Act (7 U.S.C. 7a (3)) is amended by striking out "Commission or" and inserting in lieu thereof "Administration or".

(d)(1) The first sentence of section 9 (d) of such Act (7 U.S.C. 13 (d)) is amended by striking out "Commissioner of the Commission or any employee or agent thereof," and inserting in lieu thereof "officer, employee, or agent of the Administration".

(2) The second sentence of section 9(d) of such Act (7 U.S.C. 13(d)) is amended to read as follows: "With respect to such excepted transactions, the Administrator shall require any officer, employee, or agent of the Administration who participates in any such transaction to notify the Administrator of such transaction in accordance with such regulations as the Administrator shall prescribe and the Administrator shall make such information available to the public.".

(3) Subsection (e) of section 9 of such Act (7 U.S.C. 13(e)) is amended by striking out "any Commissioner of the Commission or any employee or agent thereof" each time it appears and inserting in lieu thereof "any officer, employee, or agent of the Administration".

(e) The last sentence of subsection (b) of section 12 of such Act (7 U.S.C. 16(b)) is amended to read as follows: "The Administrator is authorized, in accordance with applicable provisions of law, to make and enter into contracts under this Act.".

(f) Such Act is further amended by striking out "it", "its", and "It" wherever such terms are used in such Act to refer to the Commission and inserting in lieu thereof "the Administrator", "the Administrator's" and "The Administrator", respectively.

(g) All of the personnel of the Commodity Futures Trading Commission, property, records, and unexpended balance of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with administration of the Commodity Exchange Act shall be transferred to the Administrator of the Commodity Exchange Administration on the effective date of this Act.

(h) All operations of the Commodity Futures Trading Commission under the Commodity Exchange Act, including all pending administrative proceedings, shall be transferred to the Administrator of the Commodity Exchange Administration as of the effective date of this Act and continue to completion. All rules, regulations, and orders heretofore issued by the Commodity Futures Trading Commission under the Commodity Exchange Act to the extent not inconsistent with the provisions of this Act shall continue in full force and effect unless and until terminated, modified, or suspended by the Administrator of the Commodity Exchange Administration.

(i) Pending proceedings under existing law shall not be abated by reason of any provision of this Act but shall be disposed of pursuant to the applicable provisions of the Commodity Exchange Act, as amended, in effect prior to the effective date of this Act.

(j) The Commodity Futures Trading Commission is hereby abolished.

(k)(1) Paragraph (12) of section 5108 of title 5, United States Code, is amended by striking out "Commodity Futures Trading Commission" and inserting in lieu thereof "Administrator of the Commodity Exchange Administration".

(2) Section 5313 of such title is amended by adding at the end thereof a new paragraph as follows:

"(24) Administrator of the Commodity Exchange Administration.".

(3) Section 5314 of such title is amended by striking out

"(61) Chairman, Commodity Futures Trading Commission."

and inserting in lieu thereof

"(61) Deputy Administrator of the Commodity Exchange Administration.".

(4) Section 5315 of such title is amended by striking out

"(103) Members, Commodity Futures Trading Commission.".

(5) Section 5316 of such title is amended by striking out

"(137) General Counsel, Commodity Futures Trading Commission."

and inserting in lieu thereof

"(137) General Counsel, Commodity Exchange Administration.".

(6) Section 5316 of such title is further amended by striking out

"(139) Executive Director, Commodity Futures Trading Commission."

and inserting in lieu thereof

"(139) Assistant Administrators, Commodity Exchange Administration (4).".

On page 9, lines 18 and 25, strike out "Commission" and insert in lieu thereof "Administrator".

On page 10, lines 4 and 5, strike out "Commission" and insert in lieu thereof "Administrator".

On page 12, lines 12 and 24, strike out "Commission" and insert in lieu thereof "Administrator".

On page 13, lines 6 and 23, strike out "Commission" and insert in lieu thereof "Administrator".

On page 14, line 10, strike out "Commission" and insert in lieu thereof "Administrator".

On pages 15, lines 1, 6 and 7, 13, 15 and 16, and 17, strike out "Commission" and insert in lieu thereof "Administration".

On page 16, line 6, strike out "Commission" and insert in lieu thereof "Administrator".

On page 16, line 21, strike out "COMMISSION" and insert in lieu thereof "ADMINISTRATION".

On page 17, lines 7 and 8, strike out "any member of the Commission" and insert in lieu thereof "the Administrator".

On page 17, lines 9, 13, and 19, strike out "Commission" and insert in lieu thereof "Administrator".

On page 18, lines 2 and 3, strike out "Commission" and insert in lieu thereof "Administrator".

On page 19, lines 3, 7, 12, 17, 17 and 18, 21 and 22, 22, and 24, strike out "Commission" and insert in lieu thereof "Administrator".

On page 20, beginning with line 24, strike out all down through line 2 on page 21, and insert in lieu thereof the following:

SEC. 13. The second paragraph of section 8 of the Commodity Exchange Act (7 U.S.C. 12-1) is amended to read as follows:

"Notwithstanding the foregoing provisions of this section or of any other law, the Administrator may, in the Administrator's discretion, from time to time disclose and make public the names and addresses of all traders on the boards of trade on the commodity markets with respect to whom the Administration has information and any other information in the possession of the Administration relating to the amount of commodities purchased or sold by each such trader; and when requested by any committee of either House of Congress, acting within the scope of its jurisdiction, shall furnish to such committee the names and addresses of all traders on such boards of trade with respect to whom the Administration has information, and any other information in the possession of the Administration relating to the amounts of commodities purchased or sold by each such trader; and when requested by any department or agency of the executive branch of the Government of the United States, acting within the scope of its jurisdiction, may in the Administrator's discretion, furnish to such department or agency any information in the possession of the Administration: *Provided, however,* That information so furnished to any such department or agency shall not be disclosed by such department or agency except in any action or proceeding under the laws of the United States to which it, or the Administration, or the United States is a party.".

On page 21, lines 10 and 24, strike out "Commission" and insert in lieu thereof "Administrator".

On page 22, lines 15 and 19, strike out "Commission" and insert in lieu thereof "Administrator".

On page 23, lines 3 and 4, strike out "Commission" and insert in lieu thereof "Administrator."

On page 23, strike out lines 7 and 8, and insert in lieu thereof the following:

SEC. 17. Section 12 of the Commodity Exchange Act (7 U.S.C. 16) is amended by striking out subsections (c) and (d) and inserting in lieu thereof the following:

On page 17, line 9, strike out "(d)" and insert in lieu thereof "(c)".

On page 24, lines 7, 9, 14, and 17, strike out "Commission" and insert in lieu thereof "Administrator".

On page 25, lines 2, 12, and 15, strike out "Commission" and insert in lieu thereof "Administrator".

On page 26, lines 5, 9, 11, 14 and 15, 16, and 21, strike out "Commission" and insert in lieu thereof "Administrator".

On page 27, lines 3 and 11, strike out "Commission" and insert in lieu thereof "Administrator".

On page 27, line 24, strike out "Commodity Futures Trading Commission" and insert in lieu thereof "Administrator of the Commodity Exchange Administration".

Mr. EAGLETON. Mr. President, since this amendment will be central not only to debate on the merits of this bill, but also to amendments that perhaps Sena-

tor HATCH and Senator MELCHER have, I ask unanimous consent that notwithstanding an earlier unanimous-consent agreement, that the time limit for debate on this amendment be 1 hour, equally divided.

Mr. LEAHY. Mr. President, reserving the right to object, and I do not think I will object, the time will be divided between——

Mr. EAGLETON. Between myself and the Senator from Vermont.

Mr. LEAHY. I have no objection.

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

Mr. EAGLETON. I thank the Senator from Vermont.

I will try to make my remarks brief, so that we may have the opportunity to hear other Senators who may wish to speak.

Mr. President, for 2 years I have been a close observer of the activities of the Commodity Futures Trading Commission. Frankly, I have found it plagued with many, many problems, a view that is shared by others who have looked at CFTC. Recently, there have been two very detailed reports, one by the General Accounting Office and one by the surveys and investigations staff of the House Appropriations Committee, discussing CFTC's problems in detail.

Let me just read a few quotes from these two reports to give you the flavor of them.

By the way, I have the two reports with me, Mr. President. Here is the one from the House Committee on Appropriations, their surveys and investigations staff, consisting of 137 pages. Here is the 282-page report from the Comptroller General, dated May 17, 1978. It is very current to say the least.

What I am going to give you now is just a brief flavor of what these two reports say. In essence, by reading these two reports—and I have to pick my words advisedly—I will say that the CFTC is the most messed up Federal agency in the Government, bar none. Pick the agencies that you think are the biggest stumble bums in the world. Some people would say HUD. You could make a case on that. Some people say the Small Business Administration. You could make a case on that. But I will top any case that you make on HUD, SBA, or any other agency for being nearly 100 percent messed up. That is CFTC. Now a few quotes to get the flavor of the reports. First, from GAO:

GAO finds many weaknesses in program activities and management functions.

The Commission has been slow in recognizing that a formalized planning process is a basic management function and decision tool. Because of this, its regulatory posture has been overly ad hoc and reactive as opposed to anticipatory and preventive.

The Commission's performance has been affected adversely by a number of organizational and management problems, including—

Lack of strong management experience in top executive positions;

Management weaknesses in the Executive Director's office due to organizational instability and jurisdictional disputes;

High rate of staff turnover; and

Lack of a broad representation of views on Commission advisory committees

Yet more quotes from the GAO report:

The Commission's registration program is not as effective as it could be in preventing unfit and unqualified individuals and firms from being registered and unregistered.

Commodity Options Regulation has not been effective . . . The Commission's efforts on options have drained its resources seriously and interfered with its ability to deal with its primary responsibility—commodity futures regulation.

More quotes from GAO:

Reparations program inadequate to meet demand.

The Commission has not followed many established policies and procedures for efficient and economical procurement and management of property and services by government agencies.

Now let us get some of the findings from the House report on the CFTC:

. . . One of the most glaring weaknesses—if not the most glaring—in the management structure of CFTC is the lack of a properly established system of audit and review reporting to the highest practical organization level.

Another quote:

Financial management system not fully developed or properly controlled.

Again going on from the House investigatory report:

Questionable purchasing practices.

Another one:

Backlog in reparations cases.

Another one:

Backlog in appeals proceedings.

Another one:

Potential of reparations cases for enforcement actions not exploited.

And this will be the last one:

The efforts of CFTC to regulate options trading soon led to a morass of litigation . . . In retrospect, it may have been wiser . . . for CFTC to have banned all commodity options trading by regulations.

I have read these very hurriedly, Mr. President, and I have only picked up the highlights from the summaries of the two reports that I have cited.

Frankly, it would be unfair to say that CFTC has totally ignored these reports or has made no improvements whatsoever.

But, I believe that the current organizational structure makes it difficult to solve the problems of this hydraheaded commission.

I believe that a single administrative agency could well be particularly useful in an area like commodity futures, since it has been characterized by tremendous growth and tremendous change in a very short period of time. We have seen a fast-moving progression of dealers who continuously move to new forms of futures-spawned contracts—from options to leverage to a new thing called "forward futures contracts" similar to leverage, but not exactly the same as leverage. And the volume of futures contracts on commodities has skyrocketed from $148 billion in 1970 to well over a trillion dollars in 1977.

Mr. President, we are not talking about a nickel-and-dime minor-league operation. We are talking about a trading volume of over a trillion dollars in 1977.

With things moving so fast in an industry, with several independent investigators making the clear finding that CFTC has not been able to function very well as a Commission, I would ask my colleagues if now, 4 years after CFTC was created, it is not time to rectify the situation, and provide a structure that can function effectively? To me, a single headed agency is the only real answer.

I might add that this idea of a single-headed agency is not an original one with me. It was first suggested by the administration in a letter sent to the chairman of the Agriculture Committee on April 18 of this year. Speaking of what a single-headed agency would do, the Director of OMB said:

We believe this change will greatly improve the ability to manage the agency directly and effectively. A single-headed agency would facilitate meaningful long-range planning and enable the attraction of a highly qualified person, skilled and knowledgeable in the futures market, to serve as the Administrator.

Finally, an Executive Administrator would be better able to coordinate effectively with other agencies. For example, several Cabinet departments have a direct interest in the effective regulation of the futures market: Treasury (government securities), HUD and Treasury (GNMA government-guaranteed mortgage certificates), Agriculture (agricultural products), and Commerce and Interior (metals). Coordination among these agencies with an independent regulatory agency in the past has been difficult. We believe that structural change, combined with the recommended creation of an interagency council, would solve this problem. It would also permit more effective oversight of the paperwork burdens placed on brokers and the exchanges.

Knowing of this proposal, I discussed it with the CFTC Commissioners at a hearing of my Agricultural Subcommittee on Appropriations on April 25, 1978. It is a bit difficult to characterize their views, but it appeared that the chairman and the vice chairman at that time generally supported the concept, two members said they were opposed, and the third member said he thought it would be appropriate for the future to consider, but he did not think now was the time for it.

This is not a complete uniformity of position, but it does indicate to me that the two key members of the Commission; namely, the chairman and vice chairman as of April 1978, recognized the advantages inherent in a single-administrator format. The reasons probably relate to their being the ones able to perceive most clearly the advantages of a single administrator in accomplishing the mission of the agency and in cleaning up the problems that have plagued the CFTC.

In conclusion, Mr. President, let me say that I wish to emphasize that this amendment should in no way be perceived as an effort to remove Commissioner David Gartner from office. This is

not a "get Gartner" amendment. It deals only with the proper administration of CFTC. The question of CFTC organization is a matter which was raised early on in this year in the month of April before David Gartner was ever nominated to this Commission. These are matters that, as Senator HUDDLESTON and Senator LEAHY have pointed out, we raised with the Agriculture Committee well before Mr. Gartner's name, again, was ever raised in any connection with this Commission.

My intent, in offering the amendment, is to achieve meaningful reform of the structure of CFTC, not removal from office of any individual or any group of individuals. Frankly, it is possible some of the same people might serve in the revised agency. But, I am convinced that with a single administrator, it would be in a far better position to carry out the mandates of the Commodity Exchange Act than it would be as a five-person commission.

So my intention, and that of Senator HATCH and others who may support this amendment, in offering it has absolutely and categorically nothing to do with the Gartner controversy. All this has to do with is trying to fashion an agency that has some chance of functioning in a business that now amounts to over $1 trillion a year.

I keep emphasizing that word "trillion," because the mere mention of it expresses such an enormity of operations that I would hope it would persuade my colleagues that now is the time to respond to the indictment of the CFTC as contained in the two reports that I previously mentioned, the 137-page report from the House surveys and investigations staff and the 282-page report from the Comptroller General of the United States.

If every Member of the Senate could take these two reports home tonight and read them and if we were not going to vote on this until tomorrow morning, I think the amendment would pass close to unanimously. I firmly believe that because the contents of these two reports are so indicting in terms of the ineptitude and the disorganization of this five-headed monster that we call the CFTC.

I am prepared to yield at this time to my colleague from Utah.

Mr. LEAHY. Mr. President, if I could just take a minute, first——

Mr. EAGLETON. I reserve the remainder of my time.

Mr. LEAHY. Mr. President, I agree with the Senator from Missouri that the GAO report should be read, and if that is going to be done by my colleagues I would suggest they read page 10. Here is what they say about the CFTC:

We believe the Congress should reauthorize the Commission for 4 years.

They also say:

In our 1974 report we recommended that the Congress establish an independent agency to regulate the commodity futures industry. Because the commodity futures markets play a vital role in the country's economic well-being, we stated that they should be regulated by a strong and prestigious agency. We continue to believe this.

I am afraid that under the proposal being presented here, Mr. President, the CFTC would be subjected to political influence by the White House, the Council of Economic Advisors, instead of having the independence it should have.

Having said that, I am not standing on the floor waving the flag for the CFTC or its activities in the past few years.

The Senator from Missouri refers to it as the worst agency in the Federal Government. I have a small list in my office of the worst, and I have never been able to fully bring myself to pin down any one as the worst, because something new always comes up from the others, and what we usually have is a neck-and-neck race of a half-dozen in that category, at least in my office, although I must admit that the CFTC has always been a strong contender in there. [Laughter.]

Some days, depending upon how bad a flight it is between the District of Columbia and Vermont, I am happy to place them at the top of the list, in the top category.

But we are not here, I am sure the Senator from Missouri realizes we are not here, on the part of the Committee on Agriculture to defend or pin a gold medal on the CFTC. We are here to carry out as well as we might our oversight authority and our attempt to reauthorize a commission substantially improved and one that we can continue very active oversight on, and it is something that my subcommittee will continue to do irrespective of the form of this reauthorization legislation when it finally passes.

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

The PRESIDING OFFICER (Mr. CULVER). The Senator from Kansas.

Mr. DOLE. Mr. President, I certainly do not question the intent of the distinguished Senator from Missouri, but I think very simply this would put an end to the agency's independence if we are concerned about that, and it is a matter we ought to consider.

If it is going to limit public access, let me say that we spent about 6 weeks here debating labor reform, and we were going to increase the number of commissioners from five to seven. The administration told us that would be a good thing to do to have more members of the NLRB.

Now we are being asked to abolish the CFTC and reconstitute its functions under a single administrator, which does not seem to be very consistent as a policy.

I would suggest, however, that five commissioners might be more accessible than one administrator, and I think the commissioners would bring more expertise and judgment to any given decision than one administrator, however capable he or she might be.

I think perhaps it is just impossible—we are talking about and the Senator from Missouri is talking about, a $1 trillion agency. In many respects, as I said in my opening statement, this is, in essence, the administration's proposal that came to us the day before the mark-up. I think I am correct in suggesting that Senator TALMADGE, the chairman of our committee, said at that time that it just comes a little late after almost a year of work in the broad sense on reauthorization—after the GAO study, after numerous amendments and 6 days of public hearings and considerable time spent marking up the bill. So I certainly hope the amendment is defeated.

Mr. EAGLETON. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

EXECUTIVE SESSION

TREATY WITH BOLIVIA ON THE EXECUTION OF PENAL SENTENCES

INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA

PROTOCOL RELATING TO INTERVENTION ON THE HIGH SEAS IN CASES OF MARINE POLLUTION BY SUBSTANCES OTHER THAN OIL

RECIPROCAL FISHERIES AGREEMENT WITH THE UNITED KINGDOM AND NORTHERN IRELAND

CONVENTION WITH SOVIET UNION CONCERNING THE CONSERVATION OF MIGRATORY BIRDS AND THEIR ENVIRONMENT

The PRESIDING OFFICER. The hour of 2:15 having arrived, under the previous order, the Senate will now go into executive session and proceed to vote en bloc on Executive Calendar Orders numbered 7 through 11, with the one vote to count for five, but with the votes to appear individually in the RECORD.

● Mr. SPARKMAN. Mr. President, today the Senate is considering a number of noncontroversial international agreements ranging from the protection of migratory birds to the transfer of U.S. citizens from Bolivian prisons. I urge the Senate to advise and consent to the ratification of these agreements.

The following is a short explanation of each agreement.

I. Treaty with Bolivia on the execution of penal sentences, Ex. G, 95–2:

The purpose of the treaty is to allow U.S. nationals in Bolivian prisons and Bolivian nationals in U.S. prisons to be transferred to their home nation to serve the remainder of their sentences. This treaty with Bolivia is virtually the same as the treaties with Mexico and Canada approved unanimously by the Senate last year. The transfer program can be implemented under Public Law 95–144, which was enacted in connection with the Mexican and Canadian prisoner transfer treaties. All of the procedural guarantees established in that legislation to protect the rights of transferees will be available to the United States and Bolivian prisoners affected by the treaty.

Americans in Bolivian jails face severe problems including: Overcrowded conditions, inadequate diets, long distances from their families, and poor prospects for rehabilitation. The transfers will alleviate the emotional and medical problems faced by the prisoners and remove a major stumbling block to their rehabilitation.

II. Convention with the Union of Soviet Socialist Republics on the conservation of migratory birds and their environment, Ex. K, 95–1:

The objective of this convention is to provide for international cooperation in the identification and protection of approximately 208 species of birds which migrate between the United States and the Soviet Union, or which have populations in both nations and share common flyways or breeding, wintering, or feeding areas. The agreement requires both nations to adopt measures to identify and protect these species and their habitats.

It is a noncontroversial convention similar to three other migratory bird conventions which the United States has entered into with Canada, Japan, and Mexico.

III. The International Convention for the Safety of Life at Sea, 1974, Ex. O, 94–2:

A large number of technical amendments to the 1960 Safety of Life at Sea Convention have been proposed and accepted by the depository organization (the Inter-Governmental Maritime Consultative Organization—IMCO) since 1966. The United States has accepted all of these amendments. However, none of them have received the necessary explicit acceptance by the required two-thirds of the contracting governments to enter into force. The purpose of this convention is to incorporate the 1960 convention and all its amendments into a single document and to provide for an improved procedure which will accelerate acceptance of future amendments to technical regulations.

IV. Protocol relating to intervention on the high seas in cases of marine pollution by substances other than oil, Ex. L, 95–1:

The purpose of this protocol is to complement the international convention relating to intervention on the high seas in cases of oil pollution casualties by providing that, under certain circumstances, governments may take action on the high seas to protect the interests of their coastal areas from marine pollution caused by substances other than oil. A list of such substances, compiled by the Inter-Governmental Maritime Consultative Organization (IMCO), accompanies the protocol. Under the terms of the protocol, the list can be amended to reflect future technological developments.

V. Reciprocal fisheries agreement with the United Kingdom of Great Britain and Northern Ireland, Ex. O, 95–1:

The establishment of a 200-mile U.S. "fishery conservation zone" under the Fishery Conservation and Management Act of 1976 (Public Law 94–265, effective March 1, 1977) placed under U.S. jurisdiction fisheries which fishermen from the British Virgin Islands have traditionally fished. Similarly, establishment of a 200-mile fisheries zone around the British Virgin Islands on March 7, 1977, placed under the jurisdiction of the British Virgin Islands fisheries which U.S. fishermen from the U.S. Virgin Islands and Puerto Rico have traditionally fished. According to the Department of State, consultations with U.S. fishermen and officials in the area, including the Caribbean Regional Fisheries Management Council, indicated a strong U.S. interest in reaching an agreement with the United Kingdom to insure continuation of U.S. commercial fishing at traditional levels in the British Virgin Islands fisheries zone.

Therefore, the purpose of this agreement is to provide U.S. commercial fishermen access to the new 200-mile fishery zone of the British Virgin Islands and commercial fishermen of the British Virgin Islands access to the 200-mile U.S. fishery conservation zone.●

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? Evidently there is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will state the first resolution of ratification.

TREATY WITH BOLIVIA ON THE EXECUTION OF PENAL SENTENCES

The resolution of ratification of Executive G, 95th Congress, 2d session, was read as follows:

Resolved, (two-thirds of the Senators present concurring therein), that the Senate advise and consent to the ratification of the Treaty between the United States of America and the Republic of Bolivia on the Execution of Penal Sentences, which was signed at La Paz on February 10, 1978 (Ex. G, 95–2).

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive G, 95th Congress, 2d session, the treaty with Bolivia on the execution of penal sentences.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. Mr. President, I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Idaho (Mr. CHURCH), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

The yeas and nays resulted—yeas 95, nays 0, as follows:

[Rollcall Vote No. 204 Ex.]

YEAS—95

Allen	Byrd,	Curtis
Baker	Harry F., Jr.	Danforth
Bartlett	Byrd, Robert C.	DeConcini
Bayh	Cannon	Dole
Bellmon	Case	Domenici
Bentsen	Chafee	Durkin
Biden	Chiles	Eagleton
Brooke	Clark	Eastland
Bumpers	Cranston	Ford
Burdick	Culver	Garn
Glenn	Johnston	Ribicoff
Goldwater	Kennedy	Riegle
Gravel	Laxalt	Roth
Griffin	Leahy	Sarbanes
Hansen	Long	Sasser
Hart	Lugar	Schmitt
Haskell	Magnuson	Schweiker
Hatch	Mathias	Scott
Hatfield,	Matsunaga	Sparkman
Mark O.	McClure	Stafford
Hatfield,	McIntyre	Stennis
Paul G.	Melcher	Stevens
Hathaway	Metzenbaum	Stevenson
Hayakawa	Morgan	Stone
Heinz	Muskie	Talmadge
Helms	Nelson	Thurmond
Hodges	Nunn	Tower
Hollings	Packwood	Wallop
Huddleston	Pearson	Weicker
Humphrey	Pell	Williams
Inouye	Percy	Young
Jackson	Proxmire	Zorinsky
Javits	Randolph	

NAYS—0

NOT VOTING—5

Abourezk	Church	Moynihan
Anderson	McGovern	

The PRESIDING OFFICER. On this vote, the yeas are 95, and the nays are 0. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

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

The motion to lay on the table was agreed to.

INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA

The resolution of ratification of Executive O, 94th Congress, 2d session, was read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the International Convention for the Safety of Life at Sea, Signed in London on November 1, 1974 (Executive O, Ninety-fourth Congress, second session), without reservation.

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification of Executive O, 94th Congress, second session, the International Convention for the Safety of Life at Sea. On this question, 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 Minnesota (Mr. ANDERSON), the Senator from Idaho (Mr. CHURCH), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

The yeas and nays resulted—yeas 95, nays 0, as follows:

[Rollcall Vote No. 205 Ex.]

YEAS—95

Allen	Biden	Byrd, Robert C.
Baker	Brooke	Cannon
Bartlett	Bumpers	Case
Bayh	Burdick	Chafee
Bellmon	Byrd,	Chiles
Bentsen	Harry F., Jr.	Clark

Cranston	Helms	Pell
Culver	Hodges	Percy
Curtis	Hollings	Proxmire
Danforth	Huddleston	Randolph
DeConcini	Humphrey	Ribicoff
Dole	Inouye	Riegle
Domenici	Jackson	Roth
Durkin	Javits	Sarbanes
Eagleton	Johnston	Sasser
Eastland	Kennedy	Schmitt
Ford	Laxalt	Schweiker
Garn	Leahy	Scott
Glenn	Long	Sparkman
Goldwater	Lugar	Stafford
Gravel	Magnuson	Stennis
Griffin	Mathias	Stevens
Hansen	Matsunaga	Stevenson
Hart	McClure	Stone
Haskell	McIntyre	Talmadge
Hatch	Melcher	Thurmond
Hatfield, Mark O.	Metzenbaum	Tower
	Morgan	Wallop
Hatfield, Paul G.	Muskie	Weicker
	Nelson	Williams
Hathaway	Nunn	Young
Hayakawa	Packwood	Zorinsky
Heinz	Pearson	

NAYS—0

NOT VOTING—5

Abourezk	Church	Moynihan
Anderson	McGovern	

The PRESIDING OFFICER. On this vote, the yeas are 95, and the nays are 0. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

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

The motion to lay on the table was agreed to.

PROTOCOL RELATING TO INTERVENTION ON THE HIGH SEAS IN CASES OF MARINE POLLUTION BY SUBSTANCES OTHER THAN OIL

The resolution of ratification of Executive L, 95th Congress, 1st session, was read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Protocol Signed at London, November 2, 1973, Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil (Ex. L. 95–1) without reservation.

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive L, 95th Congress, 1st session, the protocol relating to intervention on the high seas in cases of marine pollution by substances other than oil. On this question, 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 Minnesota (Mr. ANDERSON), the Senator from Idaho (Mr. CHURCH), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. McGOVERN) is absent on official business.

The yeas and nays resulted—yeas 95, nays 0, as follows:

[Rollcall Vote No. 206 Ex.]

YEAS—95

Allen	Bartlett	Bellmon
Baker	Bayh	Bentsen
Biden	Hatch	Nelson
Brooke	Hatfield, Mark O.	Nunn
Bumpers		Packwood
Burdick	Hatfield, Paul G.	Pearson
Byrd, Harry F., Jr.		Pell
	Hathaway	Percy
Byrd, Robert C.	Hayakawa	Proxmire
Cannon	Heinz	Randolph
Case	Helms	Ribicoff
Chafee	Hodges	Riegle
Chiles	Hollings	Roth
Clark	Hudd.eston	Sarbanes
Cranston	Humphrey	Sasser
Culver	Inouye	Schmitt
Curtis	Jackson	Schweiker
Danforth	Javits	Scott
DeConcini	Johnston	Sparkman
Dole	Kennedy	Stafford
Domenici	Laxalt	Stennis
Durkin	Leahy	Stevens
Eagleton	Long	Stevenson
Eastland	Lugar	Stone
Ford	Magnuson	Talmadge
Garn	Mathias	Thurmond
Glenn	Matsunaga	Tower
Goldwater	McClure	Wallop
Gravel	McIntyre	Weicker
Griffin	Melcher	Williams
Hansen	Metzenbaum	Young
Hart	Morgan	Zorinsky
Haskell	Muskie	

NAYS—0

NOT VOTING—5

Abourezk	Church	Moynihan
Anderson	McGovern	

The PRESIDING OFFICER. On this vote, the yeas are 95, and the nays are 0. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

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

The motion to lay on the table was agreed to.

RECIPROCAL FISHERIES AGREEMENT WITH THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

The resolution of ratification of Executive O, 95th Congress, 1st session, was read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Reciprocal Fisheries Agreement Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland, With a Related Agreed Minute, signed in Washington, D.C., on June 24, 1977 (Executive O, Ninety-fifth Congress, first session).

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive O, 95th Congress, 1st session, the Reciprocal Fisheries Agreement with the United Kingdom of Great Britain and Northern Ireland. On this question, 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 Minnesota (Mr. ANDERSON), the Senator from Idaho (Mr. CHURCH), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. McGOVERN) is absent on official business.

The yeas and nays resulted—yeas 95, nays 0, as follows:

[Rollcall Vote No. 207 Ex.]

YEAS—95

Allen	Griffin	Morgan
Baker	Hansen	Muskie
Bartlett	Hart	Nelson
Bayh	Haskell	Nunn
Bellmon	Hatch	Packwood
Bentsen	Hatfield, Mark O.	Pearson
Biden		Pell
Brooke	Hatfield, Paul G.	Percy
Bumpers		Proxmire
Burdick	Hathaway	Randolph
Byrd, Harry F., Jr.	Hayakawa	Ribicoff
	Heinz	Riegle
Byrd, Robert C.	Helms	Roth
Cannon	Hodges	Sarbanes
Case	Hollings	Sasser
Chafee	Huddleston	Schmitt
Chiles	Humphrey	Schweiker
Clark	Inouye	Scott
Cranston	Jackson	Sparkman
Culver	Javits	Stafford
Curtis	Johnston	Stennis
Danforth	Kennedy	Stevens
DeConcini	Laxalt	Stevenson
Dole	Leahy	Stone
Domenici	Long	Talmadge
Durkin	Lugar	Thurmond
Eagleton	Magnuson	Tower
Eastland	Mathias	Wallop
Ford	Matsunaga	Weicker
Garn	McClure	Williams
Glenn	McIntyre	Young
Goldwater	Melcher	Zorinsky
Gravel	Metzenbaum	

NAYS—0

NOT VOTING—5

Abourezk	Church	Moynihan
Anderson	McGovern	

The PRESIDING OFFICER. On this vote, the yeas are 95, and the nays are 0. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

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

The motion to lay on the table was agreed to.

CONVENTION WITH THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE CONSERVATION OF MIGRATORY BIRDS AND THEIR ENVIRONMENT

The resolution of ratification of Executive K, 95th Congress, 1st session, was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention Between the United States of America and the Union of Soviet Socialist Republics Concerning the Conservation of Migratory Birds and Their Environment, signed at Moscow on November 19, 1976 (Executive K, Ninety-fifth Congress, first session), without reservation.

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive K, 95th Congress, 1st session, the convention with the Union of Soviet Socialist Republics on the conservation of migratory birds and their environment. On this question 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 Minnesota (Mr. ANDERSON), the Senator from Idaho

(Mr. CHURCH), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

The yeas and nays resulted—yeas 95, nays 0, as follows:

[Rollcall Vote No. 208 Ex.]

YEAS—95

Allen	Griffin	Morgan
Baker	Hansen	Muskie
Bartlett	Hart	Nelson
Bayh	Haskell	Nunn
Bellmon	Hatch	Packwood
Bentsen	Hatfield,	Pearson
Biden	Mark O.	Pell
Brooke	Hatfield,	Percy
Bumpers	Paul G.	Proxmire
Burdick	Hathaway	Randolph
Byrd,	Hayakawa	Ribicoff
Harry F., Jr.	Heinz	Riegle
Byrd, Robert C.	Helms	Roth
Cannon	Hodges	Sarbanes
Case	Hollings	Sasser
Chafee	Huddleston	Schmitt
Chiles	Humphrey	Schweiker
Clark	Inouye	Scott
Cranston	Jackson	Sparkman
Culver	Javits	Stafford
Curtis	Johnston	Stennis
Danforth	Kennedy	Stevens
DeConcini	Laxalt	Stevenson
Dole	Leahy	Stone
Domenici	Long	Talmadge
Durkin	Lugar	Thurmond
Eagleton	Magnuson	Tower
Eastland	Mathias	Wallop
Ford	Matsunaga	Weicker
Garn	McClure	Williams
Glenn	McIntyre	Young
Goldwater	Melcher	Zorinsky
Gravel	Metzenbaum	

NAYS—0

NOT VOTING—5

Abourezk	Church	Moynihan
Anderson	McGovern	

The PRESIDING OFFICER. On this vote, the yeas are 95, and the nays are 0. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

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

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

Does the majority leader seek recognition?

Mr. ROBERT C. BYRD. No, Mr. President.

The PRESIDING OFFICER. The Chair recognizes the Senator from Missouri.

Mr. EAGLETON. I yield 1 minute to the Senator from Arizona.

AMBASSADOR ANDREW YOUNG

Mr. GOLDWATER. Mr. President, I have a release from the AP datelined Geneva, concerning a statement attributed to Andrew Young, our Ambassador to the United Nations, in which he said today there are "hundreds, perhaps thousands of political prisoners in the United States."

Mr. President, I call upon my President to demand of Ambassador Young details on who he thinks are political prisoners in this country, and if he cannot prove the statement he has made over there, which I think could be very embarrassing when our President goes to Bonn and in our SALT talks in Geneva, I would expect the President to discharge Andrew Young.

We cannot afford to have this kind of thing, which is a lie, said around the world about our country when we are trying to act as evidenced in the Senate yesterday when we condemned the Soviets for what they are doing. Then, to have our Ambassador, in effect, tell the Russians that we do the same thing, I cannot buy; and I ask my President to do something about it.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield, will he read into the record the entire wire service release?

Mr. GOLDWATER. If I may have the time.

Mr. EAGLETON. I yield such time.

Mr. GOLDWATER. The wire service story is as follows:

GENEVA, SWITZERLAND.—Andrew Young, the American Ambassador to the United Nations, said today there are "hundreds, perhaps thousands of political prisoners in the United States," but in the Soviet Union the number is more likely to be "tens of thousands."

Young said in an interview that the trials of dissidents in the Soviet Union "remind me very much of my own days in the civil rights movement when people in the south said we were communists because we wanted to exercise certain freedoms."

"Now the communists are saying these (dissidents) must be capitalist spies. In many ways, I think the same things apply."

Young said there was nobody in prison in the United States for criticizing the government or for monitoring implementation of human rights, but there were "all varieties of political prisoners."

When asked to elaborate, he said: "I do think there are some people who are in prison much more because they are poor than because they are bad. But that's a problem we are working on and one on which we are making great progress."

He said he hoped the United States could help the Soviet Union to "outgrow their paranoia about people who want to be free spiritually and intellectually. It would strengthen their system."

Young said he agreed with the White House description of the trials as a repressive action striking the conscience of the entire world. "But it also strikes the conscience of the entire world when we do ridiculous things like that."

The ambassador is in Geneva for a session of the U.N. Economic and Social Council and his trip is unrelated to the arms talks between Secretary of State Cyrus R. Vance and Soviet Foreign Minister Andrei Gromyko. Vance and Gromyko are attempting to remove the last obstacles to a second strategic arms limitation treaty. The Secretary of State was to deliver a message from President Carter to Soviet President Leonid I. Brezhnev expressing U.S. concern over the dissident trials.

That is the statement as it came over the wire.

I thank my friend from Missouri for yielding.

COMMODITY EXCHANGE ACT

The Senate continued with the consideration of S. 2391.

Mr. EAGLETON. I yield 5 minutes to the Senator from Utah.

Mr. HATCH. Mr. President, I want to announce my support for the amendment of my colleague (Mr. EAGLETON). He has served for 2 years as chairman of the Agriculture, Rural Development, and Related Agencies Subcommittee of the Appropriations Committee. I believe he has had ample opportunity to witness and review firsthand the regulatory activities of the CFTC. I share his concern over the inability of the CFTC to execute the mandate given by Congress in the Commodity Exchange Act of 1974.

Although I may prefer another way to do this, I still think that this is an amendment that is worthy of consideration. Therefore, I support it and will vote for it. I recommend that my colleagues do likewise.

Mr. HUDDLESTON. Mr. President, will the Senator yield me 3 minutes?

Mr. LEAHY. Mr. President, I yield such time as the Senator from Kentucky desires.

Mr. HUDDLESTON. I thank the Senator from Vermont. I just want to make a couple of comments, Mr. President, in opposition to the amendment that has been offered by the distinguished Senator from Missouri.

In the first case, there is the matter of the GAO report and the report of the House committee. Both of these reports were considered very carefully by both the subcommittee and the full Committee on Agriculture, Nutrition, and Forestry of the Senate. The GAO, of course, in spite of the shortcomings that it pointed out in the operation of the CFTC, did, in fact, recommend that the commission be reauthorized as it presently is, and as the legislation pending before the body now does provide.

The House bill has been drawn also and, with the benefit of its own study and the study of the GAO and its own hearings, likewise calls for the reauthorization of the CFTC.

I do not know how we can overcome the management problems that may have occurred by suddenly doing away with the commission as it is and replacing it with a single individual. I do not know where we would find the individual that has the knowledge and expertise in the field of futures trading who would be willing to come and head that kind of agency and who would have the necessary managerial and administrative ability. I cannot see how this could provide a better way of correcting the abuses and the difficulties, the growing pains that the current commission has had.

The distinguished Senator from Missouri pointed out that we are talking about an industry in which the transactions total tremendous sums, over the trillion-dollar a year level. It seems to

me that this is an area in which the benefit of a commission composed of individuals who have some knowledge, some training, some expertise in the field, bringing to bear the best thinking of five individuals, will provide for better operation and a more judicious way of handling the problems that develop than entrusting this to one individual.

Take the example of the Securities and Exchange Commission, which is structured very similarly. I think it would be inappropriate at this time to make this drastic change. I pointed out earlier, as did the distinguished Senator from Vermont, that this is not entirely a new idea, that this approach was considered by the subcommittee in its early deliberations, as were several other alternatives—such as putting the commission back into the Agriculture Department. But given the reports that had been made, the studies and the surveys, given the history of the operation, the growing pains, the difficulties faced, and given the alternatives, I think the committee correctly chose the best approach. That is to structure legislation to address the abuses, keep the continuity of the commission going, and increase or continue the oversight by the committees to see that such shortcomings as may be revealed will be corrected.

I hope that this amendment, which is a drastic departure from what both the House and the Senate committees have suggested, will not be approved by the Senate.

Mr. LEAHY. I thank the Senator from Kentucky.

Mr. President, I have to concur completely with what Senator HUDDLESTON has said here today. We have had exhaustive hearings in this matter. As I stated before in answer to what the Senator from Missouri said earlier, nobody, in backing S. 2391, is doing so as giving some kind of Boy Scout or Eagle Scout award to the CFTC. Nobody is going to do that, not if he spent any time looking at their past activities. But I think that, unfortunately, we are looking at an ad hominem argument, getting involved with substantive issues here. We should look at the fact that there are shortcomings in the commission membership. The term of one of the five commissioners expires every year. The commission is in the process of being changed. We are now giving it more substantial, exhaustive, in-depth oversight than ever has been given before. The sunset provisions of the legislation have required that.

Certainly, the attention our committee has given it, the attention that the Subcommittee on Appropriations of the distinguished Senator from Missouri has given it, will assure that.

These arguments have been considered at length by the subcommittee, by the committee, by those who spent days and days and months and months wrestling with the CFTC legislation. We have been making a substantial—substantial and substantive—change on the floor of the Senate, one that had been rejected in committee.

So, Mr. President, I will, at an appropriate time and only at such time as the Senator from Missouri and any of his supporters have had ample time to discuss it at whatever length they want, move to table. I ask unanimous consent now that it be in order to ask for the yeas and nays on a motion to table at this time, understanding that the motion to table will not be made until such time as the Senator from Missouri has finished whatever he wanted to say.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LEAHY. I do now 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. EAGLETON. I thank the Senator for his courtesy. I will take just a minute or two more, because it has been adequately debated.

There is one question I want to clarify in the minds of the Senator from Vermont (Mr. LEAHY), the Senator from Kentucky (Mr. HUDDLESTON), and others. The Eagleton-Hatch amendment does not change the independence of the CFTC. The OMB letter that I referred to and that has been referred to by Senators LEAHY and HUDDLESTON did recommend that the CFTC not be an independent agency.

It recommended that the CFTC be part of the executive branch. I took that OMB letter and adopted the part of it that said that CFTC ought to be a one-headed agency, but I disagreed with the part on independence. My amendment leaves the CFTC as an independent agency, with one administrator instead of five commissioners.

I cite to my colleagues, from page 2 of the typewritten amendment:

> There is hereby established an independent body to be known as "Commodity Exchange Association."

That same language "independent body" exists in the original authorization of CFTC and would be carried over in the bill that is now pending before us.

So I think it is very important to underscore that the Eagleton-Hatch amendment leaves the agency as an independent body that would not be subject to the dictates of the White House.

All we change, in essence, is that instead of five members who do not get along with each other, we create an agency with only one person in charge. By the way, that is the current situation in the CFTC—with a couple of commissioners who do not talk to each other. Mr. Bagley is the Chairman, but a lot of the troops on the Commission think he is a windbag. I happen to think he is, too. But, Mr. Bagley, wherever you are, that is my opinion.

And unfortunately as long as Mr. Bagley is running that show over there, I say to my colleagues, the situation will be impossible.

I will conclude whence I began, and once again ask my colleagues to read the 282 page report of the General Accounting Office. It says at greater length and with even greater specificity what I am not able to say now with limited time. And read this 137 page report. If one reads those two reports and then votes to continue the CFTC as it is now structured, I think it would be a very serious misjudgment.

Mr. President, I am about to conclude on my amendment.

Mr. President, I have been conversing with some of my colleagues, specifically the Senator from Utah (Mr. HATCH) and the Senator from Montana (Mr. MELCHER).

All three of us and, indeed, many other Members of this body are vitally interested in the CFTC and better restructuring and reshaping of it in the future.

Some of my colleagues tell me, although they agree with much I have said about the structural ineptitude of this five-headed monster, and agree with much of what——

Mr. LEAHY. Is that giving it the benefit of the doubt?

Mr. EAGLETON. I would like to finish the sentence, if I may.

Although some of my colleagues agree that this five-headed agency is a monster that is populated by five individuals who cannot get along with each other, they have told me that moving from five commissioners to one commissioner in one fell swoop is a bit much to take.

I would rather take a big bite of the apple rather than nibble at it. But in conversing with some of my colleagues, they do not agree.

So what I will do, Mr. President, if I may, is ask unanimous consent that the order for the yeas and nays on the motion to table be vitiated. I am also going to ask unanimous consent that I may withdraw my amendment at this time, but perhaps offer it later on.

I then ask that the Chair will recognize what Senator he would desire, either Senator MELCHER or Senator HATCH, who will offer a three-person agency amendment.

So. Mr. President, I ask unanimous consent that the order for the yeas and nays on the Leahy motion to table be vitiated and I ask unanimous consent to withdraw my amendment.

Mr. LEAHY. Reserving the right to object, I would state to the Senator from Missouri, if he does not mind an interruption at this point, that he has stated his reasons for withdrawing the amendment. One of the best and most cogent reasons for voting against the amendment would be cutting it down to three.

I have no objection to his unanimous-consent request.

Mr. EAGLETON. I thank my colleague.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Does the Senator from Vermont desire recognition?

Mr. LEAHY. No. The Senator from Vermont would reserve the remainder of his time on the bill.

The PRESIDING OFFICER. The Senator from Montana.

UP AMENDMENT NO. 1411

(Purpose: To terminate the Commodity Futures Trading Commission and provide for the establishment of a Commodities Trading Commission composed of three members)

Mr. MELCHER. Mr. President, on behalf of myself and Senator HATCH and Senator EAGLETON, I have an amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER (Mr. HODGES). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER), for himself and Mr. HATCH and Mr. EAGLETON, proposes unprinted amendment numbered 1411.

Mr. MELCHER. 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 6, line 5, strike out "COMPOSITION OF THE COMMISSION;" and insert in lieu thereof "ESTABLISHMENT OF THE COMMODITIES TRADING COMMISSION; APPOINTMENT OF COMMISSIONERS;".

On page 6, beginning with line 15, strike out all down through line 17 and insert in lieu thereof the following:

(3) striking out in the first sentence of paragraph (2) "a Commodity Futures Trading Commission" and inserting in lieu thereof "a Commodities Trading Commission";

(4) striking out in the second sentence of paragraph (2) "a Chairman and four other Commissioners" and inserting in lieu thereof "three Commissioners";

(5) striking out in the third sentence of paragraph (2) "three" and inserting in lieu thereof "two";

(6) striking out in the last sentence of paragraph (2), where it first appears "of five years" and inserting in lieu thereof "expiring five years after the originally scheduled date of expiration of his predecessor's fixed term of office";

(7) striking out in the last sentence of paragraph (2) "one at the end of one year, one at the end of two years,".

On page 6, lines 18 and 21, respectively, redesignate "(4)" as "(8)" and "(5)" as "(9)".

On page 7, lines 10, 13, and 15, respectively, redesignate "(6)" as "(10)", "(7)" as "(11)", and "(8)" as "(12)".

On page 23, line 6, strike out "AUTHORIZATION FOR APPROPRIATIONS" and insert COMMODITY FUTURES TRADING COMMISSION; TRANSFER OF FUNCTIONS; AUTHORIZATION FOR APPROPRIATIONS FOR THE COMMODITIES TRADING COMMISSION".

On page 23, strike out lines 7 and 8 and insert in lieu thereof the following:

SEC. 17(a) All of the personnel of the Commodity Futures Trading Commission, property, records, and unexpended balance of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with administration of the Commodity Exchange Act shall be transferred to the Commodities Trading Commission on the effective date of this Act.

(b) All operations of the Commodity Futures Trading Commission under the Commodity Exchange Act, including all pending administrative proceedings, shall be transferred to the Commodities Trading Commission as of the effective date of this Act and continue to completion. All rules, regulations, and orders heretofore issued by the Commodity Futures Trading Commission under the Commodity Exchange Act to the extent not inconsistent with the provisions of this Act shall continue in full force and effect unless and until terminated, modified, or suspended by the Commodities Trading Commission.

(c) Pending proceedings under existing law shall not be abated by reason of any provision of this Act but shall be disposed of pursuant to the applicable provisions of the Commodity Exchange Act in effect prior to the effective date of this Act.

(d) The Commodity Futures Trading Commission is hereby abolished.

(e)(1) Paragraph (12) of section 5108 of title 5, United States Code, is amended by striking out "Commodity Futures Trading Commission" and inserting in lieu thereof "Commodities Trading Commission".

(2) Section 5314 of such title is amended by striking out "(61) Chairman, Commodity Futures Trading Commission." and inserting in lieu thereof "(61) Chairman, Commodities Trading Commission.".

(3) Section 5315 of such title is amended by striking out "(103) Members, Commodity Futures Trading Commission." and inserting in lieu thereof "(103) Members, Commodities Trading Commission.".

(4) Section 5316 of such title is amended by striking out "(137) General Counsel, Commodity Futures Trading Commission." and inserting in lieu thereof "(137) General Counsel, Commodities Trading Commission.".

(5) Section 5316 of such title is further amended by striking out "(139) Executive Director, Commodity Futures Trading Commission." and inserting in lieu thereof "(139) Executive Director, Commodities Trading Commission.".

(f) Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

On page 27, strike out line 24 and insert in lieu thereof "the Commodities Trading Commission,".

On page 30, lines 11 and 12, strike out "Commodity Futures Trading Commission" and insert in lieu thereof "Commodities Trading Commission".

Mr. MELCHER. Mr. President, this is the amendment I have asked extra time on, and I yield myself such time as I might consume.

Mr. President, this bill has undergone detailed hearings and consideration in the Senate Agriculture Committee. There has been a lot of work done on it. Ordinarily, if I was going to introduce an amendment of this nature, I would have done it during the committee markup.

I have had an interest in the Commodity Futures Trading Commission ever since the inception of its concept. I served on the House Agriculture Committee and participated in the hearings and markup there of the original act.

Since the committee dealt with these amendments to continue the Commission, there has been a great change.

The appointment of a new Commissioner to the Commission was attempted to be retracted. In other words, he was asked to resign, after the appointment was made, by both the President and the Vice President.

I have no ill feeling toward the most recently appointed Commissioner. He is well known in the Senate, well liked, and respected. He presented the information concerning the Dwayne Andreas fund for his children and the information that the trustee of the fund was Dwayne Andreas' bank in Minneapolis. He presented that information to both the White House and the Senate Agriculture Committee.

If there is any egg on the face of the White House in not noting the source of the trust fund, there is also egg on my face for not having gone to the trouble of noting the trust and its source—Dwayne Andreas. If I had known that there was a trust fund from Dwayne Andreas, it would have been a different situation with respect to my judgment of the appointment.

Mr. Andreas is not just any good friend for a new member of the Commodity Futures Trading Commission. Mr. Andreas is a highly successful grain dealer, a highly successful dealer in processing soybeans, a highly successful banker, a highly successful political influence. I do not question the sincerity of his friendship for the most recently appointed Commissioner or his sincere friendship for present and former Members of Congress. I do not question that. But Dwayne Andreas is nationally known for participation in politics connected with Watergate. Dwayne Andreas is in the habit of leaning on public officeholders. His national notoriety in these matters could be absent of any contact with the Commodity Futures Trading Commissioners—all five of them. His attempt to influence could be completely absent with the Commission. We cannot conclude that there would be any influence, special consideration, or partiality to Dwayne Andreas by any member of the Commission.

In recognizing this, the recently appointed member of the Commission said that, for the sake of propriety, he would withhold any consideration on a matter affecting directly—no, I believe his exact term was on any matter of direct impact on Archer-Daniels-Midland, the conglomerate of which Dwayne Andreas is the principal officer, or Dwayne Andreas himself.

The recently appointed member of the Commission said that he would exercise recuse in all those matters. He set his own guideline. He set his own terms and his own conditions, and they are to his credit. But he set a mighty tall order on himself as a member of that Commission.

I refer to Moody's report dated June 30, 1977, which is the last comprehensive report of Moody's that I know of connected with Archer-Daniels-Midland. We are dealing with a conglomerate that did well over $2 billion worth of business in 1976. We are dealing with a number of subsidiaries wholly owned or noted. They include the following: Ardanco, S.A.; Agrinational, Ltd.; Tabor & Co., Miller Hauling Co., Inc.; Smoot Grain Co.; Goeval, Inc.; Tabor Milling Co.; Wenona Elevator Co.; Ross and Rowe, Inc; Fleischmann Malting Co., Inc. (79 percent owned); Bauer-Schweitzer Malting Co., Inc.; Rickel Malting Co., Inc.; Gooch Feed Mill

Corp.; Gooch Foods, Inc.; American River Transportation Co.; Tulane Fleeting; Supreme Sugar Co., Inc.; Agriproducts, Inc.; Ardanco, Inc.; and National City Bancorporation, which owns 95 percent of National City Bank of Minneapolis, which is a trustee of the trust fund I mentioned for the children.

Affiliates 50-percent owned by Archer-Daniels-Midland include Adnac, Inc.; British Arkady (Holdings) Ltd.; British Arkady Co. Ltd.; Tweedy (Holdings) Ltd., and others.

Archer-Daniels-Midland is involved in numerous exchanges that deal in commodity futures trading. I do not know at this time how many members Archer-Daniels-Midland or its subsidiaries have on the various boards of governors of those exchanges, but those boards of governors makes the rules on contracts. These exchanges are self-regulating, and the Commission only approves or disapproves their rules and their terms of contract. And that is a lot.

The term of a contract often is changed. The rules in trading frequently are changed in the various exchanges. The responsibility of the Commission, under the law, is to pass judgment, to approve or disapprove of the rules and regulations of the various exchanges and the terms of the contracts.

In order to protect those who buy and sell contracts, the job of the Commission is to make certain that any functioning of those various exchanges is fair and equitable to both sides.

Archer-Daniels-Midland has 15 members on the Minneapolis Exchange—15 out of 420. Archer-Daniels-Midland has 11 members on the Chicago Board of Trade, out of a total of 1,484. They are involved in any decision that is made on any exchange where they sit as a member and are participating in the Board of Governors of that exchange.

It is a mighty tall order for the most recently appointed Commissioner to keep up with all that transpires on those various exchanges which either helps or puts Archer-Daniels-Midland or its subsidiaries in a better position. That is a pretty tall order. Trading in futures can be quicker and more costly than a thousand combined crap tables at Las Vegas.

Futures trading is done through a broker. Archer-Daniels-Midland or Dwayne Andreas has 15 memberships in Minneapolis, as I have noted, and 11 memberships in the Chicago Board of Trade, and I have not checked other exchanges.

But each of those members could be the broker. There could be other brokers for Dwayne Andreas. Tracing all of that is a mighty tall order. I do not know whether it is possible to trace it or not. I doubt that the recently appointed member of the Commission could adequately trace all of those changes in rules as it affected certain deals of the ADM or subsidiaries or Dwayne Andreas and be an effective member of the Commission.

I think there would be so many times that he would have to absent himself, use the option of recuse, in order to avoid passing judgment just to make sure that he followed his own guideline.

And this is not the time for this Commission, new, virtually in its infancy, to get bogged down under the cloud of doubt in the public's mind, under concerns with those other members and those other participants in the exchanges.

The amendment is very simple. The amendment that we offer today would provide the opportunity for what the recently appointed Commissioner said. It does not meet his purpose entirely. When asked why, when the President asked him to resign, and the Vice President, a very old and dear friend of his asked him to resign, why did he refuse? He said because to resign would be to admit guilt in the public's eye.

We offer now an amendment that would take him out of that position, not by anything that he has done but by restructuring the Commission to three members, permitting the President to reappoint and put members in that he feels confident in. I think it gets us beyond the question of whether or not the recently appointed Commissioner could be an effective Commissioner and gets us out of the point of him withdrawing voluntarily as he says which would indicate possibly some guilt on his part.

I think it is the best way out, Mr. President.

I ask unanimous consent that Senator HODGES may be added as a cosponsor to the amendment.

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

Mr. EAGLETON. Mr. President, will the Senator from Montana yield me 1 minute?

Mr. MELCHER. I yield to the distinguished Senator from Missouri as much time as he desires.

Mr. EAGLETON. One minute, Mr. President.

I am a cosponsor of Senator MELCHER's amendment. Our motivations in supporting this amendment are 100 percent dissimilar, and I think my colleagues should know that. We have heard Senator MELCHER's presentation and it deals with Mr. Dwayne Andreas and Mr. David Gartner. I am not prepared to pass judgment on either Mr. Andreas or Mr. Gartner. I am not prepared either to directly or indirectly vote for Mr. Gartner's ouster. Frankly in my own mind that is a matter that is separate and distinct.

What I am interested in is what I debated in connection with the previous amendment which I ultimately withdrew. I am interested in and concerned about the current structure and management of the CFTC. I think it is ineptly structured, and I think as long as it remains a five-headed monster as it is under present law, it is going to be in perpetual difficulty.

I think there is no way to come out of the morass that it is in, considering that Mr. Bagley is still going to be chairman of it for some months to come.

So I wanted to change the basic structure, and I am not sharing the rationale that Senator MELCHER is employing in his advocacy of the amendment.

Mr. MELCHER. Mr. President, I yield to the distinguished Senator from Utah as much time as he will consume.

Mr. HATCH. I thank the distinguished Senator from Montana.

Mr. President, the amendment which we are introducing here today to S. 2391 is an effort to strengthen one of the most neglected independent regulatory agencies in the U.S. Government. The Commodity Futures Trading Commission Act of 1974 represented a significant advancement and substantial major revision of all previous law governing commodity futures trading, especially incorporated in the Commodity Exchange Act. In the 1974 Act, Congress created the Commodity Futures Trading Commission as an independent agency to administer the Commodity Exchange Act, and granted the Commission exclusive jurisdiction over transactions involving futures contracts and certain other futures-related activities, believing that true experts would lead the Commission.

The amendment I offer, along with my colleagues, that is the Melcher-Eagleton-Hatch amendment to S. 2391 recognizes the obvious truth, which some have feared to face. The Commodity Futures Trading Commission has not worked well. It is leaderless and demoralized. It has kept the States from doing at all that which it has not done well. The CFTC has been pompous, self-righteous, brazen, and ill-informed. It does not deserve a vote of confidence. Its leadership has faltered from the beginning—and within that indictment I include the cozy appointments of senior staff by a "liberal" Republican chairman who proudly proclaimed that he was no expert. Indeed, we all found out that he has not been. It is believed that he never knew what he was doing. He does not enjoy the confidence of staff, press, or Congress—and up to now he will not leave.

A new Commissioner, a political spear carrier who grasped for office, and now clings to it against all reason and prudent judgment, will also not depart. So long as he remains, an important regulatory agency labors under a cloud of suspicion. And all I can add is that the fat lady has not yet sung.

Mr. President, this amendment which has been carefully put together and which has been argued for so well by the distinguished Senator from Montana, the principal sponsor of the amendment.

Mr. President, my amendment recognizes another obvious truth that we should hasten to embrace—that the charter of the Commodities Commission is being significantly changed by S. 2391. Upon enactment of the Huddleston bill, the agency with which we deal will no longer be the Commodity Futures Trading Commission, with all its attention focused on the operations of the Nation's exchange markets in which commodity futures contracts are traded. Its jurisdiction will be significantly expanded by the adoption of section 20 of

the bill, adding sections 19 and 20 to the Commodity Exchange Act. By this addition, the Commission acquires new jurisdiction over every conceivable kind of margin, leverage, and forward contract on every conceivable sort of goods and articles and every "service, right, and interest in which contracts for future delivery are presently or in the future dealt in."

By authorizing the appropriation of funds for the new Commission's activities only through fiscal year 1978, Congress allowed itself an opportunity to evaluate the effects of the 1974 amendments to the Commodity Exchange Act, particularly the impact of an independent regulatory agency on commodity market activities. The effects of the CFTC on the market, while not devastating, have been lackluster.

The need for a reform of the Commission, in order to maximize regulatory efficiency, has especially become evident over the past few months. The whole matter of London options was terribly bungled. As the CFTC struggled to find the way back, it was hit with the appointment of a new Commissioner. Confidence in Federal regulation administered by the CFTC, as a means of encouraging honest and sound dealing and strengthening public confidence in the Nation's rapidly expanding futures markets, has been shattered by the recent Gartner appointment and affair. Indeed, Mr. President, I am sure that very few Americans, other than direct participants in futures markets, were even aware, before this issue was brought up on the Senate floor, that the CFTC existed. Now, if they are aware, I am equally sure that their impression of the CFTC has been much less than favorable.

This amendment would abolish the Commodity Futures Trading Commission and provide for the establishment of a Commodities Trading Commission. This is an opportunity to reorganize a Commission which has been ineffective from its beginning, and put an end to the controversy which is making it impossible for the CFTC to operate in a credible way.

The Commission has a great deal of unfinished business. I am informed that the Commission always has had a considerable jurisdiction over cash and forward markets which it simply has failed to exercise—believing itself more properly restricted to the operations of the futures markets as such. Cash forward markets are developing—and their further development is foreseen by agricultural economists whose work was published by the Senate Committee on Agriculture and Forestry in 1976 in the print "Marketing Alternatives for Agriculture, Is There a Better Way?" There may be a better way—but the collection of bumblers and sycophants who now lead the CFTC will not help us find it. That I do predict.

A new agency is waiting, struggling, hoping to be born. New jurisdiction; new hopes for a better way; new leaders; a new, more accurate, name; a new, more efficient structure is what I propose to recognize, create, and christen.

On April 18, 1978, the Office of Management and Budget transmitted to Senator TALMADGE the administration's views on legislation to extend the CFTC. The OMB proposal consisted of four recommendations, one of which was that the CFTC be abolished and that the agency be made a separate subcabinet agency (similar to the Environmental Protection Agency). I believe OMB prudently concluded, entirely on application of sound management principles, that a thorough-going management reform and replacement was indicated.

Let the three-member Commodities Trading Commission be born. It will be charged with a new mission. It will be focused on all relevant commodities markets and transactions—cash, forward, and futures. It will not be a five-headed turtle with two crippled legs. It will preserve the measure and number of counselors needed for wise collective judgment—three. That is the number of judges commonly assembled for important matters, and nearly uniformly in the U.S. courts of appeals. A totally aberrant Chairman will not be able to run away with the show. The impossible search for consensus among five unhappy and mismated Commissioners will come to an end.

The independence of the agency is preserved. Its integrity could be restored with wise Presidential nominations—in which I would happily concur. I urge careful consideration of this seldom-offered opportunity to correct a misbegotten beginning with a careful structuring of a new Commodities Trading Commission.

Like Senator EAGLETON, although I have not been very happy with the Gartner appointment or with his attitude, and in spite of the fact that both the President and the Vice President of the United States of America have requested him to resign, not because he is a bad person, he is not, but because of the fact that the surrounding facts exist about his tenure as a servant of the Senate, the facts surrounding his appointment, I think it would allow Mr. Gartner to be appointed to another position in Government in which he would be qualified and in which there would be less controversy, and I think this would, in fact, help the President of the United States, irrespective of the Gartner concern.

I think we need to do this just to have this particular commission go forward with a positive and not a negative thrust, which is what it has had in the past, and I think we cannot save it any more in the future.

The only thing I would hope if this amendment would be adopted, the motion to table is defeated and the amendment is adopted, I would certainly hope the President would choose with great selective care the topmost ethical, decent administrators and thinkers in this field to head the new commission.

I would call on my colleagues today to support this matter because I think it is a bipartisan effort that should be given great consideration.

In that regard I would like to pay special tribute to the distinguished Senator from Missouri because I think he has done more study in this area than any other Senator, which study would stand the Senate in good stead today. I think this comment should not go unnoticed. I think he has made some very, very important points with a great deal of backup of the proposal which is being made here today in the Melcher amendment, and I hope with all my heart that the Senators, in a bipartisan way, will support this amendment and solve what I consider to be very serious problems in our Government today.

I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I will, at the appropriate time, make a motion to table once everybody has had a chance to speak, but I ask unanimous consent that it be in order to ask for the yeas and nays on that motion at this time.

The PRESIDING OFFICER (Mr. BUMPERS). Is there objection?

Mr. MELCHER. Reserving the right to object, do I understand correctly that we will be able to use our full time prior to such motion?

Mr. LEAHY. I have no intention of cutting off anybody's time.

The PRESIDING OFFICER. Is there is no objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, a lot of the arguments, a lot of the ad hominem arguments, here today were heard during our committee hearings.

As I stated before, those committee hearings went on for weeks and weeks and weeks. Senator HUDDLESTON had spent week and weeks and, I suspect, months, before even the hearings preparing the legislation. He and I and some other members of the committee talked with dozens and dozens of witnesses, listened to hours and hours and thousands of pages of testimony, visited various commodity exchanges, and considered this thing at great length.

Now, taking the amendment solely on its merits, it would fly in the face of all the weight of all the testimony the Senate Agriculture Committee received, the subcommittee received, and it certainly flies in the face of what the preponderance or, in fact, a significant majority of the Senate Agriculture Committee did in this matter. That is just on the pure weight of the arguments; that is just on the structural question. It is just on the question of whether we should have three instead of five. It is just on the amendment itself.

But there is the injection of another element in this, Mr. President, and this is what has been stated by at least one or two of the proponents of this amendment—not by the distinguished Senator from Missouri, who stated an entirely different attitude, but it has been stated

by others—that the primary purpose of this amendment is to remove one member of the CFTC.

Mr. President, this is not the way to do it. One does not take a piece of legislation as complicated and as substantive as this, a piece of legislation with the ramifications and the far-reaching import of this legislation, a piece of legislation which sets up the agency which will have authority over $1 trillion worth of trading, one does not come in and ride roughshod over such legislation in a floor amendment, which would drastically change what the committee has done, to get rid of one member of that Commission.

There have been discussions here about the quality of the members of the commission in the past, the quality of the members of the commission in the future, and the quality of the members of the commission at present. But every one of those people was subjected to Senate confirmation at one time or another, and everyone was confirmed. It really does terrible damage to an independent agency if every time anybody disagrees with a particular member of that agency we try to revamp the whole agency to do away with a particular position on the floor.

I think in respect of what was said about Mr. Gartner, whether one agrees or disagrees with the position Mr. Gartner finds himself in, it ought to be pointed out that he voluntarily disclosed all relevant financial data to the White House and the Committee on Agriculture and Forestry prior to his confirmation, all references to the gift of $72,000 of Archer-Daniels-Midland stock to his children.

Now, he made a special effort to highlight the gifts to his children. He pointed this out to the members of the committee. He pointed this out to the White House. I realize that the White House now, on second thought, feels that they may have made a mistake, but let us not do damage to a significant piece of legislation just because somebody at the White House screwed up in the past.

I mean, either they were right or they were wrong the first time around. They knew precisely what they were doing. Mr. Gartner has bent over backward to be totally and completely open, frank, and honest with the committee and with the White House, and, he having done so, the decision was made by the White House and by the President to submit his nomination to the committee, the decision was made by the committee to favor his confirmation, and then the Senate voted on that confirmation. And at no time since has one iota of additional information come forth.

So if the White House is embarrassed of if any of us as Senators are embarrassed, we have only ourselves to blame. Many of us feel, incidentally, in that respect that Mr. Gartner has been totally honest, and has instituted a routine which would preclude him from any kind of a conflict of interest. And it certainly is well precedented, both in the CFTC and other regulatory agencies, where Commissioners have excepted themselves, to avoid even the appearance of a conflict of interest, from certain actions.

So I would hope my fellow Senators would not do damage, serious damage, in fact irreparable damage, to legislation which finally allows us to get the CFTC under control, on an ad hominem basis.

Mr. HUDDLESTON. Mr. President, will the Senator yield me 1 minute, to speak in opposition to the amendment?

Mr. LEAHY. I yield to the Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I think the distinguished Senator from Vermont has stated the case very well. We know, of course, the motive of this particular amendment, and, as has been indicated, we know this is not the proper way to handle the issue.

But from a practical standpoint, there is no precedent in history that I know of that would give this body reason to believe that any new appointees, whether they be three or more, would be any more knowledgeable or any more efficient, or would operate any more to our liking than those already appointed.

They will go through the same process. Why is there any reason today to think that a three-man Commission will be any more efficient, or will operate any better, than the five-man Commission that is established now and is pending reauthorization by the legislation we are considering today?

I think this is the wrong approach, and one which offers very little hope of any improvement that difficulties which have been experienced will be eliminated in the future by three individuals unknown at this time.

That is not a reasonable objective to be expected from this particular amendment. For those reasons, I join with the Senator from Vermont in opposing the amendment of the Senator from Montana.

Mr. LEAHY. I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I rise in opposition to the amendment. In the days of Roosevelt they tried to pack the Supreme Court. I guess now we are trying to unpack the CFTC because it is not packaged right, according to some.

I do not disagree with the motives of the distinguished Senator from Missouri, who is truly interested in trying to restructure the Commission, either with an Administrator or a three-member Commission, to make it more responsive and more functional; but I wonder why we are here again today to replow the ground with reference to Dave Gartner.

If a mistake was made, it was made by the Senate in the confirmation process; and if something has arisen since that time that would have caused us to change directions, then I would suggest we ought to support whatever action might be necessary. But as far as I can recall—and I think the Senator from Kansas was there every moment of the hearings—Mr. Gartner gave us the information. There were some of us who felt we should have let it sit a few days, but that did not happen because of some urgency on the part of whoever might have been swearing in Mr. Gartner; so we went the other step and had another day of hearings. We brought Mr. Gartner before the committee. He was not under oath, but I think he gave us all the information we requested.

There were all kinds of allegations of how he would have to disqualify himself almost on a daily basis. In that connection, I ask unanimous consent to have printed in the RECORD at this point a letter from the Commodity Futures Trading Commission dated June 21, 1978, which states that from May 19, 1978, to June 21, 1978, Mr. Gartner participated in every decision, that it was not necessary for him to disqualify himself. The letter is from the general counsel, and I think it ought to be made a part of the RECORD.

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

COMMODITY FUTURES
TRADING COMMISSION,
Washington, D.C., June 21, 1978.

Mr. STEPHEN E. STORCH,
Assistant Counsel, Committee on Agriculture, Nutrition and Forestry, Russell Senate Office Building, Washington, D.C.

DEAR STEVE: In response to your recent inquiry, I am providing you a list of all matters that have been considered by the Commodity Futures Trading Commission in official Open, Closed and Judicial sessions since David Gartner's term of office as a Commissioner began on May 19, 1978. In addition I am furnishing a list of those items the Commission tentatively plans to consider through the end of the month of July. Commissioner Gartner has participated in every official decision made by the Commission since May 19, 1978.

MATTERS CONSIDERED BY THE COMMISSION IN OFFICIAL OPEN, CLOSED AND JUDICIAL SESSIONS SINCE MAY 19, 1978

May 23, 1978, Commission Meeting, Open Session:

1. Petition for Interim Rulemaking submitted by Mocatta Metals Corporation for amendment of regulation 32.11 to permit the granting of dealer options. Action taken: Approved 4–1, Commissioner Gartner voting No. (Commissioner Gartner abstained from voting on motions to amend the petition because of his opposition in principle to the substance of the petition).

2. Economic considerations in classifying leverage transactions as contracts for future delivery. Action taken: No vote. (Commissioner Gartner directed the staff to prepare a report on the economic and legal ramifications of classifying leverage contracts as futures contracts).

3. Proposed rule imposing a moratorium on the offer and sale of leverage contracts. Action taken: Approved for Federal Register publication, 5–0.

4. Second Quarterly Report. Action taken: No vote.

Closed Session

1. By a 5–0 vote the Commission authorized the Division of Enforcement to file a civil action against various persons for alleged violations of financial, segregation, recordkeeping, and anti-fraud rules.

May 31, 1978, Commission Meeting, Open Session:

1. Principal management objectives for fiscal years 1980–82. Action taken: No vote.

2. Proposed plan for phase-out of daily trading limits. Action taken: Approved publication in Federal Register by 4–0 vote (Chairman Bagley absent).

3. Proposed June calendar. Action taken: June calendar approved, as amended, by 4–0 vote (Chairman Bagley absent).

4. Denial procedure for applicants believed to be unfit for registration pursuant to Section 8a(2)(b) of the Commodity Exchange Act, as amended. Action taken: Approved in principle a delegation of authority to the Director or Deputy Director of the Division of Trading and Markets to notify applicants in those cases where there appear to be grounds for denial that, unless a hearing is requested, the application will be denied. Vote: 4–0 (Chairman Bagley absent).

5. Petition for general exemption from regulation 32.11, which bans options trading, submitted by Rosenthal and Co. and Dowdex Corp. Action taken: Deferred until the June 6 meeting.

6. Legislature recommendations on leverage trading. Action taken: Commission voted 3–2 (Commissioner Gartner voting "Aye") in favor of the Office of General Counsel's recommendation of a permanent ban on leverage contracts on those commodities specifically enumerated in section 2a()(1) of the Commodity Exchange Act, as amended, and a ban on leverage contracts involving any other commodity until such time as the Commission expressly permits such transactions. A motion was made and carried by a 5–0 vote, to strike the previous vote and to defer consideration of this item.

Closed Session

1. By a 4–0 vote (Chairman Bagley absent) the Commission authorized the Division of Enforcement to offer the corporate and individual defendants in a pending fraud case a stipulation and order.

2. By a 4–0 vote (Chairman Bagley absent) the Commission authorized the Division of Enforcement to file administrative complaints against two individuals to deny their applications for registration as commodity trading advisers.

June 6, 1978, Commission Meeting, Open Session:

1. Petition for general exemption from regulation 32.11, which bans options trading, submitted by Rosenthal and Co. Action taken: Approved, 4–0 (Commissioner Martin absent).

2. Petition for general exemption from regulation 32.11, which bans options trading, submitted by Dowdex Corp. Action taken: Chairman Bagley's motion to accept the petition rejected, 3–1 (Commissioner Martin absent).

3. Report from the Public Interest Economics Center on "Competition and efficiency in the Commodity Futures Markets." Action taken: Report accepted.

4. Proposed rules on exchange disciplinary procedures. Action taken: Staff directed to propose final rules for publication in the Federal Register.

5. Policy discussion on settlement procedures. Action taken: Staff directed to prepare a set of procedural guidelines for Commission consideration of proposed settlements.

Closed Session

1. By a 4–0 vote (Commissioner Martin absent) the Commission authorized the Division of Enforcement to institute administrative proceedings against certain persons for alleged fraudulent activities.

2. By a 4–0 vote (Commissioner Martin absent) the Commission approved an offer of settlement from the respondent in a pending enforcement matter.

3. By a 4–0 vote (Commissioner Martin absent) the Commission authorized the Division of Enforcement to file an administrative complaint against an individual to deny his application for registration as an associated person.

4. Subject to clarification, the Commission tentatively approved the recommendation of the Division of Enforcement to file an administrative complaint against an individual to deny his application for registration as an associated person.

June 13, 1978, Commission Meeting, Open Session:

1. Consideration of proposed regulation 1.61, which would require exchanges to enforce provisions of the Commodity Exchange Act, as amended. Action taken: Commission voted 5–0 to table the proposed regulation.

2. Legislative recommendation on leverage transactions. Action taken: Commission voted 5–0 to submit to Congress proposed legislation on leverage transactions, drafted under the direction of Commissioners Gartner and Seevers.

Closed Session

1. By a 5–0 vote the Commission authorized the Division of Enforcement to institute administrative proceedings against an individual to deny his application for registration as a floor broker and to revoke his registration as an associated person.

2. By a 5–0 vote the Commission authorized the Division of Enforcement to file a civil injunctive action against certain persons for alleged violations of options rules.

June 15, 1978, Judicial Session:

The Commission, by unanimous vote of participating Commissioners in each instance, approved the issuance of Decisions and Orders in the following adjudicatory proceedings:

1. Baker v. Jones Co.
2. Gordon v. Shearson Hayden Stone, Inc., et al.
3. Graves v. Futures Investment Co.
4. Graves v. Shearson Hayden Stone, Inc., et al.
5. Ruddy v. First Commodity of Boston, et al.
6. Anderholt, et al v. Rosenthal & Co.
7. Benrey v. The Siegel Trading Co., Inc., et al.
8. Miles & Carleton v. Abraham-Reitz & Company West, Inc., et al.
9. Orsini v. First New York Commodity Options, Ltd., et al.
10. Prochniak v. First Commodity Corp. of Boston, et al.
11. Tavani v. Stotler & Company, et al.
12. Tucker v. Economic Systems, Inc.
13. In the Matter of Imperial Options and Vincent Sbarbati.
14. In the Matter of Siegel Trading Co.
15. Eldon Klatt v. International Trading Group, Ltd.
16. In the Matter of Edward A. Cox, Jr. and George F. Frey, Jr.
17. In the Matter of International Commodity Options, Ltd., et al.
18. Barker v. Commodity Management Systems, et al.
19. Rhodes v. R. G. Wilson & Co., Inc.
20. Russo v. Gregory Commodity Options, Ltd., et al.

June 20, 1978, Commission Meeting, Open Session:

1. Motion by Commissioner Gartner to amend the exemption granted to Rosenthal and Co. at the June 6, 1978 Commission meeting. The amendment allows Rosenthal ten days within which to petition the Commission for another exemption, if and when a permanent injunction is entered against the firm. Action taken: Motion approved 3–1 (Commissioner Martin not participating).

2. Proposed customer protection rules. Action taken: (1) Final rules approved with minor language changes 5–0. (2) Proposed rule requiring registrants to exercise due diligence in the handling of customer orders disapproved 3–2 (Commissioner Gartner voting in favor of a due diligence rule).

3. Proposal to publish for comment in the Federal Register, rules governing advertisements by commodity professionals. Action taken: Proposal defeated 3–2 (Commissioner Gartner voting against the proposal).

4. Proposal to publish for comment in the Federal Register, rules banning advertisements of simulated trades. Action taken: Proposal defeated 3–2 (Commissioner Gartner voting against the proposal).

Closed Session

1. By a 5–0 vote, the Commission authorized the Division of Enforcement to file an administrative complaint against an individual for violations of anti-fraud provisions of the Commodity Exchange Act, as amended, and the regulations promulgated thereunder.

2. Rule enforcement reviews of the New York Mercantile Exchange and the New York Cocoa Exchange were presented by the Division of Trading and Markets. Proposed letters to the exchanges, setting forth findings and recommendations of the Division of Trading and Markets, were approved by the Commission with minor language changes.

MATTERS TENTATIVELY PLANNED FOR COMMISSION CONSIDERATION THROUGH JULY 1978

1. Commission Review of Proposed Supporting Objectives and Priorities for fiscal years 80–82.
2. Legal and Economic Review of Leverage Contracts.
3. Policy Discussion—"introducing" FCM's.
4. Proposed Standards for Title III applications.
5. Regulation 1.50 Review—selective calls to contract markets.
6. Regulation of Commodity Pool Operators and Commodity Trading Advisers.
7. Discussion of Reporting Requirements for Dealer Options.
8. Proposed Federal Register Notice on Plan to Phase Out Daily Trading Limits.
9. Financial Rules: Review of public comments and Final Policy discussion.
10. Regulation 1.35(g)/Policy Discussion regarding "time-stamping".

Recommended action on petitions.

11. Disciplinary Rules, Part 8: Proposed final rules and implementation plan.
12. Recommended action on Monex petition.
13. Commission Review/Action on Proposed Allocations, Funding Levels and Priorities for fiscal years 80–82.

If I can be of any further assistance, please do not hesitate to call.

Sincerely,

JOHN G. GAINE,
General Counsel.

Mr. MELCHER. Mr. President, will the Senator yield on that point?

Mr. DOLE. Yes.

Mr. MELCHER. The Senator was present at the proceeding he is referring to, when the letter was delivered to us in the Senate Agriculture Committee. Does the Senator recall that I asked the recently appointed member of the Commission whether he had ever been advised, during any of the time that he had served on the Commission, which I believe he stated was 5 weeks, on what the holdings of Archer-Daniels-Midland

were, and the relationship to the various exchanges, and also had he ever been advised of the various subsidiaries of Archer-Daniels-Midland, so that he could make a judgment on whether Archer-Daniels-Midland or their subsidiaries had been involved in any of the decisions concerning the terms of contracts or the rules and the various regulations?

Mr. DOLE. As far as the Senator from Kansas knows, I was there almost every minute and I think I remember that question, yes.

Mr. MELCHER. May I repeat the answer, if the Senator will yield further?

Mr. DOLE. Well, I think I have time. I will be happy to, yes.

Mr. MELCHER. Mr. President, I ask unanimous consent that a minute of my time be used at this point.

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

Mr. MELCHER. The answer by the recently appointed Commissioner was that he would depend on the Commission's counsel, who in turn answered at that point that they had not, as of then, after 5 weeks, assembled any data on who the subsidiary companies of Archer-Daniels-Midland were, and what possible effect they might have on the sale.

I thank the Senator for yielding.

Mr. DOLE. Again, I do not quarrel with the distinguished Senator from Montana. I know he is purely motivated. But I think if we look at the record and look not only at the record we had, but some of us knew Mr. Gartner in his previous capacity, and I do not necessarily want to invoke the memory of the distinguished late Senator from Minnesota, Mr. Humphrey, but it would seem to me that if in fact he has leveled with the committee, and there is certainly no reason to believe he has not, and we acted upon that—in fact, the distinguished Senator from Oklahoma suggested he sell the stock, and it was sold—perhaps the Senate moved a little too quickly to confirm the nomination. That is the one area that I think is a little cloudy. But beyond that, nothing has happened since that time.

If Senators want to eliminate Mr. Gartner, then vote against the motion to lay on the table. I guess what we are having now is simply a rollcall on the Gartner nomination. That is all this is: a rollcall vote on the Gartner nomination. If, based on the facts as we now have them, you think Gartner ought to be removed, you ought to vote against the motion to table. But it would seem to me if we are going to raise this sort of post-Watergate morality to that level, we might have great difficulty finding anyone to serve on any commission.

I do not know Mr. Gartner that well. I have worked with him. I have heard the late Senator Humphrey say good things about him, and I believe what Senator Humphrey told me, that he is a dedicated, hard-working young man who was of great help to him.

If something has happened or if somebody has some allegations—we had the hearings and everybody was permitted to come and ask questions, with all the questions being asked and answered, to the best of his ability. I suggest that what we have now is a vote on the nomination. This is a vote on the Gartner nomination. If we do not want Mr. Gartner to serve on the commission, if we believe somehow that he is not qualified, we have an opportunity now to remove him.

I happen to believe that he told us all he knew. He leveled. He did not try to hide anything. He did not try to deceive the committee. He did not try to deceive the White House. He did not try to deceive, as far as I know, anyone around him. It seems on that basis that he came to us with clean hands. I doubt it would do any great distinction to this body now to turn the man down.

Mr. LEAHY. Mr. President, I understand everybody has had an opportunity to speak who wanted to speak. I agree with the distinguished Senator from Kansas. It really is not my idea of how we should operate independent bodies, by authorizing the removal of people from the bodies.

Does the Senator from Montana wish to say anything further before I move to table?

Mr. MELCHER. Yes.

Mr. DOLE. I will yield for that purpose and then I will move to table, with the yeas and nays having been ordered.

The PRESIDING OFFICER. The Chair reminds the Senator that a motion to table would not be in order until all time has been yielded back.

Mr. LEAHY. I understand.

Mr. MELCHER. Mr. President, there is no question, as the Senator from Kansas and the Senator from Vermont have clearly stated, that the recently appointed member of the commission very correctly and forthrightly delivered the information to the White House and to the Senate Agriculture Committee about his children's trust funds set up by Dwayne Andreas and his daughter. But there is some question about a recently appointed member of the commission and his concept on propriety.

Let me read from the transcript of that day.

The last donation to the trust fund by Andreas was received on April 1 of 1977, 1 day prior to the time the Senate resolution on the Senate's Code of Ethics was considered and agreed to on this Senate floor.

My colleagues will recall that that code also dealt with administrative assistants.

Senators will recall that that resolution was long in the making in a select or special committee of the Senate for that purpose. There were public meetings, there was input from various Senators, there was thorough discussion of what was involved in the resolution.

The recently appointed Commission member was asked:

> You had no knowledge of any advice given to the trustee or Mr. Andreas—

On the point that the concerned provision in the ethics code that would have outlawed the acceptance of such a donation for a trust fund for a member of his family.

The recently appointed member of the Commission replied:

> Well, I, myself, told Mr. Andreas and Mrs. McMurtrie during the calendar year 1977 that there was a resolution pending before the Senate, and I did not think that they should give any more gifts to the children after that resolution became or actually was passed because I thought—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MELCHER. Mr. President, I yield myself such time as I may require on the bill.

Mr. LEAHY. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. LEAHY. I am not sure about the unanimous-consent order, but does the Senator from Montana have time on the bill?

The PRESIDING OFFICER. The Senator has 30 minutes on the bill.

The Senator may proceed.

Mr. MELCHER. I will start again with the response of the recently appointed member of the Commission when asked about this question involving the Senate ethics code, which was adopted by the Senate on April 2, in relation to the receiving of the last donation to the trust fund of their children from Mr. Andreas on April 1, 1 day prior to the acceptance of the Senate code.

He replied:

> Well, I, myself, told Mr. Andreas and Mrs. McMurtrie during the calendar year 1977 that there was a resolution pending before the Senate and I did not think they should give any more gifts to the children after that resolution became or actually was passed because I thought there would be a question as to the legality or the propriety of doing so.

In other words, in declaring that, he thought there would be no question of legality or the propriety of doing something on April 1 rather than after April 2 and subsequent to that when the Senate resolution was agreed to. In other words, what he told the trustee, or told Mr. Andreas and Mrs. McMurtrie, was, "If you are going to do it, do it quickly, because the Senate ethics resolution is pending and it would be improper after that time."

That is a question of judgment that is involved with the recently appointed member of the Commission. Is his idea of propriety to do something quickly before a deadline passes that your administrative assistant participated in developing for the Senate as an ethics code? The fact is that on April 1, 1 day ahead of agreeing to the resolution, Dwayne Andreas or Mrs. McMurtrie, or both, contributed to the trust fund, 1 day ahead.

The fact is that, on his own testimony, the recently appointed member of the Commission said to Mr. Andreas, "If it is going to be done, do it quickly, because there is something pending in the Senate that, when passed and adopted, would make it improper or illegal."

The National City Bank of Minneapolis is a trustee. It is owned by a corporation, 95 percent of which is owned by Archer-Daniels-Midland, which is Dwayne Andreas.

You know, what we have before us, I say to the Members of the Senate, is a very simple amendment. It cuts the members of the Commission to three and tells the President to reappoint them. When we are wrong, we ought to admit it. It is patently obvious that the recently appointed Commission member cannot effectively perform his duties. I believe our responsibility is clear.

The White House, with egg on their face, said to the appointee, "Withdraw"—within a matter of days, "withdraw."

The Vice President, an old friend—I think with egg on his face, too—said to the appointee, "Withdraw; withdraw"—in just a matter of days.

We made a mistake in the committee. I made a mistake. I did not pay enough attention. He is a well-liked, well-respected person. I thought, "Fine." I did not pay attention to what that well-liked, well-respected person was telling us—that he had a trust fund for his children from Dwayne Andreas.

The tie to Archer-Daniels-Midland and Dwayne Andreas and all the stocks on the various futures trading exchanges had been discussed before. I think our responsibility as Members of the Senate is to admit it when we are wrong. We pushed it through here. The Senator from Kansas described how it was rushed through on the Senate floor—without any consideration. I think when we recognize a wrong, a defect in our action, we should correct it.

This amendment serves the purpose of taking the recently appointed member of the Commission off the hook. The hook, as he says, is in: To voluntarily resign as asked to by the President and Vice President would look to some as an admission of guilt. He has taken his position. He has made it clear. He does not have to resign voluntarily under this procedure, under this amendment. I do not think anybody has any idea that the President, under the circumstances, would reappoint him. Under the amendment, the President would appoint three new members to the Commission. That is fair, under the circumstances and under the concept of propriety, as envisioned by most of us—indeed, I dare say, by all of us.

It is fair to that gentleman. He is guilty of nothing but, perhaps, poor judgment and perhaps, also, a poor concept of propriety as evidenced by his advice to Andreas that if he is going to make the contribution to the trust fund, do it prior to the time that the Senate adopted the resolution.

Does the Senator from Virginia seek time?

Mr. HARRY F. BYRD, JR. Will the Senator yield for a question?

Mr. MELCHER. Yes.

Mr. HARRY F. BYRD, JR. The Senator from Virginia is not familiar with this matter at all except what has been noted in the press. When the appointee appeared before the committee, am I correct in my understanding that the appointee made known to the committee that a $72,000 trust fund had been established for his children?

Mr. MELCHER. The Senator is correct.

Mr. HARRY F. BYRD, JR. Did he indicate why a nonfamily individual would establish such a trust fund in such an amount?

Mr. MELCHER. I have to admit to the Senator from Virginia, with egg on my face, at that time, I really do not know. I was not there. But subsequent to that time, I believe it was June 21 or 22, when he was asked to come back to the committee, he stated that Mr. Andreas is a very close friend of his, and indeed, had been the best man at his wedding.

Mr. HARRY F. BYRD, JR. When the appointee came back to the committee the second time, just recently, was the committee satisfied with the responses given to the committee to the questions put to him by the committee?

Mr. MELCHER. The committee at that time took no action at all. The committee noted that in our discussion, which was a public committee meeting, there was no feeling among any of us that he should be removed for cause. There was feeling that he had done no wrong; that he was a victim of circumstances, for the information that he had provided—I mean the information of the Gartner trust fund—had been provided both to the White House and to the Senate committee; that it was their fault for not looking into it more closely and the fault of those of us on the Senate Agriculture Committee, or those of us who felt it is important, for not having looked into it at the time.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. MELCHER. The point really is, how could this recently appointed member of the Commission be effective on the Commission? In my judgment, under the terms that he set for himself, that every transaction or every decision made by the Commission that directly impacted on Archer-Daniels-Midland or Dwayne Andreas, he would excuse himself from, that is his own decision, his own guideline. He described it to the committee as not being a matter of fault. However, I have to disagree, knowing that not only is Archer-Daniels-Midland a big conglomerate in itself, and that its subsidiaries involve it very frequently—daily, as a matter of fact, in a number of exchanges in the country in futures trading; that the $2-billion-a-year-gross-sales conglomerate and its subsidiaries have memberships numbering 15 on the Minneapolis Exchange and 11 on the Chicago Board of Trade—just to mention 2; that it is not known by the committee or anybody that I know of just how many of them happen to sit on the board of governors of those various exchanges that actually make up the rules and the terms of contract.

How could he add or contribute to the Commission as a bona fide member and a responsible member if he is going to absent himself from any dealings of such a big conglomerate, and also such a big trader as Dwayne Andreas? In my judgment he cannot.

How could he create confidence in the entire Commission and its regulation of a trillion dollars' worth of trading every year? In my judgment, he does not lend confidence to the Commission.

It has been stated that perhaps it will not be so hard to determine when some decision of the Commission would directly impact Archer-Daniels-Midland or Dwayne Andreas.

The recently appointed member of the Commission said in answer to that, how he would know, he would depend upon Commission counsel to flag it for him, to notify him, so he would not participate.

We asked commission counsel at that time, having been advised by the commission chairman that the recently appointed commission member had been on the Commission 5 weeks and participated in the decisions of the Commission during that length of time, and that nothing had arisen during that time, "Well, what record was there to show what Archer-Daniels-Midland was involved in, or any of the subsidiaries on the various exchanges?"

They had no record. They did not have any data. They did not have a table of ownership. They did not have any table of membership. They did not have any table of those members of Archer-Daniels-Midland, or any other of their subsidiaries, sitting on the board of governors of any exchange.

In fact, it was hardly reassuring. I think it was shattering in this concept that somehow they will flag all these dealings, and when Archer-Daniels-Midland or the subsidiaries are involved in a transaction where a new regulation or contest was held.

It points out the uncertainty of the whole proposition. I think the amendment goes right to the heart of the matter and takes a recently appointed member of the Commission off the hook, gives the President the opportunity to renew confidence in the community by appointing three new commissioners, to appoint any others he wants to, the option is given him. He may reappoint three of the existing four members of the Commission, as a matter of routine.

I think it would do good, that it would give a great amount of help to the Commission at this time, and give the public some confidence that the Commission is truly in a position to regulate with equity, fairness, and honesty the vast number of transactions that they must regulate.

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

Mr. LEAHY. Well, Mr. President, would the Senator withhold that?

Mr. MELCHER. I am delighted to withhold it.

Mr. LEAHY. Mr. President, the Senator from Montana has said that he

made a mistake in this matter. I have been told that confession is good for the soul. I would hope in this case that it is, but I would hope that the Senator from Montana would not inflict upon the country as penance a complete change in a very significant piece of legislation.

This is one of the most significant pieces of legislation that will come out of our committee. It affects, as we said before, quite directly, nearly $1 trillion worth of commodities trading, depending upon whose figures we use, of course.

I would hope that in the change around appointments of the CFTC, we would not go to this drastic change.

I would ask the Senator from Montana, is he prepared to yield back his time? If he is, I am prepared to yield back the time on this side and go to a vote on the matter.

The PRESIDING OFFICER. (Mr. HODGES). The Senator does not have to yield back his time on the bill in order to vote on the amendment.

Mr. LEAHY. Or to vote on the motion to table?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. Then at this time, Mr. President, I move to table, and the yeas and nays have already been ordered.

Mr. MELCHER. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has time on the bill remaining, which he could not use at this point since debate is not in order.

The question is on agreeing to the motion to lay on the table UP amendment No. 1411. 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 Minnesota (Mr. ANDERSON), the Senator from Idaho (Mr. CHURCH), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The result was announced—yeas 69, nays 23, as follows:

[Rollcall Vote No. 209 Leg.]

YEAS—69

Bartlett	Dole	Javits
Bayh	Domenici	Kennedy
Bellmon	Durkin	Laxalt
Brooke	Eastland	Leahy
Bumpers	Ford	Long
Burdick	Glenn	Lugar
Byrd, Harry F., Jr.	Goldwater	Magnuson
	Hansen	Mathias
Byrd, Robert C.	Hart	Matsunaga
Cannon	Haskell	McClure
Case	Hatfield, Mark O.	McIntyre
Chafee		Morgan
Chiles	Hathaway	Muskie
Clark	Hayakawa	Nelson
Cranston	Heinz	Nunn
Culver	Huddleston	Packwood
Curtis	Humphrey	Pearson
Danforth	Inouye	Pell
Percy	Schmitt	Stone
Randolph	Schweiker	Talmadge
Ribicoff	Sparkman	Wallop
Riegle	Stafford	Williams
Sarbanes	Stennis	Young
Sasser	Stevenson	

NAYS—23

Allen	Hatch	Metzenbaum
Baker	Hatfield, Paul G.	Proxmire
Bentsen		Roth
Biden	Helms	Scott
DeConcini	Hodges	Stevens
Eagleton	Hollings	Thurmond
Garn	Jackson	Weicker
Gravel	Melcher	Zorinsky

NOT VOTING—8

Abourezk	Griffin	Moynihan
Anderson	Johnston	Tower
Church	McGovern	

So the motion to table Mr. MELCHER's amendment (UP No. 1411) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the motion to lay the amendment on the table was agreed to.

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

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I ask unanimous consent that Brad Gungall, of Senator BELLMON's staff, and Joe Kinney, of Senator MORGAN's staff, be accorded the privilege of the floor during all discussions and votes that may occur in regard to S. 2391.

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

Mr. LEAHY. Mr. President, I yield to the Senator from Colorado.

MILITARY CONSTRUCTION AUTHORIZATION ACT, 1979

Mr. HART. Mr. President, I ask unanimous consent that the pending business be set aside temporarily and the Senate return to the consideration of H.R. 12602.

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

The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 12602) to authorize certain construction at military installations for fiscal year 1979, and for other purposes.

The Senate resumed the consideration of the bill.

● Mr. McINTYRE. Mr. President, I had intended to offer an amendment which I feel is very important and I know that feeling is shared by several colleagues, such as Senators DURKIN, HATHAWAY, and MUSKIE. The shipyard modernization program that comprises a good portion of today's bill is an extremely important project and one which must go ahead with all deliberate speed. My amendment would have added $1.6 million to the authorization for the Portsmouth Naval Shipyard modernization program, moneys to be used to construct a waterfront support facility which is necessary for the repair and overhaul of the larger *Los Angeles* class submarines that the yard expects to receive in the 1980's.

This $1.6 million was deleted from the original request made by the Navy. My concern and the purpose of the amendment, was to insure that this money be restored in a timely way. Now if that can be accomplished without an amendment, thereby speeding up the proceedings here today, so much the better. I wonder if the chairman would comment on the significance which he attached to this particular item I am talking about? As he well knows the item was restored in the House version of the bill and will be a conference item. Will the chairman assure me that these funds will receive the highest priority in conference?

Mr. HART. As I stated in a letter to Senator MCINTYRE, I do intend to give this item careful evaluation and every consideration in conference.

Mr. MCINTYRE. Given the significance of these funds to the Portsmouth Naval Shipyard modernization program, does the chairman agree with me that the project should go ahead in the most expeditious way possible?

Mr. HART. Yes, that is my intention and while I cannot speak for the other members of the conference, I will give it every consideration in conference.

Mr. MCINTYRE. That being the case, Mr. President, I will not offer my amendment and I thank the distinguished chairman for his support.●

Mr. HART. Mr. President, I ask unanimous consent as to the amendment offered earlier today to this pending bill by the Senator from Texas (Mr. TOWER) that his colleague, the Senator from Texas (Mr. BENTSEN), be added as cosponsor.

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

Mr. HART. Mr. President, I shall take a moment to explain to my colleagues why final passage of this bill was delayed for several hours. I was prepared to exert some effort to delay passage of the bill indefinitely unless certain very serious policy questions concerning military base realinements were adequately answered by the Defense Department.

Earlier today, I had printed in the RECORD a letter which I directed to the Secretary of Defense posing these policy questions. A short time ago I received a response to that letter.

I ask unanimous consent that that response be printed in the RECORD.

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

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., July 12, 1978.

Hon. GARY HART,
Chairman, Subcommittee on Military Construction and Stockpiles, Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your letter to Secretary Brown regarding the Air Force decision to defer construction of an avionics training facility at Lowry Air Force Base, Colorado.

We regret that your first notice of the action to defer construction of the Lowry project was from the press. As you may know, we have a long-standing procedure that the Military Services assure that Congressional delegations are informed of any action substantially affecting their states or districts. In this instance, failure to provide

prior notification of the deferral was an oversight. We sincerely regret any embarrassment which may have resulted.

I assure you that political pressure or consideration was not in any way a factor in the determination to defer construction of the avionics training facility at Lowry. Rather, that decision reflects a long-standing procedure within the Department of Defense to closely review and monitor military construction at bases (1) either planned or currently under review for possible realignment of missions or closure, or (2) which could reasonably be considered as alternatives to the prime base candidate. These management procedures are designed to insure that construction funds are not needlessly expended.

Each project is reviewed on a case-by-case basis and in many instances such reviews do not result in deferral or cancellation of planned construction. Frequently, it can be determined that the need for the proposed work is not affected by a planned or on-going study and thus is required regardless of the outcome. However, in the case of the Lowry training facility, the Air Force has not completed the detailed analysis of its technical training centers and, therefore, could not clearly make such a determination. Accordingly, the Air Force took the only prudent management decision practicable under the circumstances and withheld execution of the project pending conclusion of the study which should be forthcoming shortly.

With respect to the list of detailed questions which was appended to your letter, we have prepared replies and they are enclosed herewith. If you have any questions, please let us know. We would be pleased to meet with you or your staff on this matter if you desire.

Sincerely,

JOHN P. WHITE,
Assistant Secretary of Defense.

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1. Question. When and why was the decision made to defer the construction of the avionics training facility at Lowry Air Force Base?

Answer. The decision within the Headquarters, United States Air Force, to defer the construction of the avionics training facility at Lowry Air Force Base was made in early June. Within the Department of Defense, it is a long-standing management practice to closely monitor the military construction program to insure that no construction funds are needlessly expended at bases (1) undergoing review for possible closure or major realignment, or (2) those which could be reasonably considered as alternatives to the prime base candidate.

2. Question. Was the Defense Department consulted on this decision?

Answer. The Office of the Secretary of Defense was not consulted specifically on the decision to defer the avionics training facility. However, it was clearly understood that the Air Force would exercise the long-standing DoD management practice with respect to additional capital investments on a base under study for closure, as outlined above.

3. Question. Is this decision part of a Defense Department policy to defer construction at all bases that are either "candidates" for realignment or have missions similar to "candidate" bases?

a. If no, why not?

b. If yes, provide a list of all other bases affected by this policy and indicate the specific deferrals that may be affected at such bases.

Answer. It is not Department of Defense policy to unequivocally defer all construction at bases that are either candidates for realinement or have missions similar to candidate bases. The proposed project must be screened with respect to the final configuration or mission of the realigned installation. Projects that are not compatible with possible final realignment action are held in abeyance. Projects that cannot conceivably be affected by the realignment action (to include Health/Safety projects) are allowed to continue though they receive close scrutiny. Construction at similar locations is not deferred unless there is a direct relationship between the proposed realignment and the similar installation. Any adjustments are made in accordance with established procedures.

4. Question. If it is not Defense Department policy to defer construction at "candidate" bases and bases with similar missions, perhaps it should be. Provide a list of all bases that are currently "candidate" for realignment and all bases that have similar missions (e.g., Chanute, Lowry, Keesler, Sheppard, and Lackland; San Diego, Great Lakes, and Orlando, etc.). For each base indicate construction projects that are pending (authorized but not completed, include those only partially completed) indicating the status of each project.

Answer:

Tab A—Army.

Tab B—Navy.

Tab C—Air Force.

DEPARTMENT OF THE ARMY

1. The following locations are presently being considered by the Department of the Army for possible realignment action.

a. Training Base Realignment Considerations:

(1) Ft. Benning, GA.
(2) Ft. Bliss, TX.
(3) Ft. Dix, NJ.
(4) Ft. Gordon, GA.
(5) Ft. Jackson, SC.
(6) Ft. Knox, KY.
(7) Ft. McClellan, AL.
(8) Ft. Sill, OK.
(9) Ft. Leonard Wood, MO.

b. Medical Center Realignment Considerations:

(1) Fitzsimmons Army Medical Center (AMC), CO.
(2) Brooke AMC, TX.
(3) Dwight David Eisenhower AMC, GA.
(4) Walter Reed AMC, DC.
(5) Tripler AMC, HI.
(6) Madigan AMC, WA.
(7) William Beaumont AMC, TX.
(8) Letterman AMC, CA.

c. Other Realignment Considerations:

(1) Aberdeen Proving Ground, MD.
(2) Arlington Hall Station, VA.
(3) Ft. Eustis, VA.
(4) Ft. Douglas, UT.
(5) Dugway Proving Ground, UT.
(6) Ft. Hamilton, NY.
(7) Ft. Indiantown Gap, PA.
(8) Letterkenny Army Depot, PA.
(9) Ft. MacArthur, CA.
(10) Ft. Monroe, VA.
(11) Corpus Christi Army Depot, TX.
(12) New Cumberland Army Depot, PA.
(13) Presidio of San Francisco, CA.
(14) Rock Island Arsenal, IL.
(15) Ft. Sheridan, IL.
(16) Ft. Wadesworth, NY.
(17) Vint Hill Farms Station, VA.
(18) Ft. Totten, NY.
(19) Redstone Arsenal, AL.

2. The projects which are pending at the proposed realignment locations are as follows:

a. Training Base Realignment Considerations:

Fiscal year and project	CWE ($000)	Construction award	Completion
Ft. Benning, Ga.:			
Design:			
1977 Building improvements	969	July 1978	
1977 Energy conservation system	1,628	September 1978	
1977 Upgrade domestic waste treatment	4,030	September 1978	
1978 EM barracks complex	13,934	September 1978 (holding)	
1978 Dental clinic	3,279	September 1978	
Construction:			
1975 Upgrade hospital	5,214		December 1979.
1976 EM barracks complex	18,342		August 1978.
1976 Building improvements—Energy	483		July 1978.
1977 Lindsay Creek Parkway	3,689		May 1979.
1978 BCT training facility	3,264		December 1978.
(2) Fort Bliss, Tex.:			
Design:			
1978 Insulate buildings	557	Septem er 1978	
Construction:			
1978 Water storage tanks	262		October 1978.
1978 Hot water heaters	79		February 1979.
(3) Fort Dix, N.J.:			
Design:			
1973 Cold storage warehouse	1,215	On DA hold	
1973 Barracks modernization	5,670	Design completed	
Construction:			
1971 Improve sewage facility	3,005		August 1978.
(4) Fort Gordon, Ga.:			
Construction:			
1977 Regional dental activity	1,583		March 1979.
(5) Fort Jackson, S.C.:			
Design:			
1976 Building weatherproofing	357	September 1978	
1978 Water pollution control	366	July 1978	
Construction:			
1976 EM barracks complex	10,003		December 1978.
1976 Storm drainage	254		September 1978.
(6) Fort Knox, Ky.:			
Design:			
1977 Insulate/imp heating/cooling, phase II	1,666	August 1978	
1977 Modify heating plant, phase II	1,747	December 1978	
1976 Upgrade sewage system, phase II	4,316	December 1979	
Construction:			
1976 Add/alter Ireland Army Hospital	24,820		August 1980.
1977 Upgrade sewage system	2,938		December 1978.
1976 Sanitary sewer cleaning, phase II	186		July 1978.
1977 Industrial waste treatment	1,960		November 1979.
1977 Improve heating/cooling, phase I	1,068		August 1978.
1977 Modify heating plants, phase I	893		December 1978.
1977 Dining facility modernization	2,047		February 1979.
(7) Fort McClellan, Ala.:			
Design:			
1974 Boiler expansion, phase IV	1,300	August 1978	
Construction:			
1976 Addition to Noble Army Hospital	9,608		September 1979.
1976 Boiler plant modernization	708		November 1978.
1976 EM barracks complex	14,443		Do.
1976 Heating controls/insulation	397		Do.
1977 Heating control system (ECIP)	1,880		January 1980.

Fiscal year and project	CWE ($000)	Construction award	Completion
(8) Fort Sill, Okla.: Design:			
1977 Industrial waste treatment	782	September 1979	
Construction:			
1976 Barracks complex trainee	12,570		March 1979.
1976 Building heating system	1,649		January 1979.
(9) Fort Leonard Wood, Mo.: Design:			
1977 Heating plant improvement	2,800	November 1978	
1977 Insulation/storm windows	645	July 1978	
Construction:			
1974 EM barracks complex	44,840		October 1978.
1975 Electrical/mechanical upgrade hospital.	4,142		August 1978.
1975 EW barracks	1,599		October 1978.
1975 Sewage treatment plant	2,001		July 1979.
1975 Water pollution control	146		Do.
1976 Rangei mprovements	526		December 1978.
1976 Range parking area	158		Do.
1976 Sewage treatment improvement	9,144		July 1979.
1977 Fuel conversion	1,371		October 1978.
1977 Heating system automation/surveillance controls.	4,236		February 1979.
(b) Medical center realinement considerations: (1) Fitzsimons AMC, Colo.: Construction:			
1977 Upgrade sewage plant	516		Aug. 1978.
(2) Brooke AMC, Tex.: Design:			
1978 Alter Brooke AMC	9,000	Design held	
(3) Dwight David Eisenhower AMC, Ga.—None.			
(4) Walter Reed AMC, D.C.: Design:			
1978 Fuel Oil Storage/Emergency Generator. Construction:	2,089	September 1978	
1972 Hospital	140,000		June 1978.
1977 Research support facility	660		August 1978.
(5) Tripler AMC, Hawaii—None.			
(6) Madigan AMC, Wash.—None.			
(7) William Beaumont AMC, Tex.: Design:			
1977 Hospital electrical/mechanical upgrade.	3,856	August 1978	
(8) Letterman AMC, Calif.—None.			
(c) Other realinement considerations: (1) Aberdeen Proving Ground, Md.: Design:			
1974 EM barracks	4,652	February 1979 [1]	
1974 EM barracks, phase II	6,329	March 1979 [1]	
1978 Chemical Storage Security	6,738	September 1978	
1978 Energy Control System Phase II	800	do	
Construction:			
1974 Relocation of electrical lines for EM barracks.	18		July 1978.
1976 Research facility	6,500		August 1978.
1977 Install storm sashes	692		July 1978.
1978 Energy control system, phase I	800		October 1979.
(2) Arlington Hall Station, Va.—None.			
(3) Fort Eustis, Va.: Construction:			
1976 Dining facility modernization	930		Do.
1977 Energy control system	1,517		February 1979.
1977 Insulation and storm windows	783		October 1978.
(4) Fort Douglas, Utah—None.			
(5) Dugway Proving Ground, Utah—None.			
(6) Fort Hamilton, N.Y.—None.			
(7) Fort Indiantown Gap, Pa.—None.			
(8) Letterkenny Army Depot, Pa.: Construction:			
1977 Vehicle rebuild facility	3,226		November 1979.
1977 Insulate permanent buildings, phase I	1,062		February 1979.
1977 Insulate permanent buildings, phase IIa.	952		August 1978.
1977 Insulate permanent buildings, phase IIb.	923		Do.
(9) Fort MacArthur, Calif—None.			
(10) Fort Monroe, Va.: Design:			
1976 Water pollution control, phase II	649	September 1978	
(11) Corpus Christi Army Depot, Tex.: Design:			
1978 Heat treatment	2,693	July 1978	
1978 Industrial waste, phase II	836	do	
Construction:			
1978 Jet fuel test facility	927		December 1978.
1978 Flammable storage and POL	328		August 1978.
1978 Industrial waste, phase I	651		November 1978.
1976 Supply operations and storage building, phase II.	988		January 1979.
(12) New Cumberland Army Depot, Pa.—None.			
(13) Presidio of San Francisco, Calif.: Design:			
1978 Heat recovery	132	On hold Not scheduled	
(14) Rock Island Arsenal, Ill.: Design:			
1978 Replace Moline Bridge	9,100	August 1978	
(15) Fort Sheridan, Ill.—None.			
(16) Fort Wadsworth, N.Y.—None.			
(17) Vint Hill Farms Station, Va.: Design:			
1977 Sewage treatment plant	960	September 1978 [2]	
(18) Fort Totten, N.Y.—None.			
(19) Redstone Arsenal, Ala.: Construction:			
1977 Sediment and disposal facility	1,368		April 1979.

[1] These were DA hold until fall of 1977—barracks modernization will be awarded subject to availability of funds after award of EM barracks.

[2] On DA hold until June 1978, when it was released for award.

Installation and project	Cost (thousands)	Status (percent)
NAVY		
Current candidates for realinement:		
RTC San Diego, Calif.: None		(1)
RTC Great Lakes, Ill.: None		(1)
Bases with similar missions: RTC Orlando, Fla.: None		(1)
MARINE CORPS		
Current candidates for realinement:		
MCRD Parris Island, S.C.:		
Modern family housing	$2,418	10
Boiler plant modernization	80	15
Sanitary sewerage collection system	570	2
Dining facility alteration	500	0
Recruit barracks	2,300	0
Applied instruction building	700	0
MCRD San Diego, Calif.: Steam and condensate system	1,200	0
Bases with similar missions: None.		
NAVY		
Current candidates for realinement: Headquarters Military Sealift Command, Washington, D.C.: None.		
Bases with similar missions: None.		
Current candidates for realinement: Navy Recruit Command, Washington, D.C.: None.		
Bases with similar missions: None.		
Current candidates for realinement: Navy Exhibit Center, District of Columbia: None.		
Bases with similar missions: None.		
Current candidates for realinement: Headquarters Navy Audit Service, Washington, D.C.: None.		
Bases with similar missions: None.		
Current candidates for realinement: NSA Long Beach, Calif.: None		(2)
Bases with similar missions: NS San Diego, Calif.:		
P-087, berthing improvement	400	4
P-142, pier utilities	8,166	4
Current candidates for realinement: NAS (NARF) Alameda, Calif.: [3] P-745 energy monitor and control system	1,191	
Bases with similar missions: NSC Oakland, Calif.: [3] None.		
Current candidates for realinement: [3]		
NARF Norfolk, Va.: P-292 insulation and storm windows	390	0
NAS Norfolk, Va.:		
P-089 insulation and storm windows	100	25
P-158 heating, ventilation, and air-conditioning	700	5
P-269 AUW shops and weapons storage magazine	950	10
P-363 runway extension	10,300	2
P-444 air freight terminal	2,950	0
Bases with similar missions: NSC Norfolk, Va.:		
P-867 POL pipeline	4,990	25
P-163 lighting system	1,200	0
Current candidates for realinement: [3]		
NARF North Island, Calif.: None.		
NAS North Island, Calif.:		
P-366 oily waste collection and reclamation	3,600	5
P-373 industrial waste collection	2,171	8
P-379 steam and condensate system	5,949	1
P-388 oil spill prevention	1,500	

Footnotes at end of table.

Installation and project	Cost (thousands)	Status (percent)
NAVY—Continued		
Current candidates for realinement—Continued		
NAS North Island, Calif.—Continued		
P–391 steam and condensate system	4,500	0
P–446 classified item	7,251	0
P–996 Smoke abatement—Crash fire	250	0
Bases with similar missions: NSC San Diego, Calif.: None.		
Current candidates for realinement: Naval Regional Medical Center, Philadelphia, PA.:[1] None.		
Bases with similar missions: National Naval Medical Center, Bethesda, Md.: P–056 National Naval Medical Center, modernization	100,000	54
Current candidates for realinement: Naval hospital, Quantico, Va.:[3] None.		
Bases with similar missions: National Naval Medical Center, Bethesda, Md.:[3] P–052 National Naval Medical Center, modernization	100,000	54
Current candidates for realinement: Naval hospital, Whidbey Island, Wash.:[6] None.		
Bases with similar missions: Naval Regional Medical Center, Bremerton, Wash.:		
P–033 hospital complex	29,959	73
P–004 BEQ	5,450	0
Current candidates for realinement: Naval hospital, Port Hueneme, Calif.:[7] None.		
Bases with similar missions: Naval hospital, Long Beach, Calif.: None.		
Current candidates for realinement: Naval Hospital, Key West Fla.:[5] None.		
Bases with similar missions:		
Naval Regional Medical Center, Jacksonville, Fla.: None.		
Naval Aerospace Regional Medical Center, Pensacola, Fla.		
Current candidates for realinement: Naval hospital, Annapolis, Md.:[9] None.		
Bases with similar missions: National Naval Medical Center, Bethesda, Md.		
Current candidates for realinement: Naval Regional Medical Center, New Orleans, La.:[10] None.		
Bases with similar missions: None.		
Current candidates for realinement: NAS Keywest, Fla.:[11]		
Dispensary/dental clinic	975	97
Incinerator	1,648	0
Bases with similar missions: None.		
Current candidates for realinement: Support and Development Office, (CASDO) Portsmouth, N.H.:[12] None.		
Bases with similar missions: Central Naval Ordance Management Information Systems Office (CENO) Indian Head, Md.:[12] None.		
Current candidates for realinement:		
NAS Whiting Field, Fla.:[13]		
P–174 training facility	500	[14] 0
P–154 outlying fields including land acquisition	1,400	38
Em dining facilities	1,208	0
NAS Corpus Christi, Tex.:[13] P–231 boiler replacement	5,430	[14] 5
Bases with similar missions: None.		

[1] There is collocated with each of the recruit training centers a service school's command which is not the subject for realinement actions. There are projects included in the fiscal year 1979 Milcon program for the service school's command, Orlando.

[2] The proposed action would reopen NSA Long Beach as an active homeport for surface ships The action is intended to relieve port congestion at NS San Diego and avoid costly future pier construction at this location. The action will not affect projects for NS San Diego requested in the fiscal year 1979 Milcon program.

[3] There are 5 naval supply centers (NSC) and 6 nava. air rework facilities (NARF) within the continental United States. The situation wherein a NSC and a NARF are in sufficiently close proximity for consolidation of common supply functions exists at only 3 locations which are all addressed in the Apr. 26, 1978 realinement action.

[4] If disestablishment of NRMC Philadelphia occurs, active duty military inpatient care would be provided at NNMC Bethesda. Emergency care would be provided at the nearest hospital. Other beneficiaries would be referred to Veterans' Administration facilities or Champus.

[5] Should NH Quantico be discontinued active duty military inpatient care would be provided principally at NNMC Bethesda with some at Fort Belvoir Army Hospital. Emergency care would be provided at the nearest hospital. Other beneficiaries would receive inpatient care at NNMC Bethesda, Fort Belvoir Army Hospital or be referred to Champus.

[6] If disestablishment of NH Whidbey occurs, active duty military inpatient care would be provided at NRMC Bremerton. Other beneficiaries would be referred to Champus or Madigan Army Hospital. Emergency care would be provided at the nearest hospital.

[7] If disestablishment of NH Port Hueneme occurs, active duty military inpatient care would be provided at NH Long Beach or possibly Veterans' Administration facilities. Emergency care would be provided at the nearest hospital. Other beneficiaries would be sent to either NH Long Beach, Veterans' Administration facilities or referred to Champus.

[5] If disestablishment of NH Key West occurs, active duty military inpatient care would be provided primarily at NRMC Jacksonville with some provided at NARMC Pensacola. Emergency care would be provided at the nearest hospital. Other beneficiaries would be returned to Champus.

[9] If disestablishment of NH Annapolis occurs, active duty military inpatient care would be provided at NNMC Bethesda. Emergency care would be provided at the nearest hospital. Other beneficiaries would be sent to NNMC Bethesda or referred to Champus.

[10] If disestablishment of NRMC New Orleans occurs active duty military inpatient care would be provided at Public Health Service facilities. Emergency care would be provided at the nearest civilian hospital. Other beneficiaries would be referred to Public Health Service facilities (primarily) and Champus.

[11] Mission under review at NAS Keywest is support of A–5 reconnaissance aircraft. All Navy A–5 aircraft have heretofore been based at Keywest. The A–5 mission is the primary role of this base, other Navy operations here being in support of the A–5's. Upon phase out of all A–5's from Navy inventory, to occur by fiscal year 1980, plan is to assign reconnaissance mission to F–14 aircraft to be based at NAS Oceana on NAS Miramar.

[12] These activities are tenant commands with computer related primary functions. CASDO is located at the Portsmouth NSY, New Hampshire and CENO at NOS Indian Head, Md. Because of their size, functional nature and tenant status these commands have only minimal Milcon requirements.

[13] Although there are many more NAS's throughout the Navy, NAS Whiting Field and NAS Corpus Christi are the only 2 involved in basic propeller flight training.

[14] See note 1.

NAVAL RESERVE

Installation and project	Cost (thousands)	Status (percent)
Current candidates for realinement:		
Naval Air Facility (NAF), Detroit, Mich.:		
P–031 aircraft maintenance hangar	$4,356	20
P–032 intermediate maintenance facility	2,136	20
Naval Air Reserve Detachment (NARDET):		
Lakehurst, N.J.: None.		
Miami, Fla.: None.		
Denver, Colo.: None.		
Olathe, Kans.: None.		
New York, N.Y.: None.		
Niagara Falls, N.Y.: None.		
Seattle, Wash.: None.		
Activities with similar missions:		
A. To NAF Detroit, Mich.:		
Naval Air Station (NAS):		
Dallas, Tex.:		
P–245 Intermediate maintenance facility	2,693	45
P–265 F–4 Trainer facility	1,740	[1] 100
P–246 Aircraft maintenance hangar alterations.	1,278	[1] 100
P–263 Building modifications	116	[1] 100
New Orleans, La.:		
P–290 Aircraft rinse facility	210	100
P–249 Warehouse mez	134	85
P–261 Oil spill prevention facility	403	80
P–258 Aircraft maintenance hangar alterations.	1,684	45
P–196 Refueling vehicle maintenance facility	197	[1] 95
Willow Grove, Pa.:		
P–130 Avionics engine shop	1,670	45
P–076 Aircraft parking apron	1,754	30
P–151 Supply building	428	25
P–119 Aircraft noise suppressor	282	[1] 100
P–131 Aircraft maintenance hangar alterations.	996	[1] 45
Glenview, Ill.:		
P–982 Aircraft control tower	1,585	32
P–298 Building modifications	224	5
P–078 P–3 DIFAR trainer	70	[1] 100
P–966 Oil-water separator	79	[1] 95
P–989 Secure steam nonheat season	297	[1] 45
South Weymouth, Mass.:		
P–035 Bachelor enlisted quarters	1,194	5
P–103 Aircraft approach lighting	285	[1] 45
P–126 Intermediate maintenance facility	2,712	[1] 40
P–131 Aviation training building alterations.	520	[1] 30
Atlanta, Ga.:		
P–288 Load shedding cycling equipment	78	50
P–281 Fuel vapor emission control	216	25
P–284 Ordnance complex	244	2
P–291 Ground support equipment shop exp	143	[1] 100
P–289 Building modifications	115	[1] 30
Naval Air Facility (NAF), Washington, D.C.[2]: P–001 Aircraft power check pad/with sound suppressor.	147	[1] 100
Bases with similar missions		
B. To NARDET Lakehurst, N.J. (Flying NARDET status):		
Naval Air Detachment (NARDET):		
Miramar, Calif.: P–149 Admin training building	1,783	25
Moffet Field, Calif.: P–128 training building addition	510	([3])
Patuxent River, Md.: None.		
C. To other (nonflying) NARDETS:		
Naval Air Detachment (NARDET):		
Columbus, Ohio: None.		
Twin Cities, Minn.: None.		
Albuquerque, N. Mex.: None.		
Lemore, Calif.: None.		

[1] Design.

[2] In transition to becoming a Naval Reserve activity.

[3] Design completed.

DEPARTMENT OF THE AIR FORCE

Installation and project	Cost (thousands)	Status
Air Force current candidates for realinement:		
Chanute AFB, Ill.:		
Composite airmen dorm (75 MCP)	$6,267	99 percent complete.
Air pollution abatement (78 MCP)	626	Design complete.
Sewage treatment/disposal (78 MCP)	7,400	Do.
Construct commissary (NAF)	2,500	Do.
Los Angeles AFS, Calif.:	None.	
Kingsley Field, Oreg.: Add to and alter runway special lighting.	115	Do.
Goodfellow AFB, Tex.: Dispensary/dental clinic (75 MCP).	4,590	99 percent complete.
Rickenbacker AFB, Ohio:		
Sewage treatment/disposal facility (77 MCP)	503	Design complete.
Sewage regional connect (79 MCP)	946	40 percent design.
Air Force bases with similar missions:		
Chanute AFB, Ill.: Each Air Force technical training center is somewhat different and supports different missions. However, the Air Force bases supporting technical training in addition to Chanute are:		
Keesler AFB, Miss.:		
Composite medical facility (76 MCP)	43,140	59 percent complete.
Energy conservation (77 MCP)	1,350	37 percent complete.
Control tower (78 MCP)	642	Design complete.
Repair facility housing (75 MCP)	2,886	99-percent complete.
Improve/repair family housing (77 MCP)	2,378	42-percent complete.
Lackland AFB, Tex.:		
Add/alter composite medical facility (76 MCP)	97,550	26-percent complete.
Energy conservation (76 MCP)	1,466	83-percent complete.
Dental clinic (78 MCP)	4,700	Design complete.
Improve/repair wherry housing (76 MCP)	3,197	94-percent complete.
Lowry AFB, Colo.:		
Composite airmen dormitory (72 MCP)	4,779	99-percent complete.
Avionics training facility (78 MCP)	3,380	Design complete.
Energy monitor/control (78 MCP)	1,808	95-percent complete.
Sheppard AFB, Tex.: Cold storage facility (78 MCP)	980	Awarded April 1978.
Goodfellow AFB, Tex.: No other Air Force base has a cryptologic training mission.		
Rickenbacker AFB, Ohio: No other Strategic Air Command installation supports the combination of an active force squadron of KC-135s and such a significant number (4 squadrons) of Reserve Forces units.		
Los Angeles AFS, Calif.: No other Air Force Systems Command installation supports a similar space development and acquisition mission.		
Kingsley Field, Oreg.: No other Aerospace Defense Command base supports a similar air defense mission.		

5. Question. Despite assurances from Defense officials during hearings that the Fiscal Year 1979 Military Construction Authorization request contained no construction projects at bases that were identified as "candidates" for realignment in the recent announcements, the Senate Armed Services Committee identified and "conditionally authorized" over $40 million for such projects. What is Defense Department policy with respect to requesting authorization for construction projects at "candidate" bases?

Answer. Basically, it is Department of Defense policy to maintain to the maximum extent, a very conservative approach when requesting authorization for projects at bases which are either candidates for realignment or alternatives to these candidates. In most instances, as noted in the response to Question 1, requests would not be made for construction authorization at installations under consideration for realignment, reduction or closure. However, there are exceptional circumstances involving compliance with on-going national programs such as energy conservation or pollution abatement which justify continuation of certain related projects at candidate bases regardless of the outcome of realignment studies. Such cases, some of which were included in the Fiscal Year 1979 Military Construction Program, receive very thorough examination before being placed under contract.

6. Question. The action at Lowry suggests that the Committee should perhaps examine projects at bases whose missions are similar to "candidate" bases with a view toward either eliminating projects contingent on final realignment decisions and revalidation of project requirements. Provide a list of such bases showing projects authorized for each of these bases as included in the FY 1979 Military Construction Authorization Bill reported by the Senate Armed Services Committee.

Answer.

Tab A—Army.

Tab B—Navy.

Tab C—Air Force.

DEPARTMENT OF THE ARMY

a. Training Base Locations ($000)

(1) Ft. Benning, GA.

(a) Energy Control System—$1,528.

(b) Small Arms Maintenance Facility—$3,645.

(2) Ft. Bliss, TX.

(a) Patriot Training Facility Alterations—$1,644.

(b) Dental Clinic—$1,905.

(c) Regional Sewage Treatment Plant—$1,209.

(3) Ft. Dix, NJ.—NONE.

(4) Ft. Gordon, GA.

(a) Energy Control System—$2,201.

(b) Heat Recovery System—$1,906.

(5) Ft. Jackson, SC.

(a) Energy Control System—$3,300.

(b) High Pressure Sodium Lights—$234.

(6) Ft. Knox, KY.

(a) Armor Crew Interaction Simulator—$924.

(b) Tank Training Facility—$3,474.

(c) Cold Storage Plant Renovation—$1,002.

(d) Dental Clinic—$2,272.

(e) Central Vehicle Wash Facility—$4,724.

(f) Energy Control System—$2,054.

(g) Infrared Gas Spot Heaters—$401.

(h) Aircraft Control Tower—$702.

(7) Ft. McClellan, AL.—NONE.

(8) Ft. Sill, OK.

(a) Tactical Equipment Shop—$1,673.

(b) Dental Clinic—$1,970.

(c) Barracks Complex, Trainee—$17,300.

(d) Chapel—$845.

(e) Insulation/Set Back Controls—$3,109.

(9) Ft. Leonard Wood, MO.

(a) Fuel Oil Storage—$2,437.

(b) Training Facility Improvements—$3,118.

(c) Storm Windows and Insulation—$6,124.

(d) Medical Supply Warehouse—$2,477.

(b) Medical Center Locations ($000)

(1) Fitzsimmons AMC, CO.

Energy Control System—$1,436.

(2) Brooke AMC, TX.—NONE.

(3) Dwight David Eisenhower AMC, GA.—NONE.

(4) Walter Reed AMC, DC.

Medical Administration and Support Facility—$3,524.

(5) Tripler AMC, HI—NONE.

(6) Madigan AMC, WA.

Surgical and OB Ward Addition—$3,307.

(7) William Beaumont AMC, TX.—NONE.

(8) Letterman AMC, CA.

Energy Control System—$368.

DEPARTMENT OF THE NAVY

Current candidate for realinement	Bases with similar missions	Fiscal year 1979 projects
RTC San Diego, Calif., RTC Great Lakes, Ill.	RTC Orlando, Fla	None.
HQ Military Sealift Command, Washington, D.C.	None	None.
Navy Recruit Command, Washington, D.C.	None	None.
Navy Exhibit Center, Washington, D.C.	None	None.
HQ Navy Audit Service, Washington, D.C.	None	None.
NSA Long Beach, Calif	NS San Diego, Calif	P-143 Pier. P-144 Pier improvement. P-200 Quaywall repairs.
MCRD Parris Island, S.C	None	None.
MCRD San Diego, Calif	None	None.
NAS(NARF) Alameda, Calif	NSC Oakland, Calif	P-046 Oil spill prevention. P-053 Dust removal. P-059 Egress improvements.
NAS(NARF) Norfolk, Va	NSC Norfolk, Va	P-163 Lighting system. P-843 Cold storage warehouse P-993 Oil spill prevention.
NAS(NARF) North Island, Calif	NSC San Diego, Calif	P-014 General warehouse. P-029 Oil spill prevention. P-005 POL pipeline.
NRMC Philadelphia, Pa.; NH Quantico, Va.; NH Annapolis, Md.	NNMC Bethesda, Md	P-052C NNMC modernization.
NH Whidbey Island Wash	NRMC Bremerton, Wash	None.
NH Port Hueneme Calif	NH Long Beach, Calif	None.
NH Key West, Fla	NRMC Jacksonville Fla	None.
NRMC New Orleans, La	None	None.
NAS Key West, Fla	None	None.
NAS Whiting Field, Fla.; NAS Corpus Christi, Tex	None	None.

DEPARTMENT OF THE AIR FORCE

Current candidate for realinement	Bases with similar missions	Fiscal year 1979 MCP project (thousands)
Chanute AFB, Ill	Keesler AFB, Miss	Improve/repairs to family housing ($2,744).
	Lackland AFB, Tex	Bachelor enlisted quarters ($4,700).
Lowry AFB, Colo		Family housing energy conservation ($164).

Mr. HART. Mr. President, I became concerned about Defense policy regarding construction at bases that are announced as candidates for realinement when, during our review of this bill, we discovered that the Defense Department had requested $40 million in projects at bases that they were considering closing or significantly reducing.

More recently, my concern was increased when the Air Force suspended a construction project at Lowry Air Force Base which was not a candidate for closure or reduction, but was a base with a mission similar to another base, Chanute Air Force Base, that had been publicly announced as a study candidate for closure. The suspension of the construction at Lowry Air Base had serious political overtones coming at the same time that the Secretary of the Air Force visited Chanute Air Force Base with the Illinois congressional delegation. The Lowry project had been publicly advertised for bids on May 24, 1978, nearly one month after Chanute Air Force Base was publicly announced as a closure candidate, and that invitation for bids was not canceled until just before bid opening was scheduled. It was this situation that prompted my inquiry to Secretary Brown.

In my letter to Secretary Brown I asked for two key pieces of information:

First, how many bases, like Lowry Air Force Base, are unannounced "alternates" to publicly announced "candidate" bases and what construction is pending at these bases?

Second, for these same "alternate" bases how many construction projects are in the fiscal year 1979 Military Construction Authorization bill?

The answers to these questions contained in the letter that I have just put in the RECORD are startling. There are dozens of military bases that are "alternates" to the publicly announced "hit list" and the construction underway at these sites totals in the hundreds of millions of dollars. In addition, in the bill that we are considering there are a total of 21 "alternate" bases and the construction associated with these bases totals more than $100 million!

Mr. President, let me explain what that means. The Defense Department announced roughly 80-some facilities as candidates for consolidation or realignment or closure in April. Now it is suggesting that for a number of those facilities there may be alternates that were not on that list that was announced in April.

Although they have cancelled construction or suspended construction on one of those so-called alternates, the Lowry Air Force Base, they have not done so for the dozens of other bases that may also be considered alternates.

As I have indicated, that amount may run up to $100 million in construction on bases that the services may or may not be considering for closure.

Mr. President, I, and I think most members of our committee, have attempted to keep the base realignment process on an objective and nonpolitical basis, but I am very deeply concerned with this new information we have just received, which is now in the record.

I do not feel at this time that it would be prudent to delay this authorization legislation any further, but I want my colleagues to know that in the very near future, the immediate future, I intend to convene hearings by the Subcommittee on Military Construction to go into depth on these base realinement policy questions, and if we uncover information that indicates that some of these projects should not be funded, I intend to work, and I hope the subcommittee will work, with the Appropriations Committee to make the necessary corrections.

This is an extremely serious consideration, and I think the implications for many of our colleagues, if not all of them, in a variety of capacities are very important. I hope that my colleagues, in voting for passage of this legislation, will keep in mind these very serious policy questions still remaining over the issue of what bases should remain open in this country and what should be consolidated.

Mr. President, with that I move the passage of and adoption of H.R. 12602. There has not been a request for the yeas and nays. It is my understanding that we can voice vote this bill.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. HART. I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I just want to commend the Senator from Colorado for his vigilance and for the action he has taken and the action he has announced to the Senate he plans to take in the future as chairman of the Subcommittee on Military Construction.

I think the Senator from Colorado has handled the committee in an exceedingly capable and efficient way, and I look forward to continuing to work with the able Senator from Colorado in this regard.

Mr. HART. I thank the distinguished Senator from Virginia.

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

Mr. HART. I yield.

Mr. DURKIN. Mr. President, the people of New Hampshire are extremely proud to have two major defense installations within our borders which contribute significantly to the military strength of our country. Pease Air Force Base and Portsmouth Naval Shipyard have consistently shown themselves to be the type of efficient and effective installations which help make this country second to none in military strength and preparedness.

For these installations to remain at peak efficiency, however, requires constant maintenance and upgrading. That is why I am pleased to see that the bill before us today contains $14,550,000 for construction projects at Portsmouth. Chief among these are $7,900,000 for a modern machine shop building and $2,600,000 for a transducer repair facility. The working men and women at Portsmouth who have done and will continue to do such an excellent job at this Nation's prime east coast overhaul and maintenance facility for our Polaris/Poseidon submarine fleet, will benefit tremendously from these projects. And that means our national defense will be strengthened.

I would like to also mention section 613 of this bill, which I strongly endorse. That section prohibits the Department of Defense from taking any actions toward the purchase of land contiguous to the existing boundaries of Pease Air Force Base, N.H., without the express authorization of the Congress. The reason for this prohibition is simple: For years, the Air Force has been threatening to purchase land around Pease as part of its air installation compatible use zone program. This AICUZ program, which I know has caused difficulties in many other States also, would result in the unwarranted acquisition by the Government of a substantial amount of private land around the base and the unwarranted destruction of a considerable number of private dwellings.

The people of Portsmouth and Newington, N.H., have had this AICUZ threat hanging over their heads for years, with the Air Force and the Defense Department refusing to listen to reason. Those people living there are some of the strongest supporters of Pease in the world, but the Air Force has simply not been able to make a case to them or anyone else that the acquisition of land for an expanded clear zone is necessary.

I want to make it clear again today, as I have so many times in the past, that I will fight, along with my senior colleague TOM MCINTYRE, to see that the DOD's attempt to make this unwarranted intrusion into the lives of so many people in New Hampshire is thwarted.

I have a further observation on a matter directly related to the capabilities of

the fine installation at Portsmouth. The Navy is presently considering a merger of the Computer Applications Support and Development Office (CASDO) located at the naval shipyard, and the Central Naval Ordnance Command Management Information System Office (CENO) located at Indian Head, Md.

I believe removing CASDO from Portsmouth to Indian Head would be a serious error. The excellent record of the operation of CASDO is beyond dispute. There is no question that it has contributed to the efficiency and effectiveness of Portsmouth shipyard. While some naval officials have claimed consolidation might bring financial savings, I am convinced after careful study of the matter that any apparent short-term savings would be ephemeral, and that the possible damage to the operations at Portsmouth and many other naval shipyards could be considerable. I know the Navy is once again studying the issue, and I look forward to a result which indicates the important work done by CASDO and the value of having it remain at Portsmouth.

A final point about the shipyard. The Navy originally requested $1.6 million above what is in this bill for a waterfront support facility at the shipyard which would enable the yard to prepare to handle ships of the new Los Angeles-class nuclear attack submarines which will be coming into Portsmouth in the 1980's. Though the administration decided to defer this request until 1980 or 1981, the belief is now widely held that it does not make sense to delay this construction for another year. Therefore, the House of Representatives wisely voted to include the extra $1.6 million in its version of the military construction bill.

Based on conversations that TOM MCINTYRE and I have had with the chairman of the Subcommittee on Military Construction, Mr. HART, we will not be introducing a floor amendment today to add the $1.6 million. Rather, we have been given assurances that in conference, the Senate will give all due consideration to the House position on this matter. I want to thank the subcommittee chairman for this and to commend my senior colleague once again for his fine work on this matter.

In the 1980's our nuclear submarine fleet will become even more important to our national defense as, unfortunately, our land-based missiles become more vulnerable. Having proper overhaul and maintenance facilities such as those at Portsmouth will be of singular importance in insuring the smooth operation of our submarine fleet. For that reason, it is necessary that we begin now preparing our shipyard with this waterfront support facility so that the Los Angeles-class submarines will have repair facilities ready for them.

I thank the Senator from Colorado.

The PRESIDING OFFICER. The question is, Shall the bill pass? (Putting the question.)

The bill (H.R. 12602), as amended, was passed.

Mr. HART. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. HART. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of Senate amendments to H.R. 12602.

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

Mr. HART. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. HODGES) appointed Mr. STENNIS, Mr. HART, Mr. JACKSON, Mr. CANNON, Mr. HARRY F. BYRD, JR., Mr. NUNN, Mr. PAUL G. HATFIELD, Mr. THURMOND, Mr. TOWER, Mr. SCOTT, and Mr. BARTLETT conferees on the part of the Senate.

Mr. HART. I thank the Chair and I thank the Senator from Vermont for the time.

COMMODITY EXCHANGE ACT

The PRESIDING OFFICER. The Senate will now resume consideration of the bill S. 2391, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 2391) to extend the Commodity Exchange Act, and for other purposes.

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I note that the Senator from Oklahoma (Mr. BELLMON) has an amendment he wishes to offer to S. 2391.

Mr. President, I know there are a couple of amendments, and I wonder, perhaps, whether the cloakrooms would be kind enough to notify Senator BELLMON that we are back on the bill. I think Senator EAGLETON had something and I know Senator HUDDLESTON has something, and I yield to Senator HUDDLESTON.

UP AMENDMENT NO. 1412

Mr. HUDDLESTON, Mr. President, I have somewhat of a technical amendment, and I think there will be difficulty with it. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) proposes and unprinted amendment numbered 1412.

Mr. HUDDLESTON. 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 22, beginning on the first line 19, strike out all down through the first line 22.

On page 22, first line 23, strike out "(3)" and insert in lieu thereof "(1)".

On page 22, beginning on the second line 14, strike out all down through the comma on the second line 17 and insert in lieu thereof "section 4o(1), or section 19 of this Act,".

On page 22, the second line 21, strike out "and".

On page 22, the second line 22, strike out "(4)" and insert in lieu thereof "(2)".

On page 23, beginning on with "provision" on line 2 strike out all down through line 5 and insert in lieu thereof "provisions of section 4a, section 4d, section 4e, section 4i, section 4k, section 4m, and section 4o(2), or section 8b of this Act, or fail to evidence any contract mentioned in section 4 of this Act by a record in writing as therein required.":

Inserting on page 23, between lines 5 and 6 insert the following:

"(3) striking out in subsection (d) '$10,000' and inserting in lieu thereof '$100,000'; and

"(4) striking out in subsection (e) '$10,000' and inserting in lieu thereof '$100,000'."

Mr. HUDDLESTON. Mr. President section 16 of S. 2391, dealing with criminal penalties was part of the Commodity Futures Trading Commission's request legislation. After S. 2391 was reported, serious questions were raised concerning the provisions of section 16.

Mr. amendment would address these questions. The maximum penalty for all felonies under the Commodity Exchange Act, regardless of who committed the violation, would be $100,000. The amendment deletes from section 16 of the language making violations of specified Commission rules, regulations, or orders punishable as felonies.

I ask unanimous consent to insert at this point in the RECORD a letter dated July 7, 1978, that I received from Chairman William T. Bagley, on section 16. I agree with Chairman Bagley that the bureaucracy should not have total leeway to create new crimes, particularly felonies, through the issuance of rules, regulations, and orders.

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

COMMODITY FUTURES TRADING COMMISSION,
Washington, D.C., July 7, 1978.

Re Criminal Penalty Provisions S. 2391/CFTC Reauthorization.

Hon. WALTER D. HUDDLESTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUDDLESTON: As you know, there has been some continuing concern and discussion re criminal penalty provisions of S. 2391, the CFTC Reauthorization Bill. I write now in that regard as I have just been informed that this measure will be taken up on the Senate floor next Tuesday. If amendments are to be prepared, I wanted you to have my views.

My personal view is to support the general thrust of the House provisions re penalties and to express disagreement with certain Senate language. My disagreement with the Senate provisions stems from a personal aversion to the idea that new crimes can be created simply by the bureaucracy deciding to promulgate new rules or regulations. Although there may be some merit to making intentional or knowing violations of *some* rules or regulations a crime, e.g. those promulgated to effectuate the antifraud provisions of the Act, I cannot agree that inadvertent failure to comply with *every* rule or regulation should subject the violator to possible criminal action. It was never my thought to support a change in the Act that would have such a result. Hence my disagree-

ment with the broad sweep of Sec. 16(4) of S. 2391. Further, I would amend (3) so that only knowing violation of the rules, regulations, or orders referred to are deemed criminal conduct.

Another provision that is troublesome to me is that which increases that potential felony fine to $500,000. This figure far exceeds existing penalties for comparable violations in other areas of law. Additionally, although on paper the large fine may appear to be a substantial deterrent, imposition of such a large fine may well be counter-productive. If a violator is convicted and $500,000 is available, I would rather see it go back to the victims. Sec. 6(b) and 6b of the Act provides for the imposition of a civil money penalties of up to $100,000 for each violation proven in administrative proceedings. Moreover, where fraud has been alleged in an injunctive proceeding, we frequently request the District Court to order disgorgement. In both circumstances we have attempted to have the funds, if available, set aside for the benefit of the victims. Thus to the extent that they are collected, fines imposed in a criminal proceeding may deplete funds available for the redress of individual grievances in civil proceedings. The government, qua government, has no real interest in the ill-gotten gains, except perhaps for income tax due.

The thoughts expressed above are more closely reflected in the House version. However, there is one important area that the House omitted in its amendment to upgrade certain violations to a felony status. Section 4c prohibits such things as options trading in previously regulated commodities, transactions characterized as wash, accommodation, or fictitious trade and causing false prices to be reported. The section will also cover permissible option transactions. Violation of any of these prohibitions should be made felonious since it is no less an act of deceipt to enter into an accommodation or fictitious trade or to offer to sell an option which is prohibited than to bucket an order or otherwise cheat or defraud another. Likewise, violations of the provisions relating to leverage transactions.

I do apologize for this hurried communication and for not personally focusing on this issue earlier. During the reauthorization process, the Commission accepted the then staff recommendations. As there was no public discussion of these recommendations at that time and as I did not attend that particular Commission session, I did not have occasion to personally comment until now.

Thank you for allowing me to present these views to you at this time.

Sincerely yours,

WILLIAM T. BAGLEY.

Mr. HUDDLESTON. The $500,000 maximum fines for felonies contained in section 16 could deplete the funds available to redress individual customer grievances in civil proceedings. This is particularly significant in regard to firms that are undercapitalized or marginally capitalized.

The amendment brings uniformity to the Commodity Exchange Act's criminal provision. It must be remembered that S. 1437, the Criminal Code Reform Act of 1977, which was passed by the Senate on January 20, 1978, when enacted into law will supercede and replace the criminal provisions on S. 2391.

I believe this amendment is acceptable, and I move its adoption.

Mr. LEAHY. Mr. President, I have no objection to the amendment of the Senator from Kentucky. I certainly have no objection to its adoption. I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I would just say we have reviewed the amendment, and have gone over it with the floor manager of the bill. We have no objection, and are prepared to accept it.

Mr. LEAHY. I yield back our time on this amendment.

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

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

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. EAGLETON. Mr. President, I have an amendment at the desk.

Mr. GRIFFIN. Mr. President, will the Senator from Missouri yield to me for a brief unanimous-consent request?

Mr. EAGLETON. Yes, I yield for that purpose.

Mr. GRIFFIN. Mr. President, when the vote on the motion to table the Hatch-Melcher amendment was taken, I was out on the Capitol steps addressing some 4–H students from Michigan.

I reached the Chamber and tried to get the Chair's attention just as the Chair was announcing the vote. The vote, of course, was not close, but I ask unanimous consent that under the circumstance my vote "nay," be recorded.

The PRESIDING OFFICER. Under the rules the Chair is not permitted to entertain such a request.

Mr. GRIFFIN. It has certainly been granted before.

Mr. BAKER. Mr. President, if the Senator will yield, I have discussed this with the majority leader, and in the course of that conversation, he stated to me, as he had on previous occasions, that when the result of the vote would not be changed, such a request has been granted. I see the majority leader is now on the floor, and I yield to him.

Mr. ROBERT C. BYRD. What is the Senator's question?

Mr. BAKER. The statement just made by the distinguished Senator from Michigan, as I understand it, was that he was attempting to vote.

Mr. ROBERT C. BYRD. He attempted to vote?

Mr. BAKER. He attempted to get the attention of the Chair to vote at the time the vote was announced.

Mr. ROBERT C. BYRD. And what is the request?

Mr. GRIFFIN. That my vote be recorded.

Mr. ROBERT C. BYRD. Mr. President, under the rules a Senator who did not vote cannot be recorded, nor can the Chair entertain the request.

Mr. GRIFFIN. I will withdraw my request if the majority leader will just follow that rule all the time in the future.

Mr. ROBERT C. BYRD. That is the rule.

The PRESIDING OFFICER. The Chair had previously so ruled.

UP AMENDMENT NO. 1413

(Purpose: To authorize a system of charging user fees for transactions)

Mr. EAGLETON. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an unprinted amendment numbered 1413:

At the appropriate place in the bill insert a new section as follows—

Mr. EAGLETON. 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 in the bill insert a new section as follows: "Sec. . Notwithstanding any other provision of law, the Commodity Futures Trading Commission is authorized to develop, and implement a plan to charge and collect reasonable fees to cover the estimated cost of regulating the transactions under the jurisdiction of the Commission. However, prior to implementing such a plan, the Commission shall report its intention to do so to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. The Commission shall include in its report the feasibility and desirability of collecting such fees. The plan described herein shall not be implemented until approved by the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition and Forestry.".

Mr. EAGLETON. Mr. President, this amendment gets back to the substance of the work of the Commodity Futures Trading Commission, and addresses itself to the subject of user fees. In this amendment, I am proposing that the CFTC be given the authority to charge fees to recover the cost of regulation. On April 25 at a hearing before my Agriculture Appropriations Subcommittee I posed the issue of user fees to the Commissioners who were then in office. Those who commented on the proposal supported the idea.

Commissioner Dunn stated:

. . . Those who participate directly in these markets obtain a much greater benefit than the ultimate customers. I think those who benefit should share in the cost of the regulatory program. The cost ought not all be on the government—the general taxpayer.

The question really is then who is the beneficiary of the regulation of these activities. Although exact figures are not available, most will admit that only a very small number of people participate in various types of futures, options, leverage contracts, or other things directly regulated by CFTC. It is my belief that the American public in general should not have to pay the bill for the regulation of such trading since they receive very little benefit from the regulation. It is those who take part in these activities who benefit, and I believe it is they who should pay the bill.

Under my amendment the CFTC would be given the authority to charge fees to recover their regulatory costs.

However, the CFTC could not unilaterally put these user fees into place.

The last sentence of the amendment reads as follows:

The plan—

That is, the user fee plan—

described herein shall not be implemented until approved by the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry.

So, the CFTC is to study the situation. They would be authorized to go to a user fee plan, but before the plan could go into effect, it would have to be approved by both the House and Senate Agriculture Committees.

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

Mr. LEAHY. Mr. President, as I understand the Senator from Missouri, the intention of his amendment would not be to require the CFTC to put in a user's fee, but rather to authorize them to develop one or to plan one, really, within their discretion, but should they develop or plan one, prior to implementing it, in effect, they would have to have the permission of the authorizing committees.

Mr. EAGLETON. That is right; they would have to have the affirmative approval, before it went into effect, of both the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry.

Mr. LEAHY. The reason I ask the question is that this is not a matter we discussed in the committee. We realize that the CFTC is set up not just to perform a service to the industry, but to consumers throughout the country, which is, of course, a benefit of the taxes they have paid; and I would not want some kind of an arbitrary system put in that would either hamstring the industry or raise significantly the cost to the consumers of the services of the various exchanges.

If the amendment is simply to authorize the ability to make a plan, but giving us a chance to review such a plan and, of course, veto it if we did not want it to go through, I would not have any problem with that; but I would want to hear from both Senator DOLE and Senator HUDDLESTON on the subject.

Mr. DOLE. Mr. President, I have studied the amendment. I understand the purpose of the amendment. I do not know that any other agency has that authority now, the FTC or any other. Maybe they should have; perhaps that is the thrust of the amendment.

I cannot think of any precedent where a plan might be implemented if approved by the House committee and the Senate committee; but based on the statements made by the floor manager of the bill, I am prepared to accept the amendment.

I understand the motive and the purpose. I know the intent, and I do not quarrel with that. Based on that, I am willing to accept the amendment.

Mr. EAGLETON. I am grateful to both the Senator from Vermont and the Senator from Kansas.

There is some indirect precedent in the agricultural area. There are grain inspection fees.

Mr. DOLE. And water test projects.

Mr. EAGLETON. And then there are water projects that may have fees; and the interstate highway system was built by user fees. So the concept is not novel.

Mr. President, I move the adoption of my amendment.

The PRESIDING OFFICER. Do the Senators yield back their time?

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

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

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

The amendment was agreed to.

AMENDMENT NO. 3124 (AS MODIFIED)

Mr. BELLMON. Mr. President, I call up my amendment No. 3124, as modified.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) offers an amendment numbered 3124, as modified.

Mr. BELLMON. 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, as modified, is as follows:

On page 18, beginning on line 20, strike out all down through line 21 on page 20 and insert in lieu thereof the following:

SEC. 6d. (1) Whenever it shall appear to the attorney general of any State, the administrator of the securities laws of any State, or such other official as a State may designate, that the interests of the residents of that State have been, are being, or may be threatened or adversely affected because any person (other than a contract market or floor broker) has engaged in, is engaging or is about to engage in, any act or practice constituting a violation of any provision of this Act or any rule, regulation, or order of the Commission thereunder, the State may bring a suit in equity or an action at law on behalf of its residents to enjoin such act or practice, to enforce compliance with this Act, or any rule, regulation, or order of the Commission thereunder, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

(2) The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia, shall have jurisdiction of all suits in equity and actions at law brought under this section to enforce any liability or duty created by this Act or any rule, regulation, or order of the Commission thereunder, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this Act or any rule, regulation, or order of the Commission thereunder, including the requirement that the defendant take such action as is necessary to remove the danger of violation of this Act or of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(3) Immediately upon instituting any such suit or action, the State shall serve written notice thereof upon the Commission and provide the Commission with a copy of its complaint.

(4)(A) Any suit or action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the act or practice occurred, is occurring, or is about to occur, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(5) For purposes of bringing any suit or action under this section, nothing in this Act shall prevent the attorney general, administrator of the State securities laws, or other duly authorized State officials, from exercising the powers conferred on them by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(6) For purposes of this section, the word "State" means any State of the United States, the District of Columbia, or any territory or possession of the United States.

Mr. BELLMON. Mr. President, the modification strikes out the language on page 4 from line 6 to the bottom of the page; also, on page 3, lines 14, 15, 16, and 17; and then a portion of lines 11 and 12 on page 2. This has the effect of limiting the authority of the State attorneys general and other designated enforcement officers to bring actions in the Federal courts rather than allowing the actions to be brought in either Federal or State courts.

Mr. President, the amendment I offer today to the CFTC reauthorization bill, S. 2391, has as its purpose the expansion of the enforcement capabilities of the CFTC by authorizing increased use of existing State enforcement and prosecutorial authorities. The amendment simply allows the State attorney general or Securities Commissioner or any other designated State official to prosecute violations of this act in Federal court. The amendment is intended to help prevent fraud in the business of commodity trading.

The Commodity Futures Trading Commission Act of 1974 preempted the States from regulation, investigation, or enforcement of their securities or commodities laws against commodities law violators. Since 1974 States could, and some have, prosecuted fraud violations under the doctrine of parens patriae. Under this doctrine, a State could obtain an injunction in Federal court, as a representative for aggrieved citizens of that State and proceed to prosecute violations of the Federal laws. This procedure is only available if a local Federal judge is willing to allow the State to proceed without the assistance of Federal prosecutors.

Being limited to bringing actions parens patriae has created frustration for many States. In some cases States, that have proceeded under this doctrine have been greeted with the judge's instruction to go get the Federal prosecutor before the action will be considered. This has resulted in very few prosecutions taking place. The reluctance of the States to actively pursue commodity fraud actions severely limits the overall national commodity fraud enforcement and prosecution activity.

The Federal preemption doctrine has merit regarding the regulation of commodity markets and brokers. However, there is no justification for tying the hands of the States when they wish to stop fraudulent practices occurring with-

in their borders. This amendment codifies the doctrine of parens patriae to give the clear position of Congress that States may go into Federal court to obtain an injunction to protect their citizens from unscrupulous commodity traders. However, the amendment does not stop with this legislative clarification.

Another problem with States being limited to obtaining only an injunction is the inability of States to assist in retrieving damages incurred as a result of the fraudulent act. The amendment extends the authority of the appropriate State official to not only get an injunction to stop the fraudulent practices, but to recover damages their citizens have suffered as a result of the fraud. The ability to seek money damages puts teeth in the State prosecutor's authority and should act as an additional inducement to the State to intensify their efforts in this area. With this addition, the State will be able to do more than slap the offender's hand. Further, those traders who would engage in fraudulent practices will think twice before committing these crimes, since the State will be able to take aggressive punative action. Opening the door to damages for victims of commodity fraud should act as a check on those dishonest salesmen who when apprehended simply move to another State when an injunction is obtained.

Further, the amendment reinforces the right of the State prosecutors to proceed under their general fraud statutes. This right has never been preempted by the Federal law and my amendment does not propose to restrict this opportunity.

Mr. President, this amendment is not meant to subject commodity traders to 50 different sets of laws as some traders have feared. It simply is meant to provide valuable assistance to enforcement agencies to prevent or punish fraudulent practices.

Our recent experience with London options and the potential for fraudulent practices in the sale of leverage contracts clearly demonstrates the need to expand the Commission's enforcement and prosecutorial capability. The amendment will help accomplish that purpose without additional Federal expenditures.

Mr. President, I ask unanimous consent to have printed in the RECORD a short summary of the amendment.

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

SUMMARY

The amendment—

(1) Expands the statutory cause of action to include the right of the States to obtain damages in behalf of their residents or to obtain such further and other relief as the court may deem appropriate;

(2) Deletes the requirement in S. 2391 of prior Commission approval before the State may bring an action under this section and substitutes a requirement that the State must provide the Commission with a copy of its complaint;

(3) Specifically cites the State securities administrator as one of the State officials who, if otherwise authorized, could bring actions under this section (the ultimate delegation of prosecutorial authority will remain a matter of State law).

Mr. BELLMON. Mr. President, I have discussed the amendment with the floor manager and the ranking minority member.

● Mr. MORGAN. Mr. President, I am pleased to rise in support of the amendment offered by the distinguished Senator from Oklahoma.

My principal reason for supporting this amendment lies in my experience as attorney general of the State of North Carolina. While in that office, I created the Nation's first State level antitrust division because I strongly felt that as attorney general I was pledged to protect the wellbeing of the citizens of my State. I felt then and do now that my State should not have to rely on the Federal Government to pursue matters important to North Carolinians.

I would like to echo the distinguished Senator's remarks that this amendment would enhance the capacity of government to police more effectively the commodity trading industry. The simple fact that there have been so many shocking episodes in this industry since the Commodity Futures Trading Commission was established makes it doubly imperative that the Senate approve this timely amendment.

Mr. President, I believe that this amendment fully deserves the support of the Senate. It is not a complex proposal—it simply allows the States to act on their own to prosecute violations in this industry. This power exists but is restricted under the current law to prior approval by Washington. All that we are trying to do is to free the hand of the State in an area of much concern to all of us. I urge my colleagues to approve this amendment.●

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I have discussed this amendment at some length with the Senator from Oklahoma. As I understand, the amendment, as modified, would no longer give the right to a State attorney general to go into a State court but require him to go into Federal court.

Mr. BELLMON. The Senator is correct. The authority of the State attorney general or other officer would be limited to going into Federal court. The advantage here is that it may be necessary for those officials to get clearance by a local Federal judge or by the CFTC.

Mr. LEAHY. Notification is still required?

Mr. BELLMON. Notification is still required.

Mr. LEAHY. With the change to the Federal court, Mr. President, I do not have objection. I had expressed concern earlier about going into State courts, because of the multiplicity of jurisdictions, the differences in procedural and evidentiary rules from State to State and jurisdiction to jurisdiction, and, of course, the fact we are dealing with an enormously complex area and one that many State courts, county courts, and district courts at the State level would be unprepared to handle adequately. I was quite concerned about the difficulties we might face in that regard.

I have no objection to the amendment, as modified.

Mr. DOLE. Mr. President, I have discussed the amendment, as modified, with the distinguished Senator from Oklahoma and I have also discussed it with the distinguished Senator from North Carolina (Mr. MORGAN). It seems to me that it probably will improve the bill as brought to the floor. I assume it gives the States the right to bring class action-type suits for money damages which might be a new concept. As far as I know neither the CFTC or SEC have this right. They can sue for injunctive relief but not money damages. Having discussed the amendment, as modified, I am prepared to accept it.

Mr. HUDDLESTON. If the Senator will yield. I might ask a question of the Senator from Oklahoma. I see no provision for just how such a suit would be established and the rights of those who might have been damaged, how they would agree to participate in a suit. Is this a problem we ought to be confronted with in the amendment?

Mr. BELLMON. Let me say, Mr. President, that the amendment simply gives the State attorneys general or the securities commissioner the right to bring the action in a Federal court. I do not know that we should go further and instruct them as to in what manner the action should be brought.

Mr. HUDDLESTON. It seems to me there should be some way to determine who has been damaged, how much, and who would recover if successful in a suit. If he is not successful, that is another thing.

Mr. BELLMON. The amendment provides that civil damages could be collected.

Mr. HUDDLESTON. They cannot prove damages until they find out who has been damaged.

Mr. BELLMON. 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. BELLMON. 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. BELLMON. Mr. President, I believe the point raised by the Senator from Kentucky has now been resolved. Perhaps the manager of the bill, who is an attorney, would like to explain just how this would be dealt with.

Mr. LEAHY. It is my understanding, Mr. President, that in any class action the Federal rules of civil procedure for class action would control and, with this amendment, that would be the procedure followed. Of course, as we stated before, the amendment would allow the action to be brought only within the Federal court.

It is my understanding from the author of the amendment that that is what is intended to be done.

Mr. BELLMON. The Senator from Vermont is correct. The amendment would limit the action to a Federal court, where Federal procedure would apply.

Mr. LEAHY. I yield back my time.

The PRESIDING OFFICER. Does the Senator from Oklahoma yield his time back?

Mr. BELLMON. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question

is on agreeing to the amendment as modified.

The amendment as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. EAGLETON. Mr. President, I have an amendment which I shall send to the desk and ask to have considered. First, 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. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

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

AMENDMENT NO. 1414

(Purpose: to suspend trading of leverage contracts until they can be effectively regulated)

Mr. EAGLETON. Mr. President, I have an amendment that I ask to have considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an unprinted amendment numbered 1414.

Mr. EAGLETON. 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 25, beginning with line 21, strike out all down through line 20 on page 26, and insert in lieu thereof the following:

"SEC. 19. No person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of any commodity specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974, under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract. Notwithstanding any other provision of law, it shall be unlawful for any person to offer to enter into, enter into, or confirm the execution of, any transaction described in this section until (1) the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition and Forestry documentation of its ability to regulate successfully such transactions, and (2) the expiration of thirty calendar days of continuous session of Congress after the date of such transmittal without either House of Congress adopting a resolution disapproving such regulation: Provided, That the Commission is not precluded from transmitting documentation relating to its ability to regulate such transactions regarding individual commodities or classes of commodities at such time as the Commission deems appropriate. Nothing in the preceding sentence shall affect any rights or obligations arising out of any transactions subject to the provisions of this subsection entered into, or the execution of which was confirmed, prior to October 1, 1978. If the Commission determines that any such transaction is a contract for future delivery within the meaning of this act, such transaction shall be regulated in accordance with the applicable provisions of this Act.

Mr. EAGLETON. Mr. President, back again on the substance of the regulatory authority of the CFTC, this amendment deals with a plan to regulate leverage.

As you know, S. 2391 bans leverage transactions involving basic domestic agricultural commodities, and requires the CFTC to regulate or prohibit leverage transactions on all other commodities before October 1, 1979.

I do not believe that this goes far enough, for it provides a similar sort of situation to what happened in the case of options. The Commodity Futures Trading Commission Act of 1974 gave CFTC 1 year in which to ban or regulate options—and it never successfully did so. As a result of this, we are considering today a bill that suspends trading of options until CFTC has developed an effective regulatory mechanism.

Mr. President, I have received testimony in reviewing the CFTC budget that some of the questionable operators who were selling options have moved into the field of leverage and beyond into certain new types of leveraged contracts called by various names. This was particularly true in the case of diamonds.

CFTC has not been immune to this matter, fortunately. They warned State and Federal regulatory officials on May 25, 1978, that high-pressure marketing schemes in investment diamonds could be fraught with fraudulent sales techniques. In letters to State attorneys general and to the Securities and Exchange Commission the CFTC Chairman said:

Disturbing results of a nationwide survey of the 'leverage' industry have been presented to me by our Division of Enforcement . . . I would like to call to your immediate attention the following findings of our investigation:

(1) Many commodities other than those specifically designated in Section 217 (of the Commodity Futures Trading Commission Act of 1974) are being sold on a leveraged basis, including diamonds, copper, foreign currency and platinum.

(2) Many of the fraudulent, abusive practices which characterized the sale of London commodity options are being used to sell leverage contracts in commodities other than those designated in Section 217.

As a result of their concern, the CFTC issued a proposed rule suspending the trading of leverage contracts, with certain exceptions.

In addition to the proposed rule, which I understand has not yet taken effect, the CFTC has proposed an amendment to this bill that would, upon enactment, prohibit leverage transactions in agricultural commodities and generally prohibit leverage transactions in all other commodities unless thereafter permitted by Commission regulations. Their amendment would also "grandfather" those trading in leverage until May 1, 1979.

Let me read from CFTC's June 22, 1978, letter to Senator TALMADGE, proposing the moratorium on leverage contracts:

During the past three years, the Commission has studied and monitored the offer and sale of leverage contracts in gold and silver as well as the nature of the leverage contracts being offered to the public. Recently, the Commission staff completed an in-depth survey of the sales practices and financial stability of firms currently marketing leverage contracts. This analysis revealed that many leverage customers are inadequately protected. Leverage dealers serve as the buyer to every seller and the seller to every buyer. Accordingly, the financial integrity of the leverage dealer is critical to the transaction from the customer's point of view. Significantly, our staff report indicates that at least 11 firms engaged in the offer and sale of leverage contracts have experienced financial failure since 1973. Moreover, it appears that leverage contracts have been purchased by consumers primarily as speculative investments rather than as a device for shifting economic risks. As a result of this study, the Commission has proposed a moratorium on the entry of new firms into this business. See 43 F.R. 23729, June 1, 1978.

We believe our present recommended approach to this area affords a means for protecting the public that is warranted by our experience regulating London commodity options and our analysis of recent developments in the marketing of leverage contracts.

Mr. President, I think the message is fairly clear. We do not want a repeat of the options problems—which seriously harmed many individuals and overtaxed the CFTC.

I am referring to the London option business, and the very shoddy, tragic experience with Lloyd Carr and others like him.

So, based on the findings of the CFTC, wherein they see the same potential evils in wheeling and dealing and deception on leverage contracts that we know exists with London options, I see no reason to treat them dissimilarly.

My amendment would treat both leverage contracts and options the same. All this amendment does—and the bill does the same with the options—is suspend the trading of leverage contracts until CFTC has developed an effective way to regulate them. That is what it does. No more, no less.

It takes almost exactly the same approach as is taken in this bill with respect to options.

I think the evil is there. It has been identified by the CFTC and I think it ought to be treated the same.

I reserve the remainder of my time.

Mr. LEAHY. Mr. President, I would hope that my good and distinguished friend from Missouri would be willing to withdraw his amendment that we have discussed in the various debates here this afternoon, the matter of the CFTC and the whole involvement of commodities. It is a matter of some concern to our committee and is particularly a matter of concern to me, as chairman of the subcommittee with jurisdiction over the CFTC.

We have had extensive oversight hearings in preparation for Senator HUDDLESTON's bill. There have been oversight hearings that have been well attended, not only by those testifying, but by members of our committee.

I have already tentatively made plans to have continued oversight hearings, as-

suming that the reauthorization goes through.

Under the bill, they have, I believe, a year, or I guess October 1, 1979, to either regulate or ban.

I would ask my good friend from Missouri if he would be willing to withdraw his amendment on the assurance that our committee will do extensive oversight in this area. If we feel that the CFTC is not moving properly and adequately in this area, in a way that protects the consumers, the legitimate industry, the Government, and everybody else, then that factor will be made known to the Senate and, certainly, I would be in here encouraging such an amendment.

But, please, give us the time to do that oversight, give the CFTC the time to act within the limitation set in this bill.

Mr. EAGLETON. Mr. President, I thank my colleague for his attention to this matter. My high respect for him as a Senator, and as a very conscientious one, gives me some reason for perhaps deferring going forward with this amendment at this time.

I say to my colleague that he is assuming a not insignificant responsibility, because if we leave the bill as it is leverage contracts could be totally unregulated from now, July of 1978, probably up until October of 1979.

So that is a year and 3 or 4 months where it will be open season by any people who want to be Lloyd Carr reincarnated. Any bucket shop operator in any commercial building in the United States can become the next Lloyd Carr, could potentially get into this leverage business on a wide-open basis, between now and October of 1979, because that is the effect of the committee's bill. The bill leaves open a potential leverage problem similar to what happened with options, and could invite a lot of trouble.

I think it is a very risky, open-season invitation.

I know, the Senator from Vermont is a former prosecuting attorney and has had considerable experience in matters relating to fraud.

I am a former prosecuting attorney and a former attorney general of my State. I know a little about how these bucket shops operate. I know a little about how Lloyd Carr operated, because one of his bucket shops was in my State, and others were around the country. Millions of dollars were bilked out of people on London options. The CFTC was fiddling while Rome burned, and I must say, in all candor, that the Senate Agriculture Committee was fiddling while Rome burned.

Now we are, in effect, locking the barn door on options. We are saying that we have burned enough on that; we are going to lock that one away. But we are enticing what potentially could be a lot of fast-buck gypsters like Lloyd Carr. He was not the only one. He is not a unique aberration.

We are now saying, "Boys, the heat is on options. The lid is on those. But until October of 1979 you can come at it with these leverage contracts." The CFTC said there is the same inherent evil in this situation as in the London options situation.

Frankly, I think the Senator from Vermont is making a mistake. I think he is assuming unto himself the notion that all is going to be peaceful, serene, legitimate, and honest in this leverage business between now and October of 1979.

I ask my colleague whether he really wants to take unto himself that burden.

Mr. LEAHY. Mr. President, I appreciate the fact that the Senator from Missouri has inflated my role of importance within this area. Our committee would do the oversight.

I am sure that the CFTC has had more than passing interest in the debate here this afternoon, and I say to the Senator that I would be rather chagrined if they played out the string all the way to October of 1979. That is the outside limit of the time they have. I want to give them the flexibility they need. But we will be riding rather rapidly on it in the meantime. There are steps they can take.

In the meantime, they can put a moratorium on the entry of new firms into the business. They can do a number of things even as a stopgap measure.

I assure the Senator from Missouri that I share equally his concern about bucket shop operations and others, and I also assure him that it will be the position of our committee to put pressure on the CFTC to make their decisions well before the October 1, 1979, deadline.

Mr. HUDDLESTON. Mr. President, if the Senator will yield, I will respond briefly.

First of all, there is a difference between leverage trading and option trading. I think the act of banning a commercial activity is a very drastic and extreme action. It seems to me that since this is a developing type activity in the trading field, and the scope of it is not defined as yet, it is reasonable not to issue an outright ban, not to assume that every trade is a fraudulent trade, but to give the Commission time to regulate the area, to find out who the dealers are, to see there are abuses, and to develop the kind of regulation that may be necessary to bring it under control.

I point out, as the distinguished Senator from Missouri knows because he has been an attorney general, that fraud is still fraud and is still a crime. Whether you are dealing under a regulatory agency or not, if you are defrauding the public, you are subject to criminal proceedings.

Mr. EAGLETON. I will respond to my two colleagues, and then I think I will let this go by a voice vote.

There seems to be an impression that the CFTC does not want this amendment. They may not like the exact phraseology and details of my amendment, but they recommended a similar amendment.

I call attention to the CFTC's letter of June 22 of this year, to Senator TALMADGE, which I mentioned. It says in the first paragraph:

Our proposed amendment—

That is the one the CFTC is proposing to Senator TALMADGE—

would, upon enactment, prohibit leverage transactions in agricultural commodities and generally prohibit leverage transactions in all other commodities unless thereafter permitted by Commission regulations.

I will not put the entire document in the record.

The CFTC now has a sufficient aroma about chicanery and the risk of fraud in this leverage field.

I agree with the Senator from Kentucky that there is a difference between a London option and a leverage contract, what that legal instrument purports to be. But I would say to the Senator that what is not different is human nature. Human nature is that Lloyd Carr and those of his corrupt ilk, who are now being foreclosed from the London option business, are going to go pell-mell into the leverage business. I think that is as certain as we are on the floor of the Senate today.

If you are going to close up the rathole that used to be available on option contracts but leave the one on leverage open, the thieves and the fast-buck artists are going to flock to that one.

I have been a prosecutor and an attorney general long enough to know how bucket shop operators function. If they find one field no longer fertile, they will go on to the next. I think the next field is leverage and apparently the CFTC does as well. However, the Senator from Kentucky and the Senator from Vermont thinks that this should be left pretty much as it is until October of 1979.

I have said about all I have to say on it, and I will ask for a voice vote on my amendment.

Mr. LEAHY. Mr. President, before we go to that, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. EAGLETON. Mr. President, I will ask for the yeas and nays on my amendment.

Mr. LEAHY. Will the Senator withhold that for a moment?

Mr. EAGLETON. Yes.

Mr. LEAHY. I hope the Senator will not request the yeas and nays. We do not know yet whether this will be a matter that will be within the House bill, anyway. I hope the Senator will be willing not to do that and give us room to utilize the oversight function. I am willing to concede it has not been as close as it has been in the past, but the Senator will have to admit, if he looks back at the hearing record, that it has been as extensive as the oversight of any other agency in the Government.

The Senator has a perfect right to ask for a roll call vote, but I hope he will not.

Mr. EAGLETON. Mr. President, I move the adoption of my amendment.

The PRESIDING OFFICER. Does the Senator from Vermont yield back the remainder of his time?

Mr. LEAHY. I do.

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

The PRESIDING OFFICER. The question is on agreeing to the amendment. (Putting the question.)

Mr. EAGLETON. Mr. President, I ask unanimous consent that I be recorded in the affirmative on the voice vote.

Mr. LEAHY. I ask unanimous consent as having been recorded in the negative.

The PRESIDING OFFICER. The nays appear to have it. The nays have it and the amendment is rejected.

Without objection, the Senator from Missouri will be recorded as having voted in the affirmative, and the Senator from Vermont will be recorded as having voted in the negative.

UP AMENDMENT NO. 1415

Mr. LEAHY. Mr. President, I send to the desk a technical amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY) proposes an unprinted amendment numbered 1415:

On page 9, beginning with "with—" on line 23, strikes out all down through line 25 and insert a period in lieu thereof.

On page 10, line 1, insert "The Commission is" immediately before "not".

Mr. LEAHY. Mr. President, before we go to that, I do not know if I did get the yeas and nays on final passage.

The PRESIDING OFFICER. The Senator from Vermont is correct. The yeas and nays have been ordered on final passage.

Mr. LEAHY. Mr. President, this is a technical amendment but it does go to a fairly significant point, and that is it removes the one-house veto that we presently have in the bill for options, and I suspect this will be a matter in conference because I expect it will be in the House bill.

I would like it out of the Senate bill just simply to give us some time to better evaluate what the position of the White House is going to be on this question of congressional one-house vetoes.

I would not want to see us get into a kind of a position where because of such language we might face a veto that is applicable to the whole bill.

Because of that, Mr. President, I move this amendment.

The PRESIDING OFFICER. Who yields time?

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

Mr. LEAHY. I yield such time as the Senator from New Mexico needs.

Mr. SCHMITT. Mr. President, the question of the legislative veto relative to agency regulations——

The PRESIDING OFFICER. Is the Senator from New Mexico speaking on this amendment?

Mr. SCHMITT. I will speak on this amendment or the bill. The subject is the same.

Mr. LEAHY. I think the subject the Senator from New Mexico raises is germane to this amendment.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. SCHMITT. Mr. President, as I said, the subject of legislative veto relative to agency promulgated regulations is one which is becoming more and more of concern to Congress. We will see it discussed in this Chamber this year and I hope in succeeding years, until that time comes when legislative oversight on the promulgation of regulations is clear, specific, and has teeth in it.

I do not intend to oppose the Senator's amendment, but I do wish to enter into some colloquy with the distinguished Senator from Vermont and the Senator from Kansas, if they will, about this issue because even though the Senate has legislative oversight over all the agencies of the executive branch that can issue regulations and have the force of law, it is becoming increasingly clear to this Senator and I think to our constituents that that oversight has not been well recognized.

I think there are obviously constitutional discussions relative to the legislative veto, but it is a mechanism that is presently in legislation and in statute. It is a mechanism which I personally believe is constitutional primarily because it is Congress exercising its constitutional authority to make law.

But be that as it may, I hope that the Senator from Vermont and the committee of which he is a member will commit to an extensive discussion, and soon, of the impact of a legislative veto on the regulations promulgated by agencies under that committee's jurisdiction.

If nothing else, such a set of hearings on this issue would begin to focus the Senate's attention on how do you do it. A lot of us agree that a legislative veto is important. The question is how do you implement that veto in a regulatory arena on a systematic basis.

For example, in the bill S. 2011, which I have introduced and is pending before the Judiciary Committee, we hope to begin this discussion in a more general format, suggesting that there may be triggering mechanisms by which major regulations, that is, regulations with significant economic paperwork or judicial impact on society, can then be forced to come before Congress for some kind of an affirmative decision.

That may not be the best way to exercise a legislative veto, but it is one way which a modeling of impact of those kinds could provide.

Whether we perform the legislative veto in that way or some other way I think is not so critical at this point as that the committee represented by the Senator from Vermont considers and hopefully commits to a discussion of this issue because it is one that is appearing across the board in the Government, it is one which our constituents are clearly concerned about in that they feel that they are being overregulated and it is Congress duty to seize on this opportunity, I think, to find a way to exercise meaningful oversight over these agencies.

I ask the Senator's comment.

Mr. LEAHY. Mr. President, I think the Senator from New Mexico made some valid points.

It has become a matter of some controversy and, of course, we are concerned about the position of the White House.

In that regard, I ask unanimous consent to print in the RECORD a message to Congress from the President, dated June 21, 1978, on the subject of legislative vetoes.

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

LEGISLATIVE VETOES

To the Congress of the United States:

In recent years, the Congress has strengthened its oversight of Executive Branch decisions. I welcome that effort. Unfortunately, there has been increasing use of one oversight device that can do more harm than good—the "legislative veto."

In the past four years at least 48 of these provisions have been enacted—more than in the preceding twenty years. This proliferation threatens to upset the constitutional balance of responsibilities between the branches of government of the United States. It represents a fundamental departure from the way the government has been administered throughout American history. Unnecessary and unwarranted legislative veto procedures obstruct the efforts of my Administration and most members of Congress to make the administrative process quicker and simpler and divert attention from our common task of improving Federal programs and regulations.

Since taking office, I have several times expressed my deep reservations about legislative veto provisions in bills presented to me for signature. Herbert Hoover and every subsequent President have taken this position. The purpose of this message is to underscore and explain the concern and to propose alternatives.

The legislative veto was first used in the 1932 statute which authorized the President to reorganize the Executive Branch. The provision was repeated in subsequent reorganization acts, including the statute in effect today. This kind of legislative veto does not involve Congressional intrusion into the administration of on-going substantive programs, and it preserves the President's authority because he decides which proposals to submit to Congress. The Reorganization Act jeopardizes neither the President's responsibilities nor the prerogatives of Congress.

As employed in some recent legislation, however, the legislative veto injects the Congress into the details of administering substantive programs and laws. These new provisions require the President or an administrator of a government agency to submit to Congress each decision or regulation adopted under a program. Instead of the decision going into effect, action is blocked for a set time—typically 60 congressional working days—while Congress studies it. A majority of both Houses, or either House, or even a single committee, is authorized to veto the action during that period.

Such intrusive devices infringe on the Executive's constitutional duty to faithfully execute the laws. They also authorize Congressional action that has the effect of legislation while denying the President the opportunity to exercise his veto. Legislative vetoes thereby circumvent the President's role in the legislative process established by Article I, Section 7 of the Constitution.

These are fundamental constitutional issues. The Attorney General is seeking a definitive judgment on them from the courts, but no immediate resolution is in prospect. Pending a decision by the Supreme Court, it is my view, and that of the Attorney General, that these legislative veto provisions are unconstitutional.

Moreover, the legislative veto raises serious, practical policy problems.

Federal agencies issue thousands of complex regulations each year. Many are adopted after months or years of hearings and are based on many volumes of evidence. To act responsibly under a typical legislative veto provision, Congress would have to examine all of this evidence, hold its own hearings,

and decide whether to overrule the agency—all in a few weeks. This task would add an additional burden to Congress' legislative agenda.

The regulatory process is rightly criticized for being slow and for creating uncertainty which cripples planning by business, state and local governments, and many others. The legislative veto greatly compounds both problems. At best, it prolongs the period of uncertainty for each regulation by several months. At worst, it can mean years of delay. Under the legislative veto procedure, Congress can only block an agency's rules, not rewrite them. If the House and Senate agree that a regulation is needed but disagree with the agency or each other on the specifics, exercise of the veto can lead to indefinite deadlock.

This danger is illustrated by the regulations concerning President Nixon's papers. Three versions of these regulations were vetoed, and it took three years to reach agreement on them. Whatever the merits of the issues, this is clearly an unsatisfactory way to decide them. Such lengthy, expensive procedures could easily become commonplace under legislative veto statutes.

In addition to causing delay, legislative veto provisions can seriously harm the regulatory process. Regulators operating under such laws would seek to avoid vetoes. They would therefore tend to give more weight to the perceived political power of affected groups and less to their substantive arguments. Meetings of regulatory commissions could degenerate into speculation about how to write rules so they would escape future disapproval of future Congressional reviewers who are not present nor represented when the rules are being drafted. Many regulations would be evolved in negotiations between agency officials and Congressional staff members, subverting requirements in present law for public notice and comment and for decisions based on the record. Parties to regulatory proceedings, never knowing when a decision might be vetoed, would have to reargue each issue in Congress.

These problems would lead many regulators to reverse the constructive trend toward adopting uniform rules. They would revert to acting on a case-by-case basis, because the legislative veto cannot be applied to such decisions. This lack of uniformity would not reduce the scope of regulation, but it would reduce clarity and certainty. Those affected would have to determine how dozens of decisions on individual fact situations might apply to their own cases, instead of abiding by a single rule.

The most troubling problem, however, is that the legislative veto treats symptoms, not causes. The vast effort required to second-guess individual regulatory decisions could impede the crucial task of revising the underlying statutes.

Agencies issue regulations because Congress passes laws authorizing them, or—frequently—mandating them. Many of these laws have not been seriously reexamined for years and need change. This year, Congress is working on key bills to reform airline regulation, encourage public participation in the regulatory process, require lobbyists to work more openly, and adopt "sunset" procedures. Next year's agenda may be even fuller. We need legislation to speed up and simplify regulatory procedures, and we must reform a number of individual regulatory programs. We must deregulate where appropriate, make regulation easier to understand and to honor, and control the costs which regulations impose on our economy.

The President and the agency heads are responsible for improving the management of regulation, and we are doing so by administrative action encouraged by my Executive Order on improving the regulatory process. Only Congress through regulatory reform can deal with the underlying problems caused by a multitude of individual legislative mandates.

Regulation provides just one example of the problems caused by legislative vetoes; similarly severe problems arise in other areas of government. Thus, excessive use of legislative vetoes and other devices to restrict foreign policy actions can impede our ability to respond to rapidly changing world conditions. Reasonable flexibility is essential to effective government.

In sum, for both constitutional and policy reasons I strongly oppose legislative vetoes over the execution of programs. The inclusion of such a provision in a bill will be an important factor in my decision to sign or to veto it.

I urge Congress to avoid including legislative veto provisions in legislation so that confrontations can be avoided. For areas where Congress feels special oversight of regulations or other actions is needed, I urge the adoption of "report-and-wait" provisions instead of legislative vetoes. Under such a provision, the Executive "reports" a proposed action to Congress and "waits" for a specified period before putting it into effect. This waiting period permits a dialogue with Congress to work out disagreements and gives Congress the opportunity to pass legislation, subject to my veto, to block or change the Executive action. Legislation establishing "report-and-wait" procedures has been introduced. Even these procedures consume resources and cause delays, however, so they should be used sparingly.

As for legislative vetoes over the execution of programs already prescribed in legislation and in bills I must sign for other reasons, the Executive Branch will generally treat them as "report-and-wait" provisions. In such a case, if Congress subsequently adopts a resolution to veto an Executive action, we will give it serious consideration, but we will not, under our reading of the Constitution, consider it legally binding.

The desire for the legislative veto stems in part from Congress' mistrust of the Executive, due to the abuses of years past. Congress responded to those abuses by enacting constructive safeguards in such areas as war powers and the budget process. The legislative veto, however, is an overreaction which increases conflict between the branches of government. We need, instead, to focus on the future. By working together, we can restore trust and make the government more responsive and effective.

JIMMY CARTER.

THE WHITE HOUSE, *June 21, 1978.*

Mr. LEAHY. Mr. President, I assure the Senator from New Mexico that this agency, the CFTC, like all other rulemaking agencies, causes some concern to me.

I think an example was given that appeared to be borne out in my own office where a bookcase of a particular size held all of the laws passed by all of the Congresses since the late 1700's to date. A bookcase of a similar size held all the regulations, which have the force of law, promulgated in the last 18 months.

I realize that certain attacks can be made on such an analogy because some regulations by their own nature have to be rather lengthy. But still the 18 months versus the 200 years is a bit much.

And I can assure the Senator from New Mexico that in my oversight hearings of the CFTC, as I will in oversight hearings of other agencies that come before my committee, I will look specifically into the questions he has raised and I would be most happy to receive from him any memorandums, suggestions, or anything else of that nature.

Mr. SCHMITT. I certainly will make that available to the Senator.

Mr. President, I ask unanimous consent that a brief summary of the issue of constitutionality, particularly from the affirmative side, specifically legislative veto is constitutional, be printed in the RECORD.

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

CONSTITUTIONALITY

My colleagues have raised a fundamental question concerning the constitutionality of the legislative veto. This is surprising when one considers the fact that at least 48 of these provisions have been enacted in the past four years, and it is included in the bill H.R. 3816, the Federal Trade Commission Amendments Act as well as H.R. 11493, the Amtrak Improvement Act of 1978, which was passed 204 to 89 last Friday. Oddly enough, no objection was raised on the Amtrak bill which would have required affirmative action by both Houses of Congress before certain actions could be taken with respect to train routes.

In addition, I would like to remind my colleagues that the House of Representatives filed an amicus curiae brief supporting the "one-House veto" in the case of Atkins, et al, v. The United States. In that brief, which the Speaker determined should be filed at the invitation of the United States Court of Claims, the statement is made that:

"The basic reason why the "one-House veto" is consistent with the Constitution has been well summarized in the following terms: [21]

The veto well accords with the intent and meaning of the separation of powers principle, if this principle is understood as a piece of political wisdom rather than as a technical rule of law. When properly used and structured, the device serves that aspect of the separation of powers principle which seeks to prevent the total vesting of the power of one branch in another and that aspect of the principle which enjoins the branches to act as checks and balances on each other. In both these regards it functions to preserve and strengthen that equilibrium of power between the branches which lies at the heart of the separation of powers principle. Moreover, the veto can be used to accomplish this goal while at the same time providing for the kind of division of tasks between the branches which adds to rather than detracts from the contribution each can and must make to the success of governmental decisionmaking in a modern democratic state."

It went on to say that the Congressional veto has "vast political overtones" and noted that then President-elect Carter was "apparently favoring its use in the government reorganization area" while President Ford objected to its use regarding tariff considerations. It then stated that "Such an issue should not and cannot be resolved by the judiciary, once it is clear that the veto technique is not overtly and expressly condemned by the Constitution."

Mr. Chairman, I would go on for hours citing from the 44 page brief, which also has a 48 page counterpart filed on behalf of the Senate. I will not do so, but I will make one last point.

While the Supreme Court has not reached a definitive conclusion on the subject, the Senate brief notes that "the Supreme Court approved the principle of the legislative veto technique" in Sibbach v. Wilson and Co.

[21] Cooper and Cooper, *The Legislative Veto and the Constitution*, 30 Geo. Wash. L. Rev. 467, 514–515 (1962).

312 U.S.1 (1941) and both the House and Senate briefs quote extensively from Mr. Justice White's separate opinion in Buckley v. Valeo 424U.S.1 (1976) which dealt with the Federal Election Campaign Act. Mr. Justice White commented:

"I am also of the view that the otherwise valid regulatory power of a properly created independent agency is not rendered constitutionally infirm, as violative of the President's veto power, by a statutory provision subjecting agency regulations to disapproval by either House of Congress. For a bill to become law it must have passed both Houses and be signed by the President or passed over his veto. Also, 'every order, resolution or vote to which the concurrence of the Senate and House of Representatives may be necessary . . .' is likewise subject to the veto power. Under § 438(c) the FEC's regulations are subject to disapproval; but for a regulation to become effective, neither House need approve it, pass it, or take any action at all with respect to it. The regulation becomes effective by nonaction. This no more invades the President's powers than does a regulation not required to be laid before Congress. Congressional influence over the substantive content of agency regulation may be enhanced, but I would not view the power of either House to disapprove as equivalent to legislation or to an order, resolution or vote requiring the concurrence of both Houses."

It should be noted also that after the United States Court of Claims found that the one-House veto provision of the Salary Act was not unconstitutional in the Atkins case, the Supreme Court denied certiorari, thereby lending finality to the Court of Claims decision.

Mr. SCHMITT. I yield to the Senator from Kansas for his comments.

Mr. DOLE. Mr. President, I ask unanimous consent that a recent article in the National Journal, dated July 1, 1978, be printed in the RECORD.

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

THE LEGISLATIVE VETO-PROOF CONGRESS

In his recent attack on legislative vetoes, President Carter joined hands with his modern predecessors, each of whom contended that by resorting to the device, Congress was infringing upon his constitutional preserve in a sort of reversal of roles.

Basically, a legislative veto allows Congress to negate prescribed presidential action without going through the procedure of enacting legislation requiring presidential signature. The veto can be cast, depending on the particular statute, by both chambers acting concurrently, by a single chamber or by a congressional committee. As defined by Attorney General Griffin B. Bell, a legislative veto transfers power "to the Congress to do things that ordinarily the executive department would do."

Although the use of the legislative veto dates back to the Hoover Administration, Carter noted that Congress is relying on it more and more and that at least 48 such provisions have been written into law in the past four years. "This proliferation threatens to upset the constitutional balance of responsibilities between the branches of the government of the United States," the President declared. "It represents a fundamental departure from the way the government has been administered throughout American history."

Earlier, President Ford, who, like Carter, contended that the practice may be unconstitutional, maintained that the inclusion of a legislative veto provision in a pending foreign aid and arms sales bill "would forge impermissible shackles on the President's ability to carry out the laws and conduct the foreign relations of the United States."

A *National Journal* study in May 1976 showed that legislative veto restrictions were provided for in 37 current statutes, including the War Powers Resolution, the Congressional Budget and Impoundment Control Act, the Trade Act of 1974 and the Energy Policy and Conservation Act, as well as in relatively minor legislation, such as the Pennsylvania Avenue Development Corporation Act, the Amtrak Improvement Act and the Amendments to National Traffic and Motor Vehicle Safety Act of 1966.

There is one other statute that gives Congress a form of legislative veto—the act that allows the President to reorganize the executive branch short of creating new Cabinet departments, subject to a veto by either chamber. But the Administration has no objection to this provision even though some Members of Congress don't like it because they feel it gives too much power to the executive.

In a real sense, Carter is the victim of a trend in which Congress, reacting to White House transgressions on Vietnam and Watergate, has sought to regain its lost powers and reestablish itself as a co-equal branch of government. The issue here is whether Congress is overstepping its bounds and invading the territories of the executive branch.

Carter, as have others before him, has suggested that the constitutionality of the legislative veto must eventually be determined by the Supreme Court. But taking a stronger stance than any of his predecessors, Carter said that his Administration does not consider itself legally bound by what it considers abuses of the legislative veto. The President further warned that "the inclusion of such a provision in a bill will be an important factor in my decision to sign or to veto it."

Thus, in unmistakable terms, Carter is drawing a line in the dispute with Congress. Yet, as Bell and Stuart E. Eizenstat, assistant to the President for domestic affairs, have stressed, the President, judiciously is not seeking a confrontation with Congress on the issue over a major point of contention, such as an overseas arms sale or a vital foreign policy question. Indeed, in some cases, as with the 1973 War Powers Resolution, the Administration is willing to abide by the decision of Congress even though it does not concede the constitutionality of the legislation. "As a matter of comity, we are willing to forgo the specific legal challenge and abide by that judgment because we think it is such an overriding issue," Eizenstat said.

Carter, however, is correct in moving toward clarification of the issue through the courts since, given the present mood of Congress, the proliferating use of legislative vetoes is certain to increase the competitive tension between the two branches. From the congressional viewpoint, the legislative veto has become a form of legislative shorthand. It allows Congress to neutralize presidential power by circumventing normal legislative procedures.

When Carter speaks of the legislative veto device as representing a fundamental departure in the governmental process, he is right. But what he perhaps overlooks is that this is exactly what Congress intends in its determination to redress the balance of power.

The role reversal argument sometimes cited by the Administration is a weak reed, since it is the White House that, over the years, has assumed the role of legislative initiator.

Since the executive and legislative branches must share power, there will always be disputes between them over jurisdiction. That is the essence of the democratic process. It should be noted, however, that in May 1977, Congress won a victory of sorts when the U.S. Court of Claims upheld the "one-house veto" in a case in which the Senate blocked pay increases for 140 federal judges.

In the meantime, Carter has offered an alternative to the legislative veto, involving what he calls "report and wait" provisions. Under the proposal, the executive branch would send a recommended action to Congress and wait for a specified period before putting it into effect. This, says Carter, would allow time for debate and permit Congress to enact legislation, subject to the President's veto. From here on in, Carter said, he will treat legislative vetoes as "report and wait" provisions.

In a footnote to the controversy, in his book, "The Accountability of Power" (David McKay Co., 1975), Vice President Walter F. Mondale wrote in reference to the legislative veto, "We simply must use this device more frequently."

Mondale was then a U.S. Senator from Minnesota and may now see things differently.

Mr. DOLE. This is a rather good discussion of the legislative veto.

Certainly, President Carter has not been the first President to express concern about what Presidents considered an invasion of the executive power.

I think one of the statements made that may have some bearing was made by a former colleague of ours, Senator MONDALE, when he wrote in reference to legislative veto. He said:

We simply must use this device more frequently.

And I am not certain he still has that view, but it is an idea that has been around for a long, long time.

I know that earlier President Ford, who like President Carter, contended that the practice may be unconstitutional, maintained that the inclusion of a legislative veto provision in a pending foreign aid and armed sales bill "would forge impermissible shackles on the President's ability to carry out the laws and conduct the foreign relations of the United States."

So there is no doubt about it. This article points out a May 1976 study showed that legislative veto restrictions were provided for in 37 current statutes, including the War Powers Resolution, and a number of others.

So it has been around for some time.

I guess the question is whether we want to become a super-regulatory agency. And there is no doubt about it. Many people suffer from overregulation by the agencies.

I do not know what some of the agencies suffer from, but I know many of the constituents suffer from overregulation.

There is a division in our household about the legislative veto, but that may not be true in every case.

I think the Senator from New Mexico has indicated and emphasized the need for congressional review and congressional oversight, and I can only say as far as I know, under the leadership of the distinguished Senator from Vermont and the distinguished Senator from Kentucky, we do a lot of that in our committee, and I think if more of that were done we might not have the quarrel that is developing over the legislative veto.

We have now what President Carter, I think, refers to as sort of the wait-and-report system; they will introduce legislation, they will wait for Congress to act, and if we have a chance to act on the legislation that might take its place,

but otherwise we are probably headed for some court decision on whether or not it is constitutional.

There have been some recent indications that the courts might uphold the right of Congress, but it is not clear. So I certainly share the view expressed by the Senator from New Mexico, and I agree with the effort of the Senator from Vermont.

The legislative veto provisions are already in the House bill, and if we remove it from the Senate bill we can go to conference, and maybe in the interim figure out some policy that might satisfy those who are concerned about overregulation, and also satisfy the concerns of President Carter. I am one who wants to do all I can to help the President.

Mr. SCHMITT. Mr. President, let me suggest that there are a number of ways in which a legislative veto can be provided for. We could make it mandatory in every regulation which, I think, would be impossible to implement. One can make it just required that there be a period of time, say 60 or 90 days, in which a regulation must lie before Congress for its action prior to it becoming law. Congress can act or not act, as it so desires.

The PRESIDING OFFICER. Will the Senator indicate on whose time he speaks?

Mr. DOLE. I yield time to the Senator.

The PRESIDING OFFICER. On the time of the Senator from Kansas. The Senator may proceed.

Mr. SCHMITT. The Congress can then make its own decision on whether it will act or not act on the veto of the regulation.

Another alternative which is proposed in S. 2011 is that we attempt to determine a certain triggering level of economic impact or paperwork impact or judicial impact, that then would require that the Congress act in an affirmative way on the particular regulation in question.

I think under any case of legislative veto that there is an implicit improvement in the situation just by its existence. If the agency in question is concerned about Congress vetoing its regulation presumably it will do a much better job of promulgating the regulation, and will only submit those regulations that are necessary and that have support behind them that will convince Congress that they are, in fact, necessary.

I guess I would prefer that the Senate begin to go along with the House on the question of legislative veto. The House has been, the other body, I should say has been, somewhat more aggressive in this area than we have. I hope we are gradually catching up, and I also hope that not only will we have hearings on the general issue within the Judiciary Committee in the very near future—and I think they are probably going to be scheduled—but that each committee that has legislative oversight of a agency will begin to examine the issue more specifically with respect to those agencies.

For example, can the regulations of their agencies be modeled, using modern technology and modeling techniques, with sufficient accuracy that a triggering mechanism could be established with an economic impact of a regulation promulgated by that agency? I think that is the kind of question I would suggest to the Senator from Vermont that he pose to the agency. Maybe he should pose it to the GAO as an independent observer of this particular issue.

I am happy that the committee is concerned about this. I believe they have conducted excellent oversight activities in the past. However, again, oversight activities are right now limited to another major initiative once a deficiency has been found, whereas with the legislative veto you have a built-in mechanism by which a deficiency can be remedied on the spot. So I appreciate the Senators' comments, both Senators' comments, on this issue.

I would suggest that when the Senator's amendment is disposed of that we might then consider as a preliminary first step the requirement that the agency for each regulation submit to Congress an impact analysis both on the economic impact, the paperwork impact and the judicial impact of a particular regulation. In that way whether we go to a legislative veto or not we establish the data base by which oversight, I believe, can be more meaningful for a particular regulation that may become of concern to the Senator's committee or any committee of the Senate.

Mr. LEAHY. Mr. President, I appreciate the comments of the Senator from New Mexico. It is a further concern that will be kept in mind. It is not the oversight but the feasibility of it.

Mr. President, I am prepared to yield back the remainder of my time on the amendment. I urge its enactment.

The PRESIDING OFFICER. Does the Senator from Kansas yield back the remainder of his time?

Mr. DOLE. Yes.

The PRESIDING OFFICER. All time being yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LEAHY. Mr. President, I send a technical and clerical amendment to the desk.

Mr. SCHMITT. Mr. President, will the Senator from Vermont withhold so that we can continue in context the colloquy we had on the related issue before submitting that amendment?

Mr. LEAHY. Let me withhold then and continue the colloquy.

The PRESIDING OFFICER. On whose time?

Mr. SCHMITT. I would ask the Senator from Kansas to yield 5 minutes.

Mr. DOLE. I yield 5 minutes.

Mr. SCHMITT. I believe the Senator from Vermont and the Senator from Kansas and their staffs have had a chance to look at a proposed amendment having to do with economic, paperwork, and judicial impact analyses requirements for the commission.

I would ask the Senator from Vermont and the Senator from Kansas if they feel that this type of amendment will be acceptable to them. It principally would just be a requirement on the commission for any proposal or regulation to submit an analysis under specified conditions so that the committee could better evaluate in their oversight capacity the impact of the regulation on our society.

Mr. LEAHY. I find much appealing in the amendment by the Senator from New Mexico. My problem, as manager of the bill, is not having had any hearings on this, I do not know, No. 1 what it would cost the CFTC and to what extent we would be able to carry it out within the authorized level of the CFTC within the authorized amount in this bill.

I would prefer that this be a matter that we could look into in the committee.

I say there is much to it that appeals to me, much to it that I think would appeal to the committee. But I would prefer to have a chance at least to take it before the committee and have the appropriate witnesses before the committee so I would know what the whole financial impact of it would be.

Mr. SCHMITT. With that assurance, the Senator's assurance, that that might occur, I will not offer the amendment. I just want to again reemphasize that it is this kind of analysis that is absolutely mandatory if we are to continue conducting oversight, so I would hope as we move forward in this committee, the Senator's committee, work as well as the work of the Senate, that we will begin to consider the very least first step, which is to require the information necessary to conduct meaningful oversight over any major rule or regulation that might be proposed. Without it we are no better off than we have been for too long in the past in conducting the oversight necessary.

As a matter of fact, the kind of analysis provided by the amendment, which I will submit to the committee in proper form later, is required by the executive branch now, but the requirement, unfortunately, is not always carried out. We see that sometimes in our own committee work, where, for the example, the economic impact of a measure is dismissed with the statement that there is no economic impact, when we all know there is an economic impact.

I hope the Senate rules can be better enforced, and I also hope the executive branch can better enforce its requirements in this area. At some point, I think it will be required that Congress, by statute, require that agencies submit this kind of analyses prior to the enactment of any rule or regulation.

I thank the Senator again for his courtesy and interest in this matter.

Mr. LEAHY. I thank the Senator from New Mexico. I think he has raised a valid point, and one that could, if called up, involve greatly our obvious task of oversight.

UP AMENDMENT NO. 1416

(Purpose: To Correct technical and clerical errors in the bill and for other purposes)

Mr. LEAHY. Mr. President, I request the immediate consideration of the amendment I have just sent to the desk.

The PRESIDING OFFICER. The amendment will be stated. The legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY)

proposes an unprinted amendment numbered 1416.

Mr. LEAHY. 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 12, line 20, strike out "(2)".

On page 12, line 21, strike out "(2)".

On page 13, line 10, strike out "paragraph" and insert in lieu thereof "sentence".

On page 14, line 10, insert "date of" after "the".

On page 14, line 24, insert "date of" after "the".

On page 17, line 2, strike out "subsection" and insert in lieu thereof "paragraph".

On page 17, line 3, strike out "subsection" and insert in lieu thereof "paragraph".

On page 18, line 10, strike out "he" and insert in lieu thereof "such person".

On page 24, line 19, insert a comma after "section 4k".

On page 25, between lines 5 and 6, insert the following:

"(1) striking out in subsection (b)(3)(B) "(7 U.S.C. 9)".

On page 25, line 6, strike out "(1)" and insert in lieu thereof "(2)".

On page 25, between lines 7 and 8, insert the following:

"(3) striking out in subsection (1)(2)(A) "title" each time that word appears and inserting in lieu thereof "Act".

On page 25, line 8, strike out "(2)" and insert in lieu thereof "(4)".

On page 32, beginning with "The" on line 10, strike out all down through the period on line 12.

Mr. LEAHY. Mr. President, this is simply a technical and a clerical correction of a number of typographical errors, and has been cleared all around. Unless someone wishes to speak on it, I yield back the remainder of my time on the amendment, and urge its adoption.

Mr. DOLE. I yield back our time.

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

Without objection, the amendment is agreed to.

Mr. LEAHY. Are there further amendments? If there are no further amendments, I am ready for third reading.

Mr. HELMS. Mr. President, will the Senator yield to me for a moment, before proceeding?

Mr. LEAHY. I yield.

Mr. HELMS. Mr. President, I think it needs to be said at this time that the able Senator from Vermont and the able Senator from Kansas have done an exceedingly fine job on this piece of legislation. I commend them, and particularly I want to pay my respect to the Senator from Vermont for his patience during the hearings. As he knows, he and I sat almost alone for 2 or 3 days during the consideration of another piece of legislation on the Senate floor.

Mr. LEAHY. I thank the Senator from North Carolina for taking the time to sit in during that period.

Mr. HELMS. In any case, I appreciate the diligence of the Senator in pursuing various complicated aspects of this legislation. I remember on one occasion that we were discussing a difficult aspect of the operation of the commission, and I have the very definite impression that a number of the members of the committee had a great deal of concern about the action of the CFTC with regard to the Hunt family down in Dallas. I know the Senator remembers the testimony we took on that occasion.

In particular, several members of the committee have expressed, in varying degrees, disapproval of the CFTC's action in instituting administrative proceedings against the same members of the Hunt family, upon the same alleged violations, after the matter had been extensively litigated in court, and during the pendency of an appeal in the courts.

In my view, Mr. President, this constitutes double jeopardy. Certainly it raises a question of it, and I wonder if the Senator from Vermont did not have that same impression.

Mr. LEAHY. Mr. President, I would simply stand on what I said on the record at the time we had the hearings. It would be my intention again, as chairman of the committee, to do everything possible to make sure that any regulatory agency utilizes the enforcement procedures that it has, but that it does it in a fair way, so that enforcement becomes, indeed, justifiable enforcement of the laws, and not unjustifiable harassment.

Mr. HELMS. I thank the Senator. I well recall his eloquent comments with respect to duplicative and wasteful proceedings of this kind.

I wonder if the Senator from Kansas has any comment on that point.

Mr. DOLE. The Senator is correct. I think if we go back, we will find that even during the markup of the legislation, certain report language was offered to make that point. There was considerable evidence of that, I am sure, in various things Senators have raised on the Senate floor.

If the Commission were to institute proceedings administratively at the same time as court proceedings, as I understand it, though I may not be totally correct, that is double jeopardy.

I would hope we could impress on the Commission the need to be fair and objective in their dealings.

Mr. HELMS. I thank the Senator. As far as this Senator is concerned, I think I know what fair play is, and I think I understand the intent of this legislation with regard to the question of apparent double jeopardy. It cannot be condoned. I thank the Senator from Vermont, and I thank the Senator from Kansas.

Mr. LEAHY. I thank the Senator from North Carolina for his kind words.

Mr. MUSKIE. Mr. President, I would like to commend the committee for including in this bill a provision that would establish a national commission on the effects of markets on farm income.

I share the committee's caution in creating a new commission. However, in this case I believe one is justified. First of all, the commission will address an issue that has been of great concern to Maine potato farmers and other agricultural producers throughout the country. Second, the bill would require that at least four members of the commission be agricultural producers. This kind of direct participation by farmers will enhance the credibility of the findings of the commission and could not be accomplished were an existing agency, such as the General Accounting Office, to undertake the study.

Many Maine farmers have for years said that futures trading has been subject to manipulation and does not accurately reflect actual supply and demand.

Distrust of the futures market has been fueled by a 1976 contract default and by depressed prices.

The majority of Maine potato farmers are persuaded futures trading does not serve their best interests.

They have expressed their wish through the Maine Potato Council.

I support the position of the Maine farmers and have cosponsored legislation to eliminate trading of potato futures. I continue to hope that legislation will be considered at an early date.

The commission established by this bill would provide a useful vehicle to examine this issue. All parties stand to benefit from a thorough and enlightened review.

So I am pleased to support this bill and particularly the study provision.

Let me add that I believe it would be useful for the commission to conduct field hearings during its investigation.

I know Maine farmers would welcome the opportunity to express their views directly on the question of futures trading.

Mr. HATHAWAY. Mr. President, I commend the Agriculture Committee and the floor manager of the Commodity Futures Trading Commission reauthorization bill for their labors in what has often been an area of great controversy.

In May of 1976, the default in clearing of contracts for future delivery of Maine potatoes on the New York Mercantile Exchange sent shock waves through the potato industry. Many investors lost large sums of money and confidence in the futures market for potatoes plummeted both among the general public and in the farm community as well.

Since that time, the debate within the farm community has continued nearly unabated.

Because of suspicion about the invalidity of the potatoes futures market, charges that the Department of Agriculture's Statistical Reporting Service figures on potato stocks-on-hand are inaccurate have also been made.

Behind these charges and these suspicions is the inescapable fact that potato farming is increasingly expensive, but the rewards have not kept up with the costs.

The degree of indebtedness is much greater than it was not so many years ago. But a farmer must have pesticides, fertilizer, and certified seed if he is to obtain sufficient production and compete. Crop loans are necessary to secure those necessaries.

A higher debt level, of course, puts the farmer in a more vulnerable position when a bad year comes along.

This past year has been bad for farmers in Maine. I have introduced legisla-

tion to raise tariffs on Canadian potatoes, and I introduced a bill to establish a set-aside program for potatoes—both bills because the situation demanded such drastic responses to intolerable hardships for Maine farmers.

I have cosponsored Senator CHURCH's bill to end trading in potato futures and I look forward to hearings on this matter.

For the same reason, I commend the Senate Agriculture Committee for its establishment, in this bill, of the National Commission on the Effects of Futures Markets on Farm Income.

This Commission will study and appraise the relationships between the prices established on futures markets and the cash prices of the commodities. It will examine the extent of foreign trading. It will look into the prices received by American farmers and the prices received by others handling those commodities on exchanges.

All in all, such a study should be of tremendous help in outlining exactly where and how the present system hurts farmers and what might be done to correct abuses and inequitable practices where they do exist.

I very much hope that the Commission, in consideration of the grave events which have befallen the Maine potato industry in recent years, will make it a priority object of study, report, and recommendations for action.

Mr. LEAHY. I thank the Senators from Maine (Mr. MUSKIE and Mr. HATHAWAY) for their comments.

I believe it would be very appropriate for the Commission to hold field hearings.

I know the farmers in Maine have expressed concern about futures trading and I believe they and other farmers, should have the opportunity to testify before the Commission.

Mr. PERCY. Mr. President, Illinois is one of the most important factors in our balance-of-payments picture for it is ranked as the No. 1 agricultural and manufacturing exporter among the 50 States.

O'Hare International Airport in Chicago is also one of the busiest in the world and handles as much traffic as all three of the New York area airports. Last year alone, it processed nearly $3 billion in air exports. Chicago complements this air traffic by shipping more manufactured products by rail and truck than any other American city. In 1977, the value of the capital goods shipped out of Chicago was $79 billion.

Illinois is often thought of as one of the Nation's great farm areas and it is a reputation the State has justly earned. Over 80 percent of its 35 million acres are classified as farmland and it ranks as one of the most productive agricultural areas in the United States. For the past 3 years, Illinois has exported more agricultural products than any other State in the Nation. Over $2.5 billion worth of farm products were exported last year alone. For the past 3 years, Illinois has ranked No. 1 in the production and export of corn, soybeans, and feed grain. The Illinois farmer is doing his part to keep our economy going strong and reduce the trade deficit.

Just as the productivity of our farmland has attracted international interest, so too has Chicago grown to be one of the world's greatest financial centers. Much of this growth has occurred in the last decade and, unlike some other urban areas in the United States, Chicago continues to thrive economically today. We are proud of our success and growth and I anticipate that it will continue in the future.

One of the best measures of a city's international financial importance is found in the activities of its banking institutions. We have many great banks in Chicago but the five largest ones—Continental Illinois, First Chicago, Harris Trust, Northern Trust, and American National—held foreign assets of over $8 billion in 1973. By 1977, these assets had more than doubled to $16.6 billion. What is more, the share of foreign assets held by these banks has grown from 23 percent of their total assets in 1973 to 31 percent last year. This significant growth is an index of how much business our Illinois banks are doing overseas and the increasing importance of our banks in facilitating international trade.

The dynamics of the Chicago marketplace have been recognized by foreign banks, too. Whereas in 1974 there were only three representative's offices of foreign banks in Chicago, there are today 17 such offices as well as branches of 28 foreign banks. These institutions represent the financial interests of 18 different countries and accounted for $3.3 billion in assets last year, over double the assets held just 3 years ago.

All of these elements of Illinois' economy—its agricultural productivity, its strategic location between the Great Lakes and the Mississippi River and Chicago's thriving industrial and financial sectors—come together appropriately in our commodities futures trading exchanges. The Chicago Board of Trade, for example, is the largest and oldest commodities exchange in the world. The second largest—the Mercantile Exchange—is also in Chicago. The Mid-America Exchange is the third commodity market that serves the midwest from Chicago, giving the city 75 percent of all futures trading handled in the United States.

The bill before us today extends the life of the Commodities Futures Trading Commission which was established in 1974 to watch over rapidly growing futures trading. This bill is of vital importance to the Chicago exchanges which account for the bulk of commodities traded in this country.

The Chicago Board of Trade has nearly tripled the number of contracts it sells. In 1970, just over 8 million contracts were traded and last year the board's trading hit 23 million contracts. Preliminary figures for this year indicate that over 26 million contracts will be traded, setting a new record. The price of a seat on the board has far outstripped the prestigious New York Stock Exchange. The highest seat price ever was recorded this year when a seat at the board sold for $180,000. This compares with the New York Stock Exchange's high bid of $95-000 last year. What makes this price even more significant is the fact that just 8 years ago, $41,000 was the top price bid for a seat at the board. Similar patterns are being set at our other Chicago exchanges.

One of the reasons for the phenomenal rise in the success of commodities markets is the expanding scope of their activities. Since 1970, the exchanges have grown beyond their traditional roles of facilitating the marketing of food and fiber. Since 1970, the Chicago Board of Trade, for example, has added gold futures, Government National Mortgage Association—Ginnie Mae—mortgage interest rate futures, U.S. Treasury bond futures and 90-day commercial paper loan futures and they have applied for permission to also trade 30-day commercial paper futures, put and call options of Ginnie Mae futures, southern plywood futures and Eurodollars futures. This listing shows that commodities trading has entered a new era, supplementing the older, agricultural trading. It is also reflected at the Mercantile Exchange, which opened a special international monetary market in 1972, solely for the trading of futures in gold, U.S. Treasury bills, foreign currencies, and some U.S. silver coins. The Mercantile Exchange is the only market in the world that has entered into trading in these currency areas and signifies the rapidly evolving position of Chicago as a center for international finance.

Despite the emergence of these new areas for trading futures, the Chicago markets still depend largely on agricultural products as their mainstay. Eighty-six percent of the board's trading volume is accounted for by wheat, corn, oats, soybeans, soybean oils, soybean meal, and iced chicken broilers. The same is true at the Mercantile Exchange where over 70 percent of the trading centers on live cattle and hogs, frozen pork bellies, feeder cattle, lumber, potatoes, and fresh eggs.

Mr. President, this bill and the commodities that are traded are very important to Chicago and Illinois. Together with the other two Illinois futures markets in Peoria and Joliet, over 80 percent of all transactions occur in Illinois markets and are a major contributor to the State's economic well-being. Moreover, they play an important role in the Nation's economy and are increasingly becoming involved in the functioning of our currency markets. I am pleased to support this bill which helps guarantee that these important transactions are conducted in the most professional manner.

Mr. President, if there are no further amendments, I ask for third reading.

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

Do Senators yield back the remainder of their time?

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

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

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass? 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 Minnesota (Mr. ANDERSON), the Senator from Idaho (Mr. CHURCH), the Senator from New York (Mr. MOYNIHAN), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arkansas (Mr. BUMPERS), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. SCHWEIKER) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The result was announced—yeas 84, nays 6, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—84

Allen	Goldwater	Morgan
Baker	Gravel	Muskie
Bartlett	Griffin	Nelson
Bayh	Hansen	Nunn
Bellmon	Hart	Packwood
Bentsen	Haskell	Pearson
Biden	Hatfield, Mark O.	Pell
Brooke	Hatfield, Paul G.	Percy
Burdick	Hathaway	Randolph
Byrd, Harry F., Jr.	Hayakawa	Ribicoff
Byrd, Robert C.	Heinz	Riegle
Cannon	Helms	Roth
Case	Huddleston	Sarbanes
Chafee	Humphrey	Sasser
Chiles	Inouye	Schmitt
Clark	Jackson	Scott
Cranston	Javits	Sparkman
Culver	Kennedy	Stafford
Curtis	Laxalt	Stennis
Danforth	Leahy	Stevens
DeConcini	Long	Stevenson
Dole	Lugar	Stone
Domenici	Magnuson	Talmadge
Durkin	Mathias	Thurmond
Eastland	Matsunaga	Wallop
Ford	McIntyre	Weicker
Garn	Metzenbaum	Williams
Glenn	Morgan	Young
		Zorinsky

NAYS—6

Eagleton	Hodges	Melcher
Hatch	McClure	Proxmire

NOT VOTING—10

Abourezk	Hollings	Schweiker
Anderson	Johnston	Tower
Bumpers	McGovern	
Church	Moynihan	

So the bill (S. 2391), as amended, was passed, as follows:

S. 2391

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

COMPOSITION OF THE COMMISSION; CONFLICT OF INTEREST; CONFORMING AND TECHNICAL AMENDMENTS

SECTION 1. Section 2(a) of the Commodity Exchange Act is amended by—

(1) striking out in the first sentence of paragraph (1) (7 U.S.C. 2) "section 217 of the Commodity Futures Trading Commission Act of 1974" and inserting in lieu thereof "section 19 of this Act";

(2) inserting "(A)" immediately after the designation of paragraph (2) (7 U.S.C. 4a (a));

(3) striking out in the second sentence of paragraph (2) "a Chairman and four other Commissioners" and inserting in lieu thereof "five Commissioners";

(4) striking out in the last sentence of paragraph (2) "(A)" and "(B)" and inserting in lieu thereof "(i)" and "(ii)", respectively;

(5) adding at the end of paragraph (2) a new subparagraph (B) as follows:

"(B) The President shall appoint, by and with the advice and consent of the Senate, a member of the Commission as Chairman, who shall serve as Chairman at the pleasure of the President. An individual may be appointed as Chairman at the same time that person is appointed as a Commissioner. The Chairman shall be the chief administrative officer of the Commission and shall preside at hearings before the Commission. Subject to the provisions of the first sentence of this subparagraph, the President may, from time to time, designate a different Chairman, and the Commissioner previously appointed as Chairman shall complete his term as a Commissioner.";

(6) striking out in paragraph (5) (7 U.S.C. 4a(d)) ", by and with the advice and consent of the Senate,";

(7) inserting "(A)" immediately after the designation of paragraph (7) (7 U.S.C. 4a (f));

(8) adding at the end of paragraph (7) a new subparagraph (B) as follows:

"(B) No Commissioner or employee of the Commission classified a a GS–15 or higher of the General Schedule under section 5332 of title 5, United States Code, may, for a period of one year beginning on the last day of service as such Commissioner or employee—

"(i) make any appearance before the Commission; or

"(ii) make any written or oral communication to the Commission, or any Commissioner or employee of the Commission, on behalf of any person (other than the United States) on any particular matter that is before the Commission.

The restrictions in this subparagraph shall not apply to an appearance or response under a subpena issued by the Commission, or any matter of an exclusively personal and individual nature.";

(9) striking out in the first sentence of paragraph (8) (7 U.S.C. 4a(g)) "establish a separate office within the Department of Agriculture to be staffed with employees of the Commission for the purpose of maintaining" and inserting in lieu thereof "maintain";

(10) striking out in subparagraph (9)(A) (7 U.S.C. 4a(h)(1)) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry"; and

(11) striking out in subparagraph (9)(B) (7 U.S.C. 4a(h)(2)) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry".

OPTIONS TRANSACTIONS; TECHNICAL AMENDMENTS

SEC. 2 Section 4c of the Commodity Exchange Act (7 USC 6c) is amended by—

(1) striking out in the last sentence of subsection (a) "not have been disapproved" and inserting in lieu thereof "have been approved";

(2) striking out in subsection (b) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry"; and

(3) adding at the end thereof new subsections (c), (d), and (e) as follows:

"(c) Notwithstanding the provisions of subsection (b) of this section, it shall be unlawful for any person to offer to enter into, enter into, or confirm the execution of, any transaction subject to the provisions of subsection (b) of this section, except where both parties to such transaction are either a producer, processor, or commercial user of, or a merchant handling, the commodity involved in the transaction, or the products or byproducts thereof, and offer to enter into, or enter into, or confirm the transaction solely for the purposes of their business as such, until (1) the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry documentation of its ability to regulate successfully such transactions, and (2) the expiration of thirty calendar days of continuous session of Congress after the date of such transmittal. The Commission is not precluded from transmitting documentation relating to its ability to regulate such transactions regarding individual commodities, classes of commodities, or regulation of such transactions on specific boards of trade, at such time as the Commission deems appropriate. Nothing in the preceding sentence shall affect any rights or obligations arising out of any transactions subject to the provisions of this subsection entered into, or the execution of which was confirmed, prior to October 1, 1978

"(d) Notwithstanding the provisions of subsections (b) and (c) of this section or section 8a(5) of this Act, a registered futures commission merchant may offer to enter into, enter into, or confirm the execution of, any transaction subject to the provisions of subsection (b) of this section if—

"(1) the grantor in the transaction is a person who—

"(A) is in the business of buying, selling, producing, or otherwise using the underlying commodity;

"(B) at all times has a net worth of at least $10,000,000 certified annually by an independent public accountant using generally accepted accounting principles;

"(C) agrees to notify such futures commission merchant if the grantor has reason to believe the grantor's net worth has fallen below $10,000,000;

"(D) segregates daily, exclusively for the benefit of purchasers, money, exempted securities (within the meaning of section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)), commerical paper, bankers' acceptances, commercial bills, or unencumbered warehouse receipts, equal to an amount by which the value of each transaction exceeds the amount received or to be received by the grantor for such transaction;

"(E) provides an identification number for each transaction; and

"(F) provides confirmation of all orders for such transactions executed, including the execution price and a transaction identification number;

"(2) the futures commission merchant has evidence that the grantor meets the requirements set forth in clause (1) of this subsection; and

"(3) the futures commission merchant—

"(A) treats and deals with an amount of money, exempted securities (within the meaning of section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)), commercial paper, bankers' acceptances, commercial bills, or unencumbered warehouse receipts, equal in value to the value received from its customers as payment of the purchase price in connection with such transactions, as security for performance of the transactions until the expiration or liquidation of those transactions;

"(B) records each transaction in its customer's name by the transaction identification number provided by the grantor; and

"(C) provides a disclosure statement to

its customers, under regulations of the Commission, that discloses, among other things, all costs, including any markups or commissions involved in such transaction.

"(e) The provisions of subsections (c) and (d) of this section shall be effective for the period beginning October 1, 1978, and ending September 30, 1984.".

CUSTOMERS' FUNDS AND PROPERTY

SEC. 3. Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) is amended by—

(1) inserting in the first paragraph after "*Provided further,*" the following: "That in accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, such money, securities, and property of the customers of such futures commission merchant may be commingled and deposited as provided in this section with any other money, securities, and property received by such futures commission merchant and required by the Commission to be separately accounted for and treated and dealt with as belonging to the customers of such futures commission merchant: Provided further,"; and

(2) adding at the end thereof a new sentence as follows:

"Notwithstanding any other provision of law, no such person, nor any trustee or receiver of such person, shall assert any rights with respect to such money, securities, and property or with respect to customer accounts held by such person, or any trustee or receiver of such person, which would prohibit, delay, or condition a transfer of such money, securities, property, or customer accounts to another futures commission merchant: *Provided,* That such a transfer is required under the rules, bylaws, or regulations of any contract market or clearinghouse organization of which such person is a member or under the rules and regulations of the Commission.".

REGISTRATION OF FUTURES COMMISSION MERCHANTS AND FLOOR BROKERS

SEC. 4. Section 4(f)(1) of the Commodity Exchange Act (7 U.S.C. 6f(1)) is amended by—

(1) striking out in the third sentence "All registrations" and inserting in lieu thereof "Each registration"; and

(2) inserting in the third sentence after "issued," the following: "or at such other time, not less than one year from the date of issuance thereof, as the Commission may by rule, regulation, or order prescribe,".

TECHNICAL AMENDMENT

SEC. 5. Section 4g(3) of the Commodity Exchange Act (7 U.S.C. 6g(3)) is amended by striking out "Brokers" and inserting in lieu thereof "Floor brokers".

FOR REGISTRATION OF ASSOCIATED PERSONS; AUTHORIZATION FOR REGISTRATION OF ASSOCIATED PESONS BY A TITLE III ASSOCIATION

SEC. 6. Section 4k of the Commodity Exchange Act (7 U.S.C. 6k) is amended by—

(1) amending the last sentence of subsection (2) to read as follows: "Such registration shall expire two years after the effective date thereof or at such other time, not less than one year from the date of issuance thereof, as the Commission may by rule, regulation, or order prescribe, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked after notice and hearing as prescribed in section 6(b) of this Act: *Provided,* That upon initial registration, unless the Commission otherwise prescribes by rule, regulation, or order, the effective period of such registration shall be not more than two years nor less than one year from the effective date thereof."; and

(2) adding at the end thereof a new subsection (3) as follows:

"(3) The Commission may authorize a registered futures association to perform the registration functions of this section, in accordance with rules approved by the Commission, and subject to the provisions of this Act applicable to registrations granted by the Commission.".

REGISTRATION OF COMMODITY TRADING ADVISORS AND COMMODITY POOL OPERATORS

SEC. 7. Section 4n of the Commodity Exchange Act (7 U.S.C. 6n) is amended by—

(1) striking out subsection (2) and redesignating subsections (3), (4), (5), (6), and (7) as subsections (2), (3), (4), (5), and (6), respectively;

(2) striking out in subsection (3) "All registrations" and inserting in lieu thereof "Each registration"; and

(3) inserting in subsection (3) after "year," the following: "or at such other time, not less than one year from the effective date thereof, as the Commission may by rule, regulation, or order prescribe,".

PROHIBITION ON FRAUDULENT TRANSACTIONS BY COMMODITY TRADING ADVISORS AND COMMODITY POOL OPERATORS

SEC. 8. Section 4o(1) of the Commodity Exchange Act (7 U.S.C. 6o(1)) is amended by striking out "registered under this Act".

ARBITRATION

SEC. 9. Section 5a(11) of the Commodity Exchange Act (7 U.S.C. 7a(11)) is amended by inserting before "provide" the following: "unless available under the rules of a registered futures association,".

REFUSAL, SUSPENSION, OR REVOCATION OF "CONTRACT MARKET" DESIGNATION—HEARING ON THE RECORD; COMMISSION SUBPENA POWER

SEC. 10. Section 6 of the Commodity Exchange Act (7 U.S.C. 8) is amended by—

(1) inserting "on the record" after "hearing" in the second sentence:

(2) inserting "on the record" after "hearing" in the second sentence of paragraph (a);

(3) striking out the third sentence of paragraph (b) and inserting in lieu thereof the following: "For the purpose of securing effective enforcement of the provisions of this Act and for the purpose of any investigation or proceeding under this Act, any member of the Commission or any Administrative Law Judge or other officer designated by the Commission is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission deems relevant or material to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States or any State at any designated place of hearing. In case of contumacy by, or refusal to obey a subpena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction in which such investigation or proceeding is conducted, or where such person resides or transacts business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records. Such court may issue an order requiring such person to appear before the Commission or member or Administrative Law Judge or other officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district wherein such person is an inhabitant or transacts business or wherever such person may be found.".

ISSUANCE OF A CEASE AND DESIST ORDER OR IMPOSITION OF A CIVIL MONEY PENALTY AGAINST A CONTRACT MARKET—HEARING ON THE RECORD

SEC. 11. Section 6b of the Commodity Exchange Act (7 U.S.C. 13a) is amended by inserting "on the record" after "hearing" in the first sentence.

JURISDICTION OF THE STATES

SEC. 12. The Commodity Exchange Act is amended by adding after section 6c a new section 6d as follows:

"SEC. 6d. (1) Whenever it shall appear to the attorney general of any State, the administrator of the securities laws of any State, or such other official as a State may designate, that the interests of the residents of that State have been, are being, or may be threatened or adversely affected because any person (other than a contract market or floor broker) has engaged in, is engaging or is about to engage in, any act or practice constituting a violation of any provision of this Act or any rule, regulation, or order of the Commission thereunder, the State may bring a suit in equity or an action at law on behalf of its residents to enjoin such act or practice, to enforce compliance with this Act, or any rule, regulation, or order of the Commission thereunder, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

"(2) The district courts of the United States, the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia, shall have jurisdiction of all suits in equity and actions at law brought under this section to enforce any liability or duty created by this Act or any rule, regulation, or order of the Commission thereunder, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this Act or any rule, regulation, or order of the Commission thereunder, including the requirement that the defendant take such action as is necessary to remove the danger of violation of this Act or of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

"(3) Immediately upon instituting any such suit or action, the State shall serve written notice thereof upon the Commission and provide the Commission with a copy of its complaint.

"(4) Any suit or action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the act or practice occurred, is occurring, or is about to occur, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

"(5) For purposes of bringing any suit or action under this section, nothing in this Act shall prevent the attorney general, administrator of the State securities laws, or other duly authorized State officials, from exercising the powers conferred on them by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(6) For purposes of this section, the word 'State' means any State of the United States, the District of Columbia, or any territory or possession of the United States.".

DISCLOSURE OF TRADERS AND THEIR POSITIONS ON BOARDS OF TRADE TO THE PUBLIC

SEC. 13. Section 8 of the Commodity Exchange Act (7 U.S.C. 12–1) is amended by

striking out in the second paragraph "and make public" the second time that phrase appears.

FINGERPRINTING OF APPLICANTS FOR REGISTRATION; DISCLOSURE OF IMPROFER TRANSACTIONS

SEC. 14. Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended by—

(1) inserting in subsection (1) after "by the Commission" the following: ", which may require the applicant, and any persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing"; and

(2) striking out "and to publish" in subsection (6).

DISCLOSURE OF RESULTS OF EXCHANGE DISCIPLINARY PROCEEDINGS

SEC. 15. Section 8c(1)(B) of the Commodity Exchange Act (7 U.S.C. 12c(1)(B)) is amended by amending the last sentence to read as follows: "An exchange shall make public its findings and the reasons for the exchange action in any such proceeding, including the action taken or the penalty imposed, but shall not disclose the evidence therefor, except to the person who is suspended, expelled, or disciplined, or denied access, and to the Commission: *Provided*, That the restriction on disclosure of evidence in this sentence shall not apply to criminal investigations or proceedings.".

CRIMINAL PENALTIES

SEC. 16. Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by—

(1) inserting before the period at the end of subsection (b) the following: ", or to violate the provisions of section 4, section 4b, section 4c, section 4h, section 4o(1) or section 19 of this Act, or to make any false or misleading statement of a material fact in any registration application or report filed with the Commission, or to omit to state in any such application or report any material fact that is required to be stated therein";

(2) amending subsection (c) to read as follows:

"(c) Except as provided in subsections (a), (b), (d), and (e) of this section, it shall be a misdemeanor punishable by a fine of not more than $100,000 or imprisonment for not more than one year, or both, together with the costs of prosecution, for any person to violate any provisions of section 4a, section 4d, section 4e, section 4i, section 4k, section 4m, section 4o(2), or section 8b of this Act, or fail to evidence any contract mentioned in section 4 of this Act by a record in writing as therein required.";

(3) striking out in subsection (d) "$10,000" and inserting in lieu thereof "$100,000"; and

(4) striking out in subsection (e) "$10,000" and inserting in lieu thereof "$100,000".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 17. Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d) is amended to read as follows:

"(d) There are hereby authorized to be appropriated to carry out the provisions of this Act such sums as may be required for the fiscal year ending June 30, 1975, for the period beginning July 1, 1975, and ending September 30, 1976, and for each of the fiscal years during the period beginning October 1, 1976, and ending September 30, 1984.".

REPARATIONS

SEC. 18. Section 14 of the Commodity Exchange Act (7 U.S.C. 18) is amended by—

(1) striking out in subsection (a) "registered" and inserting in lieu thereof "who is registered or required to be registered";

(2) striking out in subsection (b) all after *"Provided,"* and inserting in lieu thereof the following: "That in complaints wherein the amount claimed as damages does not exceed the sum of $5,000, a hearing limited to the basic or novel issue or issues of the case shall be held, and additional proof in support of the complaint and respondent's answer may be supplied in the form of depositions or verified statements of fact."; and

(3) amending subsection (c) to read as follows:

"(c) After opportunity for hearing has been waived or a hearing is held on a complaint filed under this section, the Commission shall determine whether the respondent has violated any provision of this Act or any rule, regulation, or order of the Commission thereunder."; and

(4) adding at the end thereof a new subsection (j) as follows:

"(j) Notwithstanding any other provision of this section or Act, a futures association registered under section 17 of this Act may, with the Commission's approval, adopt rules establishing a procedure whereby persons complaining of a violation of any provision of this Act or any rule, regulation, or order of the Commission thereunder by a member of the association who is registered or required to be registered under section 4d, section 4e, section 4k, or section 4m of this Act, may obtain an adjudication of such claims by the association, and the rules of the association shall govern all such claims that are or could be brought thereunder, in lieu of the procedures set forth in this section: *Provided*, That the decisions of the association shall be subject to subsections (f), (g), and (h) of this section to the same extent as reparations orders entered by the Commission.".

REGISTERED FUTURES ASSOCIATION

SEC. 19. Section 17 of the Commodity Exchange Act (7 U.S.C. 21) is amended by—

(1) striking out in subsection (b)(3)(B) "(7 U.S.C. 9)".

(2) striking out in subsection (b)(10) "$5,000" and inserting in lieu thereof "$15,000"; and

(3) striking out in subsection (1)(2)(A) "title" each time that word appears and inserting in lieu thereof "Act".

(4) redesignating subsection (m) as subsection (n), and inserting after subsection (l) a new subsection (m) as follows:

"(m) Notwithstanding any other provision of law, the Commission may approve rules of a futures association or of a contract market that, directly or indirectly, require persons eligible for membership in such association to become members thereof, if the Commission determines that such rules are necessary or appropriate to achieve the purposes and objectives of this Act.".

LEVERAGE TRANSACTIONS; FORWARD CONTRACTS

SEC. 20. The Commodity Exchange Act is amended by adding at the end thereof new sections 19 and 20 as follow:

"SEC. 19. No person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of any commodity specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974, under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract. Notwithstanding any other provision of this Act, the Commission may prohibit or regulate any such transactions involving any other commodities under such terms and conditions as the Commission shall initially prescribe by October 1, 1979: *Provided*, That any such order, rule, or regulation may be made only after notice and opportunity for hearing: *Provided further*, That the Commission may set different terms and conditions for such transactions involving different commodities. If the Commission determines that any such transaction is a contract for future delivery within the meaning of this Act, such transaction shall be regulated in accordance with the applicable provisions of this Act.

"SEC. 20. (a) The Commission shall, for the period beginning October 1, 1978, and ending September 30, 1984, monitor forward contracting for domestic agricultural commodities and maintain records of defaults on any such contracts.

"(b) The Commission shall include in its annual reports to Congress information concerning its monitoring activities under subsection (a) of this section, any defaults on forward contracts for domestic agricultural commodities during the immediately preceding fiscal year, and any observations, recommendations, or comments on forward contracts for domestic agricultural commodities and the regulation of those transactions or the need for legislation in this area as the Commission deems appropriate.

"(c) Of the sums appropriated annually to carry out this Act, not to exceed $75,000 may be used to carry out the provisions of this section.".

REPEAL OF LEVERAGE TRANSACTION PROVISION IN THE 1974 ACT

SEC. 21. Title II of the Commodity Futures Trading Commission Act of 1974 (7 U.S.C. 15a) is amended by repealing section 217.

USE IMMUNITY

SEC. 22. Section 6001 of part V of title 18 of the United States Code (18 U.S.C. 6001) is amended by inserting after "Civil Aeronautics Board," the following: "the Commodity Futures Trading Commission,".

NATIONAL COMMISSION OF THE EFFECTS OF FUTURES MARKETS ON FARM INCOME

SEC. 23. (a) There is hereby established a National Commission on the Effects of Futures Markets on Farm Income (hereinafter referred to as the "Commission").

Organization

(b)(1)(A) The Commission shall be composed of nine members, appointed by the President, none of whom may be employees of the Federal Government or Members of Congress. One of the members of the Commission, who, by background, experience, and education, is particularly suited to the position, shall be designated as Chairman at the time of his or her appointment.

(B) At least four of the Commission members shall be agricultural producers. The other Commission members shall represent, insofar as practicable, the interests of processors and distributors of agricultural commodities and their products, economists, commodity exchanges, national agricultural organizations, and consumers.

(C) A vice-chairman shall be selected by a majority vote of the Commission.

(2) A vacancy in the Commission shall not affect its powers, except for the selection of a vice-chairman. Any vacancy in the Commission shall be filled in the same manner as the original position.

Compensation of Members

(c) Each member of the Commission may receive compensation at the highest rate of pay for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the work of the Commission, and shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized

under section 5703 of title 5, United States Code.

Duties of the Commission

(d)(1) The Commission shall study and appraise—

(A) the relationships between the prices established on futures markets and the cash prices of the commodities;

(B) the concentration and magnitude of trading by foreign individuals, corporations, or governments on United States futures markets;

(C) the actions necessary to stimulate greater use of futures markets by American farmers, if advisable;

(D) the reasons for the differentials in the prices farmers receive for their crops and the futures prices for the same commodity;

(E) the effect of increasing the number of delivery points under a futures contract on the prices received by producers of that commodity; and

(F) the need for changes, if any, in the Commodity Exchange Act or the regulations thereunder.

(2) The Commission shall make such interim reports as it deems advisable, and it shall make a final report of its findings, conclusions, and legislative recommendations to the President and Congress by October 1, 1981, and shall cease to exist not later than ninety days thereafter.

(3) All books, papers, reports, memoranda, and all the documents collected, produced, obtained or in the custody or possession of the Commission shall, prior to the termination of the Commission, be transmitted to the Commodity Futures Trading Commission.

Powers of the Commission

(e)(1) The Commission, or any three members thereof authorized by the Commission, may conduct hearings anywhere in the United States or otherwise secure data and expressions of opinions pertinent to the study. In connection therewith, the Commissioners may—

(A) require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe and within such reasonable period and under oath or otherwise as the Commission may determine;

(B) administer oaths;

(C) require by subpena the attendance and testimony of witnesses in the production of all documentary evidence relating to the execution of its duties;

(D) invoke the aid of any district court of the United States in requiring compliance with such subpena or order in the case of disobedience of a subpena or order issued under this subsection;

(E) order testimony to be taken in any proceeding or investigation by deposition before any person who is designated by the Commission and who has the power to administer oaths, and in such instances to compel testimony in the production of evidence in the same manner as authorized under clauses (C) and (D) of this paragraph; and

(F) to pay witnesses the same fees and mileages as are paid in like circumstances by the courts of the United States.

(2) Any district court of the United States within the jurisdiction of which an inquiry under this section is conducted may, in case of refusal to obey a subpena or order of the Commission issued under this subsection, issue an order requiring compliance therewith; and failure to obey the order of the court may be punished by the court as contempt thereof.

(3) Notwithstanding any other provision of law, the Commission may require from the head of any executive department, agency, or independent establishment of the Federal Government available information deemed useful in the discharge of its duties, and all such departments, agencies, and establishments shall cooperate with the Commission and furnish all information requested by the Commission.

(4) The Commission may enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(5) Subject to the provisions of section 552 of title 5, United States Code, when the Commission finds that publication of any information obtained by it is in the public interest and would not give an unfair competitive advantage to any person, the Commission may publish such information in the form and manner deemed best adapted for public use, except that information that would separately disclose the business transactions of any person, trade secrets, or names of customers shall be held in confidence and shall not be disclosed by the Commission.

Administrative Arrangements

(f)(1) The Commission shall appoint and fix the compensation of an executive director and a chief economist without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and 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. The executive director, with the approval of the Commission, shall employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Commission, except that no individual so appointed shall be paid at a rate in excess of the rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code.

(2) The executive director, with the approval of the Commission, is authorized to obtain the services of experts and consultants as provided under section 3109 of title 5, United States Code.

(3) The head of any executive department, agency, or independent establishment of the Federal Government may detail, on a reimbursable basis, any of its personnel to assist the Commission in conducting its work.

(4) Financial and administrative services (including those relating to budgeting and accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator of General Services.

Authorization of Appropriations

(g) There are hereby authorized to be appropriated to the Commission such sums, not in excess of $1,000,000 for each year of its existence, as may be necessary to carry out the provisions of this section.

PLAN FOR USER FEES

SEC. 24. Notwithstanding any other provision of law, the Commodity Futures Trading Commission is authorized to develop, and implement a plan to charge and collect reasonable fees to cover the estimated cost of regulating the transactions under the jurisdiction of the Commission. However, prior to implementing such a plan, the Commission shall report its intention to do so to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. The Commission shall include in its report the feasibility and desirability of collecting such fees. The plan described herein shall not be implemented until approved by the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry.

EFFECTIVE DATE

SEC. 25. The provisions of this Act shall become effective October 1, 1978.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized in the engrossment of S. 2391 to make any necessary technical and clerical corrections.

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

Mr. LEAHY. Mr. President, I am pleased that we were able to complete this bill today. It is an extremely complicated one. We have considered a number of amendments and added substantial parts to it. I want to thank Senator DOLE, who has done yeoman service on the floor in this regard.

Especially, I thank Senator HUDDLESTON, whose bill it was and who helped guide it through our committee, and Senator TALMADGE, who made sure it did get through the committee.

I also thank Steve Storch, counsel for the committee, and Glenn Clark, consultant to the committee; Carl Rose, our general counsel; Bill Motes from Senator CLARK'S staff; Bill Seale, of Senator HUDDLESTON'S staff; Koni Gleason, the typist for us; Stu Hardy, from Senator DOLE'S staff, who has been here throughout it all; and, of course, Liam Murphy, from my own staff, who has had the virtually impossible task of trying to explain to me, as we have gone through the bill, just exactly what it was I was doing with it.

UNANIMOUS-CONSENT AGREEMENT—S. 2889

Mr. ROBERT C. BYRD. Mr. President, on the endangered species bill, which is S. 2899, which appears as the fifth item in the sequence of bills shown on page 3 of the calendar of business, I ask unanimous consent that that bill be placed at the end of the sequence so that it would be No. 10, rather than No. 5.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Reserving the right to object, and I will not object, I have discussed this matter at some length with the majority leader and with others who are known to me to be directly concerned with this piece of legislation, either in the form of amendments or otherwise, and this seems to me to be the best course of action.

I know this will work an inconvenience and a hardship on some, but I think it is probably the best and the most practical from the scheduling standpoint.

It would be my estimate, based on the calendar as I now see it and the progress we have made so far, that this probably means we would reach this bill some time toward the middle of next week.

I wonder if the majority leader would care to comment?

Mr. ROBERT C. BYRD. Mr. President, I hope it would be before the middle of next week, but it certainly would not be before next week.

Mr. BAKER. But certainly it would be next week?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I have no objection to that, and, on the contrary, I believe it is a good suggestion and I concur.

The PRESIDING OFFICER. Is there objection?

If not, the unanimous-consent request is agreed to.

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, with Senators permitted to speak for 5 minutes therein and the period not to extend beyond 20 minutes.

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.)

REPORT OF THE NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS AND THE NATIONAL HOUSING PARTNERSHIP—MESSAGE FROM THE PRESIDENT—PM 196

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

I herewith transmit the Ninth Annual Report of the independent National Corporation for Housing Partnerships and The National Housing Partnership, as required by Section 908(a) of the Housing and Urban Development Act of 1968.

JIMMY CARTER.

THE WHITE HOUSE, *July 12, 1978.*

REPORT OF THE COMMODITY CREDIT CORPORATION—MESSAGE FROM THE PRESIDENT—PM 197

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the provisions of Section 13, Public Law 806, 80th Congress, I transmit herewith for the information of the Congress the report of the Commodity Credit Corporation for the fiscal year ended September 30, 1977.

JIMMY CARTER.

THE WHITE HOUSE, *July 12, 1978.*

REPORT ON THE ALASKA RAILROAD—MESSAGE FROM THE PRESIDENT—PM 198

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I transmit herewith the annual report by the Secretary of Transportation on the operations and activities of the Alaska Railroad during fiscal year 1977, as required by the Alaska Railroad Enabling Act of March 12, 1914.

JIMMY CARTER.

THE WHITE HOUSE, *July 12, 1978.*

PRESIDENTIAL APPROVALS

A message from the President of the United States stated that on July 11, 1978, he had approved and signed the following act:

S. 2401. An act to amend the Consumer Product Safety Act to establish an interim consumer product safety rule relating to the standards for flame resistance and corrosiveness of certain insulation, and for other purposes.

MESSAGES FROM THE HOUSE

At 1:24 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 and joint resolution, in which it requests the concurrence of the Senate:

H.R. 10787. An act to authorize appropriations for activities and programs carried out by the Secretary of the Interior through the Bureau of Land Management; and

H.J. Res. 1024. A joint resolution making urgent supplemental appropriations for the Department of Agriculture Stabilization and Conservation Service, and for other purposes for the fiscal year ending September 30, 1978.

At 5:44 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 95. A concurrent resolution condemning the trials of Anatoly Shcharansky, Viktoras Petkus, and Aleksandr Ilyich Ginzburg.

The message also announced that the House has passed the following bills, each with an amendment in which it requests the concurrence of the Senate:

S. 2463. An act to amend the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87) to raise certain authorized funding levels contained therein, and for other purposes;

S. 2701. An act to amend the Water Resources Planning Act (79 Stat. 244, as amended); and

S. 2704. An act to promote a more adequate and responsive national program of water research and development, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to H.R. 10732, an act to authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal years 1979, 1980, and 1981, with an amendment in which it requests the concurrence of the Senate.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read twice by its title and placed on the calendar:

H.R. 10787. An act to authorize appropriations for activities and programs carried out by the Secretary of the Interior through the Bureau of Land Management.

HOUSE JOINT RESOLUTION REFERRED

The following joint resolution was read twice by its title and referred as indicated:

H.J. Res. 1024. A joint resolution making urgent supplemental appropriations for the Department of Agriculture Stabilization and Conservation Service, and for other purposes for the fiscal year ending September 30, 1978; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations, with amendments and amendments to the preamble:

S. Res. 440. A resolution expressing the sense of the Senate that the President undertake discussions with the industrialized countries with a view toward developing a common approach to the grave problems facing today's international monetary system (Rept. No. 95-977).

By Mr. SPARKMAN, from the Committee on Foreign Relations, without amendment:

H. Con. Res. 265. A concurrent resolution to endorse the Hermosillo Declaration on Combating Traffic in Drugs at the International Level and urge the President to encourage other nations to cooperate in eradicating narcotics trafficking (Rept. No. 95-978).

By Mr. RANDOLPH, from the Committee on Environment and Public Works, without amendment:

H.R. 4270. An act to designate the Federal building and U.S. courthouse in Hato Rey, Puerto Rico, the "Federico Degetau Federal Building" (Rept. No. 95-979).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment, an amendment to the title, and with a preamble:

S.J. Res. 135. A joint resolution designating the weekend of or preceding April 29 of each year as "Days of Remembrance of Victims of the Holocaust" (Rept. No. 95-980).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

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

Geri M. Joseph, of Minnesota, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Kingdom of the Netherlands.

(The above nomination from the Committee on Foreign Relations 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.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Geraldine M. Joseph.

Post: Ambassador to the Netherlands; nominated: 1978.

Contributions, amount, date, and donee:

1. Self: Geraldine (Geri) M. Joseph.

2. Spouse: Burton M. Joseph.

3. Children and Spouses: Shelley and Peter Kordell; Jonathan P. Joseph; Beth and Scott Joseph.

4. Parents: Edith and Samuel S. Mack.

5. Grandparents: Deceased.

6. Brothers and Spouses: Arvy and Gayle Mack.

7. Sisters and Spouses: Rossy and Richard Shaller.

(See attached sheets for all of the above.)

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

GERALDINE (GERI) M. JOSEPH.

Burton M. and Geraldine M. Joseph: Federal Campaign (Political) Contributions

	1974	1975	1976
Burton M. Joseph:			
Committee to reelect Hubert H. Humphrey			$1,000
Nolan for Congress			100
Zumwalt for Congress			100
Democratic National Committee			1,000
Gloria Griffin: "A Tribute to Walter Mondale"			100
Donald Fraser Volunteer Committee			100
DFL Victory Dinner, 1976			200
Minnesota DFC	$250		
Various for Walter Mondale			66
Carter-Mondale Campaign Victory			1,000
Geraldine M. Joseph:			
DFL Sustaining Fund		67	45
Democratic Women's Fund			125
Elle Colborn Campaign			25
Minnesota DFL		10	

NOTE.—1977 None.

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

Raymond E. Gonzalez, of California, to be Ambassador Extraordinary and Plenipotentiary of the United tSates to Ecuador.

(The above nomination from the Committee on Foreign Relations 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.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee, Raymond E. Gonzalez.

Post, Ambassador to Ecuador.

Contributions, amount, date and donee:

1. Self.

2. Spouse, Ernestine, none.

3. Children and Spouses. Names, Carlos, Paul, Greg and Cheryl, Richard, Christopher, Philip, none.

4. Parents. Names, deceased.

5. Grandparents. Names, deceased.

6. Brothers and Spouses. Names, none.

7. Sisters and Spouses. Names, John and Mary Hackney, $50, 1976. Paul Conforti, California Congressional District 26.

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

RAYMOND E. GONZALEZ.

Subscribed and sworn (or affirmed) before me this 16th day of August A.D. 1977, at Panama, Republic of Panama.

By Mr SPARKMAN, from the Committee on Foreign Relations:

Thomas D. Boyatt, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Upper Volta.

(The above nomination from the Committee on Foreign Relations 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.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee, Thomas David Boyatt.

Post, Ambassador to Upper Volta.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and Spouses. Names, Thomas, none; Christopher, none; Jessico, none.

4. Parents. Names, Mrs. L. C. Boyatt, none.

5. Grandparents. Names, none living.

6. Brothers and Spouses. Names, Michael L. Boyatt, none.

7. Sisters and Spouses. Names, no sisters.

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

THOMAS DAVID BOYATT.

Subscribed and sworn (or affirmed) before me this 28th day of February, A.D. 1977, at Santiago, Chile.

By Mr SPARKMAN, from the Committee on Foreign Relations:

Viron P. Vaky, of Texas, to be an Assistant Secretary of State.

R. Peter Straus, of New York, to be an Associate Director of the International Communication Agency.

Viron P. Vaky, of Texas, to be a Member of the Board of Directors of the Inter-American Foundation.

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

FOREIGN SERVICE

Mr. SPARKMAN. Mr. President, as in executive session, I also report favorably sundry nominations in the Foreign Service which have previously appeared in the RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of June 26, 1978, at the end of the Senate proceedings.)

By Mr. EASTLAND, from the Committee on the Judiciary:

Joseph I. St. George, of New York, to be U.S. marshal for the western district of New York.

Oliver James Keller, Jr., of Florida, to be a Commissioner of the U.S. Parole Commission.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BAYH (for himself, Mrs. HUMPHREY, Mr. EASTLAND, Mr. BAKER, Mr. MATHIAS, Mr. PAUL G. HATFIELD, Mr. INOUYE, and Mr. MIBICOFF) (by request):

S. 3280. A bill to create a National Institute of Justice; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 3281. A bill for the relief of Arron P. K. Young; to the Committee on the Judiciary.

By Mr. MATSUNAGA:

S. 3282. A bill for the relief of Duk Chan Byun, his wife Yung Ja Byun, and his children Hye Ja Byun, Hye Sun Byun, Hye Ryung Byun, and Yung Eun Byun; to the Committee on the Judiciary.

By Mr. JACKSON (by request):

S. 3283. A bill to amend the Energy Policy and Conservation Act, as amended, to improve the States' capacity for enery planning and management, to provide a consolidated

program of federal financial assistance to the States to meet their respective goals for energy conservation, production and distribution and for energy conservation, production and distribution, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAYH (for himself, Mrs. HUMPHREY, Mr. EASTLAND, Mr. BAKER, Mr. MATHIAS, and Mr. PAUL G. HATFIELD) (by request):

S. 3280. A bill to create a National Institute of Justice; to the Committee on the Judiciary.

NATIONAL INSTITUTE OF JUSTICE ACT

Mr. BAYH. Mr. President, today I join a bipartisan group of my colleagues in introducing legislation, at the request of the American Bar Association, to provide for the creation of an independent agency to fund research and pilot projects aimed at making the justice systems in this country more responsive and more efficient—the National Institute of Justice. This legislation constitutes a major undertaking by the ABA over the past 6 years, and is of vast importance to guaranteeing a significant national investment of resources in finding solutions for the problems facing our justice system. The legislation has broad bipartisan support in both the Senate and the House, has been personally endorsed by President Carter—as former Governor Carter and Candidate-elect Carter—and by numerous national groups—see appendix. In addition, several State and local bar associations, Governors and other State officials, and hundreds of individual lawyers, judges, and lay persons already have strongly supported this proposal. It is gratifying that our support of the independent NIJ has resulted in such as extraordinary spirit of constructive cooperation between such diverse groups as the United Auto Workers, the Communication Workers of America, the American Bar Association, the American Judicature Society, the Institute for Court Management, the National Juvenile Detention Association, the National Conference of Commissioners on Uniform State Laws, the National Legal Aid and Defender Association, the Salvation Army, the Volunteers of America, and the Native American Rights Fund, just to mention a few.

The extremely able and dedicated staff of the ABA have played a particularly influential role in the development of the bill. I wish to personally acknowledge the efforts of Robert D. Evans, Esq., on the ABA staff and the Honorable Robert H. Hall, chairman of the ABA Commission on a National Institute of Justice, and presently Justice of the Supreme Court of Georgia.

In focusing on the NIJ programs and activities, we have become increasingly aware of two things: first, how little we know about the functioning of the justice system or systems in this country; and second, how meager and uncoordinated are the present efforts to learn more about these systems.

In 1972, Bert H. Early, the Executive Director of the ABA, published an article in the West Virginia Law Review—see appendix—which highlighted these deficiencies and suggested, in a very broad way, the creation of an independent agency of the Federal Government to provide the coordination and funding of justice research efforts which were so sorely lacking. The article stimulated the ABA's then-president, Leon Jaworski, to appoint a task force to explore the concept, and that task force in turn led to the creation of the commission which Justice Robert H. Hall of the Supreme Court of Georgia now chairs. That commission developed a "Bill to Create a National Institute of Justice," which was approved in principle by the ABA's House of Delegates in August, 1974.

I should also note that the ABA proposal did not stem in any way from concerns about or study of the Law Enforcement Assistance Administration or its research component, the National Institute of Law Enforcement and Criminal Justice—NILE. The ABA proposal was the product of an independent concern with the overall pattern of justice research.

The National Institute of Justice Act has been developed over the years by the ABA with the involvement of many Senators and Representatives. As I mentioned, Leon Jaworski, as president of the ABA, created a 22-member interdisciplinary commission in 1972 to consider the creation of such an NIJ. The commission held a national conference to consider the concept in December 1972, which was attended by 150 national leaders from a variety of fields. The commission thereafter worked for several months preparing its proposal and sent two versions of the proposal to over 12,000 lawyers, judges and lay persons for their comments and reactions. The commission also held public hearings in five cities around the country in the spring of 1974 to receive further public response. Thus, the final proposal reflects the collective thinking and ideas of a great number of people from throughout the country. Our highly esteemed late colleague, Senator Hubert Humphrey, introduced a similar version of the NIJ bill in the 92d and 93d Congresses.

Among the cosponsors during the 92d and 93d Congresses, in addition to Senator Hubert Humphrey and myself were Senators BAKER, Bible, INOUYE, Mondale, Moss, NUNN, Pastore, PELL, PERCY, RANDOLPH, and STEVENSON. In light of former Senator Hubert Humphrey's support and leadership for an independent NIJ, I am especially pleased today to have Senator MURIEL HUMPHREY join with our other colleagues in support of this bill.

This act would provide for the creation of an independent agency to fund research and pilot projects aimed at making the justice systems in this country more responsive and more efficient. The proposed Institute would provide badly needed funding—($250 million over a 5-year period—$30 million in fiscal year 1980, $40 million in fiscal year 1981, $50 million in fiscal year 1982, $60 million in fiscal year 1983 and $70 million in fiscal year 1984, and coordination to the few already existing public and private efforts in this area. A Presidentially appointed Board of Trustees would establish overall research priorities; the Institute would then make grants to or contracts with existing organizations in the justice field having expertise in the particular subject matter area to conduct the research or pilot projects. The jurisdiction of the NIJ would include constitutional rights, civil and criminal law and procedure, as well as juvenile rights and administrative and regulatory matters at the Federal, State, and local levels. The assumption underlying creation of the Institute is that an agency with intelligent and disinterested concern for our system of law and justice can advise and educate public opinion and thereby help stimulate action for needed change and improvement in this vital aspect of our country's general welfare.

The projected cost of this agency is small, in comparison to the funds now spent for similar Federal efforts in the health and science fields. The current appropriations for the National Institutes of Health total over $2.8 billion, the National Science Foundation, $864.9 million, the National Institute of Education, $90 million, and the National Foundation on the Arts and Humanities, $114 million.

On Monday, Senator KENNEDY along with several other members of this body introduced the administration's proposal for the restructuring of LEAA—S. 3270, the Justice System Improvement Act of 1978, which I am sure we will be giving careful study. This proposal provides for the creation of a body also called a "National Institute of Justice" to perform some similar functions, but within the new Office of Justice Assistance, Research and Statistics within the Department of Justice. The administration's bill would not provide a substantial civil justice research program. The ABA believes that the NIJ must be established as an independent agency, and not be made part of OJARS or the Department of Justice, in order to have the public visibility and credibility which is essential for the success of this program. This is an issue which I believe deserves careful consideration.

While the administration's proposal represents much study and presents suggestions which demand our careful consideration, I find its exclusive reliance as an institute within the Justice Department to be inadequate for several reasons:

By placing the NIJ within the Department of Justice and closely tied to the grant-making activity of LEAA, the political needs of the department and the desires of State and local governments who receive LEAA grant funds are liable to dictate the research program which will be undertaken. These problems have plagued the current LEAA research institute, and I see little possibility of change under the administration's proposal.

The administration's proposal provides for a weak Advisory Board to the Institute, with the real power and status vested in the staff. The power should be placed principally in a prestigious, inde-

pendent Board of Trustees, appointed by the President, and not in the Federal bureaucracy.

The Institute should conduct a balanced research program covering constitutional, criminal, civil, juvenile, administrative and regulatory matters. The administration's proposal, with its primary emphasis on the criminal justice system, offers little promise of dealing significantly with other major areas of our system of law and justice.

I fear that enactment of the measure proposed by the administration standing alone and in its present form will preclude serious consideration of the creation of an independent agency capable of guaranteeing a significant national investment of resources in finding solutions for the problems facing our justice system.

The independent NIJ would not duplicate activities of the many law reform programs now being conducted by such groups as the National Center for State Courts, the ABA, and the American Judicature Society, nor would it duplicate the work of LEAA. The primary purpose of the NIJ would be to infuse badly needed public funds into the legal research and reform field. The research would be conducted not by the Institute itself, but by persons and groups having expertise in particular subjects. Thus, the NIJ would strengthen existing efforts, rather than duplicate them. The Institute would also permit a coordination of effort between such groups which have similar but not identical jurisdiction.

I would like to highlight some of our proposals' major features:

First. Administratively, I believe it is essential that Federal justice research and experimentation be performed by an agency structured so as to insure its independence. There are several reasons for this view.

First. A research entity which is part of another agency will be subjected to enormous pressures, indeed, dictation, to conduct research which will assist the agency in meeting its own needs. The research agency should be structured so that it can establish its own program and set its own priorities. The operational needs of action agencies should not control the research agency.

Second. It may be possible to place such an agency within an existing department and provide assurances of its independence to establish and conduct its own program. I question, however, whether sufficient safeguards can be established within the department in this setting to insure that the agency will have control over its budgetary process. Even if such safeguards can be devised, I am concerned that the credibility of an agency within a department may be substantially less than the credibility of an independent agency. Members of the social science research community, for example, may feel less confidence in associating themselves with an agency which, ultimately, is under the sole supervision of lawyers, as in the Department of Justice, than they would with an agency having an interdisciplinary governing body. I am also aware that many in the State judiciary, who are apprehensive about Federal involvement in the activities of State courts, would prefer that the research program be disassociated from the Department of Justice or other large operational agency.

Third. I recommend that the Institute be governed by a Board of Trustees appointed by the President. I believe it is essential that the Institute have an interdisciplinary, broadly representative governing body which will be actively involved in structuring the Institute's research program. The likelihood that a balanced group of the most capable individuals will be appointed, and that these individuals will invest the time and energy necessary to perform these important responsibilities, will be greatly enhanced if the President makes the appointments. Further, the public visibility of the Institute's work is likely to be greater if the Institute is provided such high-level leadership.

Second. In terms of mission, I have stressed the need for a comprehensive research and pilot project effort encompassing all aspects of the justice system—constitutional, criminal, civil, juvenile, administrative, regulatory, and so forth. A major problem with existing research in the justice field is that it is done on a piecemeal basis, with little coordination between the various efforts. A comprehensive approach would permit both greater awareness of other research projects and appropriate exchange of information and ideas between, for example, researchers in the criminal justice field and those in the civil field. There is an obvious danger in such a broad jurisdiction, of course, in that focusing the research efforts and developing priorities becomes more difficult than in an agency whose jurisdiction is limited, for example, to criminal justice matters. But the overlap and interface between the various components of the justice system is obvious, and the benefits of a broad and comprehensive jurisdiction far outweigh, in my view, the disadvantages.

Third. I have suggested that the great bulk of research to be performed by the Institute be performed by outside individuals and organizations. I suggest this approach because I would like to utilize existing expertise, rather than reinvent the wheel, and because I think this approach will foster diversity rather than result in a monolithic Federal bureaucracy. At the same time, it is important that the Institute's staff possess and maintain familiarity with and involvement with research methodology; otherwise, they will be unable to evaluate fully research needs and project results. I have suggested that the in-house staff be authorized to perform pilot, developmental, and evaluative studies.

Fourth. I have also suggested a variety of other functions which a National Institute of Justice might perform: training and educational programs in the law; and library, clearinghouse, information-gathering, and publication functions. These functions are intended to be secondary and supplementary to the primary research function of the NIJ, and care should be taken that the demands for these services not divert the Institute from its principal role.

Mr. President, the bill is not viewed by us as the be-all and end-all. I intend it as a vehicle to focus attention and concern on the problems of justice and the need for a greater Federal role in justice research.

Mr. President, in conclusion, I would like to quote from a statement made in April 1974, about the NIJ proposal by a former Governor of the State of Georgia, Jimmy Carter. The ABA Commission on the NIJ held a series of five public hearings around the country to receive comments and reactions to the ABA proposal. Governor Carter submitted a statement at the hearing held in Atlanta—see appendix—and his statement concluded as follows:

> I for one believe that a body like the National Institute of Justice is essential to study these and other problems of our justice system and to achieve meaningful reform. No single city or state can command the resources and personnel to undertake such an effort. Many problems of our justice system are, of course, local in nature; but many others recur time and time again in different cities and in different states. A national body which would study these problems and suggest, not dictate, solutions would be a great resource to me and other governors. The role which the Institute could serve in publicizing and coordinating existing reform efforts would also be a genuine step forward. I commend you for the fine and diligent effort which your Commission has put into this effort so far, and I heartily endorse your proposal. Its unified approach will assist us in establishing justice throughout the United States and thereby create "a more perfect Union."

I, for one, wholeheartedly support former Governor Carter's position. This country can only benefit by such bold and innovative leadership which is necessary if we are ultimately to reform, strengthen, and modernize our Nation's justice system. I applaud the President and seek his support for this much-needed program for an independent National Institute of Justice to take a comprehensive look at the entire justice system—Federal, State, and local.

Mr. President, Thomas Jefferson once said, "I am not an advocate for frequent changes in laws and constitutions. But laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times. We might as well require a man to wear still the coat which fitter him when a boy as civilized society to remain even under the regimen of their barbarous ancestors."

We cannot adequately serve our Nation's people without constant improvements.

Mr. President, I believe this legislation is a turning point in the Federal Government's commitment to assist State and local governments in their many and varied research projects. The bill can still be improved, and I look forward to the hearings and debate over

the next few months because I believe that we can always do better.

Mr. President, I ask unanimous consent that the National Institute of Justice Act and the accompanying section-by-section analysis be printed in the RECORD.

Mr. President, I also ask unanimous consent that the following materials be printed in the RECORD:

First. National Institute of Justice Proposal Endorsements;

Second. ABA–NIJ Question and Answer;

Third. ABA–NIJ former members of the Commission on a NIJ;

Fourth. ABA–NIJ present members of the Commission on a NIJ;

Fifth. National Institute of Justice—A Proposal by Bert H. Early, West Virginia Law Review, April 1972;

Sixth. The Association of the Bar of the City of New York, "A National Institute of Justice Report;

Seventh. Letter from William B. Spann, Jr., President of the ABA to The President, April 18, 1978;

Eighth. William B. Spann, Jr., President of the ABA information in response to President Carter's remarks to the Los Angeles Bar Association, May 10, 1978;

Ninth. American Bar Association Journal, "The Candidates Answer" October, 1976, Vol. 62, President Ford and Governor Carter;

Tenth. Statement of Governor Jimmy Carter, Public Hearings, ABA–Commission on a National Institute of Justice, Stouffer's Inn, Atlanta, Ga., April 22, 1974; and

Eleventh. Letters endorsing the independent NIJ.

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

S. 3280

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Institute of Justice Act".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. The Congress hereby finds that—

(1) continuous efforts must be made to improve the quality and access of justice and the fairness and effectiveness of the administration of law and to assure that all persons are able to secure prompt and efficient enforcement of their constitutional rights, legal rights, privileges, and obligations, and will receive equal justice without regard to wealth, social position, race, sex, age, religion, or national origin;

(2) improvement of justice and the administration of the law must be made not only in courts but also in administrative tribunals, agencies of government, and in relations among private individuals and organizations;

(3) the task of improving the quality and access of justice and the administration of law requires development and dissemination of knowledge and understanding of the circumstances and processes through which law affects the lives of persons at all levels of government and society;

(4) the Federal Government, through an independent body can contribute to improving justice and the administration of the law by aiding in the development and dissemination of knowledge while also recognizing the authority and responsibility of state and local government and private individuals and organizations so that their efforts are not displaced but supplemented and assisted; and

(5) the creation of a National Institute of Justice would further these purposes.

CREATION AND POSITION IN GOVERNMENT

SEC. 3. There is hereby established an independent agency to be known as the National Institute of Justice (hereinafter referred to as the "Institute").

POWERS

SEC. 4. (a) The Institute is authorized and directed, through grants, contracts, and its own activities:

(1) to make evaluations and appraisals of the effectiveness and quality of justice and the administration of law, including but not limited to constitutional and statutory rights of individuals, civil and criminal justice, juvenile justice, administrative and regulatory law, and private legal conflicts and their resolution, and to make recommendations based thereon;

(2) to conduct basic and applied research concerning justice and the administration of law, employing all necessary forms of research inquiry, including empirical and doctrinal inquiry and policy and jurisprudential analysis, according to their prospects for valuable results;

(3) to conduct experimental programs in the field of justice and administration of law through responsible public and private agencies and organizations, including agencies and organizations of state and local government;

(4) to conduct training and educational programs in law, legal and judicial procedures, and law-related research procedures, including, if desirable, fellowships for research, technical training, and advanced education;

(5) to coordinate its functions with those of other governmental, academic, and research agencies and organizations, public and private, to avoid as far as possible conflict of purpose and duplication of effort and to promote as far as possible a common set of national priorities in improving justice and the administration of law; and

(6) to conduct such library, clearinghouse, information gathering, and information dissemination functions as may further the realization of its other responsibilities;

(b) In carrying out these functions the Institute shall not undertake research, experimentation, or training through personnel of the Institute, but the Institute through its staff may engage in such developmental studies as may be necessary to formulate or evaluate research, experimental, or training proposals.

(c) In its research, experimental, and training programs, and in making recommendations for improvement and access of justice and the administration of law, the Institute shall give particular attention to the impact of justice and the administration of law on individual citizens and their opportunties to secure prompt and effective enforcement of their constitutional rights, legal rights, privileges and obligations, and to securing to them equal access to legal redress without regard to wealth, social position, race, sex, age, religion or national origin.

ORGANIZATION OF THE INSTITUTE

SEC. 5. The Institute shall consist of a Board of Trustees, a Director, and a Council.

APPOINTMENT OF BOARD OF TRUSTEES

SEC. 6. (a) The Board of Trustees shall consist of 16 members. The members of the Board of Trustees shall be appointed by the President, by and with the advice and consent of the Senate. The persons appointed shall be eminent in community and public affairs, public administration, the law, the administration of justice, or scholarship in law or related academic disciplines, and shall be selected on the basis of established records of distinguished service or accomplishment.

(b) The membership of the Board shall include:

(1) two persons, each of whom is chosen from a list of not less than five nominations made by the National Governors Conference;

(2) two persons who are judges of the courts of the states, each of whom is chosen from a list of not less than five nominations made by the Conference of Chief Justices;

(3) at least four members who are lawyers;

(4) at least four persons who are neither judges nor lawyers; and

(5) the Attorney General, the Secretary of Health, Education and Welfare, the Secretary of Labor, the Secretary of Housing and Urban Development, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Commissioner of the Office of Education, the Director of the Bureau of Prisons and the President of the Legal Services Corporation or their respective designees as ex officio members of the Board. Appointments to the Board shall be so made that its membership shall include one resident of each of the Circuits of the United States Courts of Appeals.

(c) In making appointments, the President shall solicit and give due consideration to recommendations submitted by members of Congress and other officers of federal, state, and local government, by civic and citizen organizations that have manifested an interest in justice and the administration of law, by organizations of the legal profession (including the judiciary), and by the academic branches of the law and law-related disciplines.

(d) The term of each member of the Board shall be four years, except that (1) a member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of that term; and (2) the terms of office of the members first taking office after the date of enactment of this Act shall expire, as designated by the President at the time of appointment, four at the end of one year, four at the end of two years, four at the end of three years, and four at the end of four years after the date of the first appointments made under this Act. Any person who has been a member of the Board for two consecutive terms shall thereafter be ineligible for any subsequent appointment to the Board. Such members shall be appointed within ninety days after the date of the enactment of this Act.

POWERS AND RESPONSIBILITIES OF THE BOARD OF TRUSTEES

SEC. 7. (a) The Board shall elect a Chairperson from among its members and may elect from such membership a Vice-Chairperson and such other officers as it may designate. The Chairperson and other officers so elected shall hold office for one year and until their respective successors are qualified and may be re-elected so long as they continue as members of the Board.

(b) The Board may appoint from its members an Executive Committee and assign to the Executive Committee such powers of the Board as it deems appropriate except that of reviewing and approving the budgetary proposals of the Director. It may appoint such other committees, whose membership need not be limited to members of the Board, as it deems appropriate, including advisory committees in specific areas of its work.

(c) The Board shall also:

(1) meet quarterly and at such other times as it may specify, or upon the call of the Chairperson, the Director, or at least one-third of its members;

(2) in consultation with the Director, for-

mulate the policies and programs of the Institute;

(3) at least annually prepare and make public distribution of the program plans and descriptions of projects proposed and contemplated by the Institute and solicit suggestions and comments concerning the same, with particular regard to their relationship to similar or related programs and projects of other public and private agencies concerned with justice and the administration of law;

(4) monitor and cause evaluations to be made of the value and effectiveness of the programs of the Institute;

(5) after consultation with the Council, render an annual report to the people of the United States and to Congress on the work of the Institute and the state of justice and the administration of law in the nation, including, if desirable, recommendations for improvement and access of justice and the administration of law;

(6) determine the time and place of sessions of the Council, which shall meet at least twice per year; and

(7) approve and submit budgetary proposals for the Institute.

(d) The members of the Board shall receive compensation at the rate of $100 for each day engaged in the business of the Institute and shall also be allowed travel expenses as authorized by section 5703 of Title 5, United States Code.

DIRECTOR

SEC. 8. (a) The Director shall be appointed by the Board without regard to the provisions of Title 5, United States Code, governing appointments in the competitive service. The term of the Director shall be six years unless he or she is sooner removed by the Board. The Board may remove the Director by vote of a majority of its members.

(b) The Director shall, subject to the direction of the Board, be responsible for carrying out the functions of the Institute and, except as otherwise provided in this Act, shall exercise all authority granted to the Institute by this Act. In addition, the Director shall:

(1) recommend to the Board policies and programs;

(2) prepare, for approval of the Board, estimates of the budgetary requirements of the Institute; and

(3) with the advice and approval of the Board, appoint a Deputy Director, without regard to the provisions of Title 5, United States Code, governing appointments to the competitive service.

(c) The Director may delegate to any other officer or employee of the Institute any duty or authority he or she has, except those specified in subsection (b) (1), (2) and (3).

COUNCIL

SEC. 9. (a) The Council shall consist of not less than fifty nor more than 100 members appointed by the Board for terms of three years, except that those selected initially shall be chosen in a manner such that the terms of one-third of them expire respectively one, two and three years after their appointment. The members of the Council shall be selected to provide broad representation of the views of private citizens and groups and various types of agencies concerned with the administration of justice and to draw upon diverse experience in life and various regions of the nation.

(b) The Council shall meet as provided in Section 7(c)(6). The Chairperson of the Board of the Institute, or another member of the Board designated by him or her, shall preside at meetings of the Council. The Council:

(1) shall receive and may discuss and make recommendations concerning proposals and reports of activity by the Institute;

(2) may authorize creation of study and advisory committees of the Council, whose members shall be appointed by the Chairperson;

(3) may suggest problems and topics which the Institute should undertake as authorized by this Act; and

(4) may make reports and recommendations to the Board.

(c) Members of the Council shall receive compensation at the rate of $100 per day for each day engaged in the business of the Institute and shall also be allowed travel expenses as authorized by Section 5703 of Title 5, United States Code.

FURTHER POWERS

SEC. 10. (a) In addition to any authority vested in it by other provisions of this Act, the Institute, in carrying out its functions, is authorized to:

(1) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(2) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it be used for a purpose of the Institute; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(3) in the discretion of the Institute, receive (and use, sell or otherwise dispose of, in accordance with paragraph (2)) money and other property donated, bequeathed, or devised to the Institute with a condition or restriction, including a condition that the Institute use other funds of the Institute for the purposes of the gift;

(4) appoint advisory committees composed of such private citizens, members of civic, citizen, and professional organizations, and officials of Federal, state, and local governments as it deems desirable to advise the Institute with respect to its functions under this Act;

(5) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act without regard to the provisions to Title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 of subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(6) obtain the services of experts and consultants in accordance with the provisions of Section 3109 of Title 5, United States Code, at the rates for individuals not to exceed the rate prescribed for GS–18 in the General Schedule under Section 5332 of Title 5, United States Code;

(7) accept and utilize the services of voluntary and non-compensated personnel and reimburse them for travel expenses, including per diem, as authorized by Section 5703 of Title 5, United States Code;

(8) enter into contracts, grants, or other arrangements, or modification thereof to carry out the provisions of this Act, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to Section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(9) provide for the making of such reports (including fund accounting reports) and the filing of such applications in such form and containing such information as the Director may reasonably require;

(10) make advances and other payments which the Director deems necessary under this Act without regard to the provisions of Section 3648 of the Revised Statutes, as amended (31 U.S.C. 529); and

(11) make other necessary expenditures.

(b) Each member of a committee other than a member of the Board appointed pursuant to Section 7(b) or paragraph (4) of subsection (a) of this section who is not an officer or employee of the Federal government shall receive an amount equal to the maximum daily rate prescribed for GS–18 under Section 5332 of Title 5, United States Code, for each day he or she is engaged in the actual performance of duties (including travel time) as a member of a committee. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

POLITICAL BAN

SEC. 11. Neither the Director nor any other employee of the Institute shall take any active part in political management or in political campaigns, and no such officer or employee shall use his or her official position or influence for the purpose of interfering with any election or affecting the result of any election.

COMPENSATION OF DIRECTOR

SEC. 12. (a) Section 5315 of Title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(95) Director, National Institute of Justice."

(b) Section 5316 of Title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(130) Deputy Director, National Institute of Justice."

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. (a) To carry out the purposes of this Act there is authorized to be appropriated $30,000,000 for the fiscal year ending September 30, 1980, $40,000,000 for the fiscal year ending September 30, 1981, $50,000,000 for the fiscal year ending September 30, 1982, $60,000,000 for the fiscal year ending September 30, 1983, and $70,000,000 for the fiscal year ending September 30, 1984.

(b) For purposes of the Budget and Accounting Act estimated expenditures shall be transmitted to the President on or before October 15 of the year preceding the beginning of each fiscal year and shall be included by the President in the Budget without revision, and the Institute shall not be considered to be a department or establishment for purposes of such Act.

SECTION-BY-SECTION ANALYSIS

SECTION 1

Provides that the Act may be cited as the "National Institute of Justice Act".

SECTION 2—FINDINGS AND DECLARATION OF PURPOSE

The objective in creating a National Institute of Justice is to provide an informed mind and voice on matters concerning access to justice and the administration of law in all its aspects in the American community. The Institute is authorized to inquire, to study, and to report concerning the way in which law and justice function in specific contexts of public importance, and to recommend measures for their improvement. The Institute would not be an operating agency, except to the limited extent of being authorized to assist and evaluate experimental programs conducted by other agencies and organizations. The assumption underlying creation of the Institute is that an agency with intelligent and disinterested concern for law and justice can advise and educate public opinion, and thereby help stimulate action for needed change and improvement in this vital aspect of our country's general welfare. To this end, it is contemplated that the Institute will be autonomous, non-partisan, and endowed with excellence and continuity in leadership.

The statement of findings and purposes provides a general statement of the Institute's aims and role. The Institute's field of concern is law and justice in the broadest sense, not merely the courts of the criminal justice system. In the presently foreseeable future it is contemplated that the Institute will play a subordinate role in research and experimentation in matters concerning the

courts and criminal justice, because these areas are now being vigorously explored and developed by existing agencies, notably the Law Enforcement Assistance Administration and public and private agencies with which it is collaborating. There are many other important areas of justice and law to which attention and inquiry need presently to be addressed, including such matters as constitutional rights of individuals, legal protection for consumers, access to health-care services, availability of legal services, due process and equal protection in dealing with public agencies, legally secured opportunity to participate in government decision-making, protection of privacy from official intrusion, protection of juvenile rights, accountability of public officials for actions that affect individuals, and economical adjustment of private legal disputes through such devices as arbitration. Our society has become one in which there are ever-increasing involvements of government and private organized groups in the security and well-being of individuals in these respects and many others. There should be a correspondingly increased effort to improve awareness of the legal aspects of these involvements and to reform and improve the law and its administration in response. The Institute would have a responsibility to provide leadership and support for efforts to this effect, collaborating with public and private agencies already concerned with specific areas in the general field.

SECTION 3—CREATION AND POSITION IN GOVERNMENT

Designates the name of the Institute and provides that it is an "independent" agency. In the nature of its work, the Institute will be involved in studying, experimenting, and making recommendations on matters that are complex and potentially controversial. Its effectiveness in doing so will be determined by its record and reputation of candor, thoroughness, and disinterestedness. To assure such effectiveness, it is essential that the Institute be enabled to develop its program without political interference or intervention by other branches or agencies of government. The objective in this regard is an agency maintaining the kind of independence characteristic of the National Science Foundation, the Administrative Conference of the United States, and comparable existing agencies.

SECTION 4—POWERS

States the responsibilities and goals of the Institute and provides directions for pursuing them. The provisions in Section 4(a) that the Institute may act "through grants, contracts, and its own activities" is designed to indicate that the Institute, while having wide flexibility in carrying out its responsibilities, is to draw primarily upon outside capabilities through grants and contracts rather than attempting to perform its functions "in house." Experience with government sponsored research indicates the importance of trying to avoid the insularity or bias that can result from staff-centered operations. At the same time, the Institute must have the capacity to engage in such developmental studies as may be necessary to formulate or evaluate research, experimental or training proposals. No percentage or like limitation is imposed on the proportions of effort involved, but it is contemplated that something like three-quarters of the Institute's budget would be expended through grants and contracts.

Section 4(a) paragraphs (1) through (4) describe the basic responsibilities of the Institute. The subject matter domain of the Institute is "justice and the administration of law," a term intended to signify in the broadest sense all aspects of law and justice. It includes not only such matters as the operation of courts and administrative agencies and tribunals but the systems of non-governmental dispute resolution, the problem of access of citizens and private organizations to legal assistance and redress, and the fairness and efficiency with which laws of various kinds operate in everyday life. It includes also education in law, both in law schools and in general education, penal law and corrections, the rights of juveniles, effectiveness of legal services, and comparable specific problem situations. In this large and complex subject area, the Institute, of course, will have to make continuous selection of matters for immediate attention. It cannot be expected to consider all matters included in its authority but will have to develop priorities in the light of the general public importance of various matters within its purview. It is not contemplated that the Institute would engage in any functions or activities, the undertaking of which by another agency has been specifically rejected by Congress as an inappropriate use of Federal funds. The Institute might, however, make further inquiry or investigation into the matter if it appeared that Congress had acted on inadequate or erroneous information in making such rejection.

The methods by which the Institute may concern itself with the subject of law and justice include evaluations and appraisals, basic and applied research experimentation, and training and educational programs. These methods are described in intentionally general terms. At the same time, the Institute is not authorized to become an operating agency in any field of justice or the administration of law, nor to become an ongoing source of funding for such operations conducted by other agencies.

The Institute is given no authority to establish or impose standards. Its authority is limited to the persuasive effects of its studies and recommendations, and the influence which it is hoped its prestige and reputation will provide. The provisions of Section 4(a)(4) concerning fellowships contemplate stipends for specific research and educational undertakings, some of which might be made available for research in residence at the Institute, as in the program of the National Institute of Health. It is not intended to authorize a general plan of scholarships for attending law school.

Section 4(a)(5) provides that the Institute shall pursue its responsibilities in a way that minimizes conflict or duplication with existing agencies in the field of justice and the administration of law. This provision recognizes that there are already many private and public organizations devoted to research, education, and reform in law and justice, and that there will continue to be. It is impossible to define jurisdictional boundaries in such a large and complex area, and unwise for an existing or proposed organization to be given preemptive authority in any field within it. Yet it is also important at any given time to avoid duplication and wasteful competition. Many significant problems in law and justice are not now receiving the attention they require and deserve. The direction to promote a common set of priorities requires the Institute to develop its program with an eye to the relative importance of problems, the feasibility of remedies within a given time span, and economy of available resources. Another provision, Section 7(c)(3), requires the Institute to make public dissemination of its program plans and project descriptions on a regular periodic basis and to solicit suggestions and comments concerning them. Administered by a properly constituted Board and a conscientious Director, these provisions could make possible a much greater degree of harmony and coordination of effort than presently exists.

Section 4(a) paragraphs (6) and (7) authorize library, clearinghouse, and publication activities. These are essential to the collation of existing knowledge and the dissemination of new studies and proposals. The requirement of coordination in Section 4(a)(5) applies to these provisions as well as to other elements in the Institute's program.

Section 4(b) makes clear the priority that the Institute is to give to the use of grants and contracts, and the aim of keeping its staff small. The Institute is authorized to perform pilot, developmental, and evaluative studies through its own staff, for this is often an essential element in determining whether a particular program is feasible and potentially productive. Aside from this authority, however, the Institute is to conduct its program through outside agencies—academic, research, and governmental—rather than through its own staff.

Section 4(c) provides that the Institute shall give particular attention to the impact of justice and the administration of law on private individuals. Specific attention is directed toward problems of equal protection and access to legal redress where an individual's situation may be affected by discrimination or disability on account of income status, race, sex, age, religion, or national origin. This concept is general and necessarily somewhat vague, but it signifies a very important concern. The Institute is required to give continuing attention to those who are affected by the systems of law and justice, and not merely those who administer the law or who are otherwise involved with it in a professional capacity. The ultimate aim of all legal institutions and procedures is a better and more acceptable quality of justice for the citizenry at large. Primary concern for this interest is a vital element of the Institute's responsibilities.

SECTION 5—ORGANIZATION OF THE INSTITUTE

Provides that the Institute shall consist of a Board of Trustees, a Director and a Council. This arrangement is intended to provide the Institute with a responsible governing body consisting of a small number of nationally distinguished members, competent professional leadership and administration, and the advice of a broadly representative consultative council The aim is a balance between public stature, technical and intellectual expertise, and popular expression in the policy and program of the Institute.

SECTION 6—APPOINTMENT OF BOARD OF TRUSTEES

Section 6(a) provides for the Board of Trustees. There are to be 16 trustees, a number large enough to have wide representation and yet small enough to assure efficiency and direct responsibility in supervision of the affairs of the Institute. The members of the Board are to be appointed by the President, by and with the advice and consent of the Senate. This is the method most widely employed in constituting an independent federal agency, and has the advantage that the appointments may be made from a single national perspective and through a procedure that facilitates maintaining balanced diversity in the Board's membership.

The trustees are to be chosen on the basis of civic concern and professional stature. All appointments are to be made without regard to partisan or special interest affiliation and with due concern for establishing a broadly representative group. At the same time, recognition of the central importance of the states in the administration of justice is preserved through participation of the National Governors Conference and the Conference of Chief Justices in the process of selecting the Board. Similarly, the requirements for geographical diversity in the Board's membership and inclusion both of persons who are lawyers and those who are neither judges nor lawyers are designed to assure that the Board will have a broad perspective of the administration of justice. In addition a group of ex officio members

shall be on the Board composed of the Attorney General, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Secretary of Housing and Urban Development, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Commissioner of the Office of Education, the President of the Bureau of Prisons and the Director of the Legal Services Corporation. The cause of justice is far too important to be left entirely in the hands of the legal profession or to a group of persons from any one region.

The terms of the Board members are four years, in terms staggered to provide continuity. A limit of two consecutive terms is imposed to provide gradual turnover on the Board and thus the introduction of fresh viewpoints and abilities.

SECTION 7—POWERS AND RESPONSIBILITIES OF THE BOARD OF TRUSTEES

The Chairperson and other officers of the Board are to be chosen by the Board from its members. It is contemplated that the burdens of time and effort falling on the Chairperson will be very substantial, and those on the other officials similar though in lesser degree. The Chairperson in particular should therefore be a person who is able and willing to give substantial and continuing attention to the business of the Institute. The Board would be in the best position to know which of its members could most effectively discharge these responsibilities. Section 7(b) authorizes the Board to constitute necessary committees, including an Executive Committee. This will permit the Board to give close and continuing attention to the program of the Institute. To the same effect is the provision in Section 7(c)(1) that the Board shall meet at least quarterly.

The remaining provisions of Section 7 specify responsibilities and authority of the Board. The Board is required by Section 7(c)(3) to disseminate its program plans and proposed projects on a periodic basis. This provision, as noted earlier, is designed to facilitate coordination of the Institute's program with that of other public and private agencies concerned with justice and the administration of law. It should also provide the Institute with valuable critical commentary on the feasibility and value of projects it is considering to undertake. Section 7(c)(4) requires the Board to monitor the programs of the Institute, which is its inherent responsibility in any event, and to cause evaluations to be made of the Institute's work. The aim is to make sure that the Board has independent advice concerning the usefulness and progress of projects its has authorized. Section 7(c)(5) requires the Board to make an annual report on behalf of the Institute. The report is to be addressed to the people as a whole and to the Congress inasmuch as the points of implementation of its findings or recommendations, depending on their subject and substance, may be either legislative, judicial, or executive at national, state, or local levels of government.

SECTION 8—DIRECTOR

Provides for a Director to be appointed by the Board. The Director is chief administrative and professional officer of the Institute, but is responsible to and subject to the direction of the Board, by whom he or she may be removed.

SECTION 9—COUNCIL

Provides for the Council. The size of the Council is to be determined by the Board within the limits of 50 to 100 members. It is contemplated that the number may vary from time to time, depending on experience as to the participation of Council members and on availability and willingness to serve of properly qualified individuals. The Board is directed to constitute the Council in such a way as to provide a wide cross-section of civic, vocational, professional and individual interests.

The Council is intended to serve as a forum for suggesting matters to which the Institute should give its attention and for reviewing and commenting upon endeavors which the Institute has undertaken. It is empowered to have committees created and to make reports and recommendations to the Board. It is not empowered to speak for the Institute, nor to authorize expenditure of Institute funds. The Council will thus be dependent on the force of persuasion to make itself effective. If the Board exercises its power of appointment with vigor and diligence, as it may be expected to do, the Council can provide both guidance and strong public support for the efforts of the Institute.

SECTION 10—FURTHER POWERS

Provides housekeeping provisions, patterned after those in effect for comparable independent agencies already constituted by law.

SECTION 11—POLITICAL BAN

Prohibits political activities as applied to the Director and other staff members of the Institute. It would not prohibit persons who hold political office, for example a state governor, from being on the Board.

SECTION 12—COMPENSATION OF DIRECTORS

Provides for the compensation of the Director and the Deputy Director under Section 5315 of Title 5, United States Code and Section 5316 of Title 5, United States Code, respectively.

SECTION 13—AUTHORIZATION OF APPROPRIATIONS

Provides for the authorization of appropriations, of $30,000,000, $40,000,000, $50,000,000, $60,000,000 and $70,000,000 for fiscal years 1980 through 1984 respectively.

Provides as a safeguard of the Institute's independence that pursuant to the Budget and Accounting Act, that estimated expenditures shall be transmitted to the President on or before October 15 of the year preceding the beginning of each fiscal year and shall be included by the President in the Budget without revision, and that the Institute shall not be considered to be a department or establishment for purposes of such Act.

NATIONAL INSTITUTE OF JUSTICE, PROPOSAL ENDORSEMENTS

American Bar Association.
American Judicature Society.
Association of American Law Schools.
Association of the Bar of the City of New York.
Bar Association of Erie County (N.Y.)
Bar Association of Metropolitan St. Louis.
Barristers Club of Nashville Tennessee.
Barristers Club of Sacramento County.
Chicago Council of Lawyers.
Communications Workers of America.
Detroit Bar Association.
Federal Bar Association (by its Council on Federal Law, Agencies & Practice).
Institute for Court Management.
League of Women Voters of Kansas.
Long Beach (Calif.) Bar Association.
Los Angeles County Bar Association.
Michigan State Bar Association.
National Bar Association.
National Conference of Commissioners on Uniform State Laws.
National Juvenile Detention Association.
National Institute of Municipal Law Officers.
National Legal Aid and Defender Association.
Native American Rights Fund.
New York State Association of Magistrates.
North Dakota State Bar Association.
Salvation Army.
State Bar of Georgia.
Toledo Bar Association.
United Auto Workers.
Vermont State Bar Association.
Volunteers of America.
Washington State Bar Association.
Wichita Bar Association.
Young Lawyers Section of the State Bar of Arizona.

AMERICAN BAR ASSOCIATION—NATIONAL INSTITUTE OF JUSTICE, JULY 1978

Question. How well is our justice system working?

Answer. No one knows. The system is at once huge and complex. Getting a handle on its operation is a massive task. It is perhaps understandable that no on-going comprehensive study of our justice system (or rather systems—local, state and federal; civil; criminal; administrative; regulatory; law schools; courts; police; correctional facilities; arbitration panels; small claims courts; legal insurance, etc.) is being made.

We do know that the demands made upon these many components of our justice system grow daily. It is estimated some 20,000 state laws and 300 federal laws are passed each year. The burden on our courts has increased dramatically. The federal criminal caseload alone increased 172 percent between 1960 and 1970. Prisons and other correctional facilities house 450,000 offenders watched over by 150,000 correctional personnel. The system grows like Topsy, moving from crisis to crisis and without the capacity for calm reflection.

Question. What is presently being done?

Answer. A considerable number of groups are doing excellent work with respect to particular aspects of the justice system. But the resources available to these groups have been very limited and have inhibited these groups from achieving the prominence and impact which they deserve. Furthermore, while there has been some attempt to coordinate efforts, there has been no effective system for doing so. Overall, legal research has been performed in a piecemeal and largely uncoordinated fashion. And federal efforts to provide leadership and assistance have been fragmented and very limited in scope.

By contrast, federal investments in research programs in other fields are substantial. The National Institutes of Health are currently funded at an annual level of $2.8 billion dollars; the National Science Foundation, $864.9 million; the National Institute of Education, $90 million; and the National Foundation on the Arts and Humanities, $114 million.

Daniel Webster once said "Justice is the most important thing on this earth." But the problems of justice can't be solved by piecemeal voluntary efforts. To insure a significant national investment of resources into finding solutions for the problems facing our justice system, the American Bar Association in 1974 first proposed the creation of a National Institute of Justice.

Question. What is the American Bar Association's proposed National Institute of Justice?

Answer. As proposed, the National Institute would be an independent agency of the federal government. (The American Bar Association, therefore, would have no control over the National Institute's affairs.) The National Institute would review and study the ways our various justice systems operate in practice and would develop imaginative ways of improving those systems. Research and pilot programs would be conducted under its auspices by groups around the country already having expertise in a particular area. Thus, a large isolated bureaucratic regime would not be created in Washington.

The jurisdiction of the National Institute would be as broad as the field of justice itself. The governing Board of the National Institute would select the specific issues and concerns within that broad jurisdiction which would be dealt with by the National

Institute. The following issues are representative of those which the Institute might explore:

(a) How can citizens be better informed about the workings of the justice system which affect their lives so greatly every day?

(b) How might the frequent conflict between an individual's right of privacy and the public's right to security be sensibly resolved?

(c) How might legal procedures and legal documents commonly used by average citizens be simplified to reduce confusion and misunderstandings?

Question. How was the proposal developed?

Answer. The American Bar Association, under the leadership of its then president, Leon Jaworski, created a 22-member interdisciplinary Commission in 1972 to consider the creation of such a National Institute of Justice. The Commission held a national conference to consider the concept in December 1972, which was attended by 150 national leaders from a variety of fields. The Commission thereafter worked for several months preparing its proposal and sent two versions of the proposal to over 12,000 lawyers, judges and laypersons for their comments and reactions. The Commission also held public hearings in five cities around the country in the spring of 1974 to receive further public response. Thus, the final proposal reflects the collective thinking and ideas of a great number of people from throughout the country.

Question. How does the ABA's proposal differ with the Carter Administration proposal to create a National Institute of Justice within the Department of Justice?

Answer. The Carter-proposed National Institute of Justice (DJNIJ) is merely a revamp of the existing National Institute of Law Enforcement and Criminal Justice. As such, the Administration's NIJ would not be independent, would not guarantee a substantial civil justice research program, and would not have the public visibility and credibility which is essential for the success of this program.

In fact, the Administration's NIJ would be plagued by many of the same problems which have plagued the existing LEAA research program. For example, the existing LEAA research arm (NILECJ) has been widely criticized for its lack of independence. Yet the Administration plans not only to leave the institute within the Department of Justice but within the same office which will supervise the LEAA block-grant program.

Question. Why is the question of independence so important?

Answer. Independence is crucial to the effectiveness and eventual success of a National Institute of Justice.

A research institute within the Department of Justice and part of a grant-making "action agency," as the Carter Administration is proposing, could face a number of serious problems that would endanger its control and credibility.

For example, political pressure for short-term results are likely to be far greater if the research institute is part of a mission-oriented agency. Operational needs of an "action agency," too, could influence the nature of the research program. And, it is quite possible the research institute would be totally obscured and overwhelmed by grant-making activity. Another concern is that budgetary considerations within a Department may prevent the research program from receiving an appropriate level of funding.

Also there is some question as to whether the Department of Justice would be as willing and able to reach out and attract the diversity of cooperation and support from other disciplines which an independent agency could attract. Certainly independent status would substantially enhance the credibility afforded to a federal justice institute by state and local governments. And there is no question that public credibility of and visibility for the research institute and its work will be far greater if it is independent and not part of an action agency.

Finally, justice research, to the considerable extent it involves the Judicial Branch, should not be placed in a line agency within the federal Executive Branch but should be housed in a more neutral setting.

Question. Doesn't the justice system need more money to solve its problems, not more research studies?

Answer. No one disputes that many components of the legal system—the corrections components, for example—are underfunded and understaffed. But throwing money blindly at major problems is not a productive or fiscally-sound approach. A research body offers the promise of returning greater financial returns to society than it costs, apart from the primary benefit of improving the justice system.

Question. Wouldn't NIJ activities duplicate many law reform programs now being conducted by such groups as the National Center for State Courts, the ABA, the American Judicature Society, and others?

Answer. No. The primary purpose of the NIJ would be too infuse badly-needed public funds into the legal research and reform field. The research would be conducted not by the Institute itself but by persons and groups having expertise in particular subjects. Thus, the NIJ would actually greatly strengthen existing efforts rather than duplicate them. The Institute should also permit a coordination of effort between such groups which have similar but not identical jurisdiction.

Question. Isn't the NIJ just another example of the Federal Government telling the states how to run their affairs?

Answer. Absolutely not. The NIJ would have no control over the operations of any component of any state's justice system. It would have no control over decisions as to what states should receive federal assistance for the operation of their legal system. It would perform research and conduct pilot programs in an effort to develop suggestions for improvement in the justice system nationally; but it would have no authority to compel compliance with its suggestions in any fashion.

There are problems common to each State. Some localities do not have the resources to devote to solving some of these problems. The NIJ will be able to help states and localities interchange ideas and coordinate efforts to improve the justice system. It will not, and cannot, tell state and local governments how to run their justice systems.

Question. How much will this cost?

Answer. The projected cost of this agency is small—perhaps $30 million to start (roughly the budget of the research institute now operated within the Law Enforcement Assistance Administration), expanding to around $50–$60 million when fully operational. In comparison to the funds now spent for similar federal efforts in the health and science fields (current appropriations for the National Institutes of Health total over $2.8 billion and for the National Science Foundation ($864.9 million), and in relation to the benefits which such a program is likely to return to society, the cost is remarkably low. The returns to society—both in dollar savings and in improvement in the quality of justice—will far exceed this modest cost.

Question. Is the ABA the only supporter of this proposal?

Answer. Not at all. The following national groups are among those which have already endorsed the concept: American Judicature Society; Association of American Law Schools; National Bar Association; National Conference of Commissioners on Uniform State Laws; National Juvenile Detention Association; National Legal Aid and Defender Association; Native American Rights Fund; Salvation Army; United Auto Workers; Volunteers of America.

In addition, several state and local bar associations, governors and other state officials and hundreds of individual lawyers, judges and lay persons already have strongly supported the proposal.

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Jonathan C. Rose, Washington D.C., was DOJ liaison to NIJ Commission; now in private practice somewhere.

Dean Rusk, Athens, GA, former Secretary of State, now on University of Georgia Law School faculty.

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Sargent Shriver, Washington, D.C., former Ambassador, OEO head, now in private practice.

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[From the West Virginia Law Review, April 1972]

National Institute of Justice—A Proposal

(By Bert H. Early*)

FOREWORD BY WARREN E. BURGER †

From his long experience and the vantage point of his unique position in the organized bar, Mr. Early has given voice to a great need—a great void—in our system. He correctly and carefully disclaims any thought of "homogenizing" the systems of justice, but rather presses for some central means to energize the valuable programs for improved justice now in being and to probe for new solutions. We spend more than two billion dollars annually through the National Institutes of Health and the country is better for it. But the social, economic and political health of the country must be fostered by a comparable facility to revitalize the faltering machinery of justice—and happily that can be done for a mere fraction of the NIH budget. Whether it is financed by private as well as public funds is not central to the proposal—the key is the *function* of such an institute.

Mr. Early's provocative article is advanced by him to stimuate debate. It deserves a wide audience and I sincerely hope it will be challenged and debated—vigorously—by the bar and the public.

I. THE PROPOSAL

The intent of this article is to advance a proposal for the creation of a new type of organization, national in scope and purpose, to marshal our resources and energies for an accelerated program of modernization of our system of law and justice to serve better the needs of over 200 million Americans.

Such an organization might be called *The National Institute of Justice.* At the outset, it should be clearly understood that the Institute would not conflict with or duplicate the Federal Judicial Center, the National Center for State Courts or other existing organizations. It would, rather, complement their activities and encourage a broader base of support. In broad perspective the concept may be stated simply: the establishment of a national public agency, governed by the most eminently qualified individuals available, and dedicated to the mission of giving national cohesion and increased public and private support to the now inadequate and piecemeal efforts directed toward improving the justice system at all levels. The National Institute must deal with the system of justice as a whole. That system consists of interlocking and interdependent components—substantive laws; procedures; legislative bodies; institutions for dispute settlement, such as courts and administrative agencies; law enforcement offices and agencies and corrections and rehabilitation facilities and services; and a host of individuals who work within the legal profession. The ultimate aim is to achieve a structure of civil and criminal justice that is more effective, expeditious and accessible to the pesent day needs of all our people.

The goal is unassailable. It was the dream of our founding fathers and it has been the aspiration of our nation's foremost leaders for nearly two centuries. And yet it has eluded us.

No less a figure in American jurisprudence than Roscoe Pound spoke prophetically of its elusiveness as early as 1906. In his historic paper, entitled *The Causes of Popular Dissatisfaction with the Administration of Justice,*[1] Dean Pound addressed the Annual Meeting of the American Bar Association with these words:

"I venture to say that our system of courts is archaic and our procedure behind the times.

"Uncertainty, delay and expense, and above all the injustice of deciding cases upon points of practice, which are the mere etiquette of justice, direct results of the organization of our courts and the backwardness of our procedure, have created a deep-seated desire to keep out of court; right or wrong, on the part of every sensible businessman in the community. . . .

"But too much of the current dissatisfaction has a just origin in our judicial organization and procedure. The causes that lie here must be heeded. Our administration of justice is not decadent. It is simply behind the times. . . .[2]"

Again in 1937, more than thirty years later in *Law: A Century of Progress,*[3] Dean Pound tolled the same ominous bell:

"Looked at superficially, many features of the legal order of today may well give us pause. . . . The multitude of regulations required by an urban, industrial society encountering the pioneer habits of self-reliance and private judgment which have come down from the past make the time seem one of disrespect for law. . . . The inadequacy of the judicial organization and legal procedure of the past century do deal with the mass of litigation arising in our great urban centers leads to widespread complaint and popular dissatisfaction with the administration of justice. . . .

"Questions of law have ceased to be local. We are so unified economically that no question is limited by jurisdiction and venue as questions used to be. Questions of law today are likely to be questions of business as well. Creative work cannot be done under limitations of party and jurisdiction and venue.

"Even less may the work of reshaping the law be left to occasional legislative commissions or to the intermittent and hurried action of judiciary committees. In such matters as procedure the judicial councils which have been set up so generally in the past decade will do much. *But the ministry of justice, which will take the functioning of the legal order as a whole for its province and give to the problems of peace the continuous study which is so generally given by governments to preparations for war, seems to be a long way off in the English-speaking world.*[4]"

Progress in the administration of justice has been painfully slow. It has failed to keep pace with a burgeoning, automated, electronic society that is increasingly urban, impatient and demanding. Indeed, the situation has taken on crisis dimensions.

This is not to say or to imply that there has been no progress. Indeed, there has been much. However, its hallmarks too frequently have been a patchwork of effort lacking focus, continuity and adequate funding. Notwithstanding accelerating efforts to improve the administration of justice, Chief Justice Burger, in his address on the State of the Judiciary in July, 1971, was compelled to observe that:

"Essentially the problems of the federal courts, in common with state courts and indeed much of the entire fabric of our national life, are suffering from an accumulated neglect. This disrepair became an acute problem as the load increased, and we cannot ignore it any longer."

It is not the purpose of this article to dwell on the obvious and profound inadequacies of our present system of justice. It is rather to suggest that the evolution of our legal system makes it clear that vital elements still are missing. These elements are focus, continuity, innovation, experimentation, and research, all melded under capable direction and with adequate funding. The catalytic agency to synthesize these elements can, in this writer's judgment, be a National Institute of Justice.

This article is then a document of advocacy. The historical details of our failure to attain the noblest purposes of our founding fathers are left to the legal philosophers and historians. It is sufficient to accept the fact of that failure as a point of reference and to move on to more promising methods that offer brighter hope for future progress.

II. A NATIONAL INSTITUTE OF JUSTICE

It is proposed that the National Institute of Justice take the form of an independent, not-for-profit, federally chartered corporation designed to coordinate and support the machinery of justice. It would be governed by a board composed of the most eminently qualified and widely representative individuals available. Its mission would be to make the administration of justice more fully responsive to the needs of our contemporary society.

Purposes of the Institute

The primary purposes of the Institute would be as follows:

First, to provide direction and leadership that would be both responsible and responsive. The Institute would serve as consultant and advisor to all components of the machinery of justice at both federal and state levels.

Second, the Institute would provide a permanent body charged with the development of an overview of the law, with the establishment of priorities, with responsibility for the coordination of educational resources, research activities and projects of the organized bar.

Third, the Institute would serve as a fiscal agent to receive and disburse public and private funds for research, evaluation and action.

There is today no single body or individual in the federal or state governments charged with these ongoing overall responsibilities. Cooperation has improved between states and the federal government, but cooperation is not enough. Although each government has certain officers in each branch responsible for specific areas of the administration of justice, each is limited by constitution or statute to only a part of the law's sweep. It seems clear that the three brances of government should have the benefit of the research, counsel, advice and recommendations of an agency that has the primary mission for and a continuing commitment to the improvement of the quality of the legal system as a whole.

Footnotes at end of article.

Functions of the Institute

It is envisioned that the proposed Institute would perform the following functions:

1. Survey, Appraisal and Information Collection and Dissemination Function

It would be essential that the Institute undertake and maintain an ongoing survey and appraisal of the functioning of the legal system and of the principal efforts to modernize, reform and reconstitute legal processes and the administration of justice. The task of determining what has been and is being done by the federal, state and local governments, private foundations, law schools, interest groups, professional organizations and other educational institutions is a task of great magnitude, but is essential to any coordinated effort directed toward modernization and reform.

The collection and dissemination of information about the operation of our society—*a law society*—is presently conducted by a variety of federal, state and local government agencies, private foundations, the organized bar and private institutions. The present efforts are uncoordinated, frequently incomplete, redundant and permeated with frustrating, circular reference systems. The creation of a National Institute of Justice would, for the first time, provide a single source from which comprehensive and complete information might flow. The Institute could provide an invaluable national link among governmental, private and professional interest groups directly or tangentially concerned with the same or closely related problem areas. The use of modern computer technology makes the goal achievable within a reasonable time and within our economic means.

2. Diagnostic function

The diagnostic function would have as its goal the discovery and evaluation of the principal bottlenecks in the flow of civil and criminal justice and the recognition of new problem areas as they arise. This function has never been assumed by any agency or organization in the country on a continuing and permanent basis. So little attention and money have been devoted historically to this function that the legal profession is constantly in the posture of reacting to certain issues only after they have developed to crisis proportions. With an effective diagnostic function, problem areas can be dealt with more expeditiously and effectively.

3. Coordination function

Coordination would be one of the Institute's foremost roles. This necessarily includes the establishment of priorities, the development of long range goals and a continuing evaluation of the results of action and research programs of the various components of the law society, both public and private.

4. Research catalyst function

The disorganized and proportionately insignificant allocation of resources for legal research is evidence of the crucial need for a catalytic function of the Institute in this area. Although lack of sufficient funding is certainly one of the most crippling aspects of the anemic state of legal research in the nation today, a solution does not involve solely the infusion of more dollars. Continual inquiry must be made as to the value and relevance of research undertakings. The Institute could perform a highly valuable service as a catalyst in the development of areas in which research has been long neglected.

Most legal research of the past has been doctrinal research *in law*. However, studies have begun to appear which shed new light on the operation of the processes of law in society—research *about law*.[5]

Footnotes at end of article.

5. Advisory function

The Institute could play a significant and effective role as an advisor to all branches of government and to the profession. Its recommendation, based upon research and analysis, would certainly tend to carry great weight.

6. Continuity function

Perhaps one of the critical roles which the Institute would assume is to provide functional continuity for the modernization effort. History demonstrates clearly that continuity of direction and operation has been a principal weakness in the functioning of law and in the quest for more effective administration of justice.

7. Neutrality function

A seventh function of the Institute would be its mandate to insure neutrality. It should remain, as much as possible, free from political control of its decisionmaking. While the rule of law in theory knows no party, the nature of our representative government inevitably brings political influences into the operation of the system of justice. An Institute governed impartially is both possible and essential.

Funding

It is contemplated that the Institute would be funded from both public and private sources. It would be both a grantor and a grantee of funds.

In its role as grantee, the Institute would be authorized to receive funds for its general administration, under contract for specific projects and programs and under grants for either specified or unspecified uses. As grantor, the Institute might serve as a funding agency for investment of public or private funds in research or action programs.

It is this writer's view that the creation by Congress of this Institute would not eliminate the continuing need for funding from numerous other sources including individuals, organizations, foundations and state and local governments. On the other hand, it is perfectly apparent to all who have examined the problem that the costs involved in modernizing the justice system—after generations of neglect—will be so large that additional responsibility for making funds available must necessarily rest with the federal government. As the Institute progresses in its survey function, it will only then be able to project accurately financial needs in a realistic way.

It should also be understood clearly that the Institute is not intended to supplant or put out of business existing agencies performing valuable work in the various areas of law and justice. Its aim will be to do more, not less. The Institute will be in posture to provide a common rallying point for concerned individuals and organizational efforts to obtain congressional and executive response for projected needs.

Staff

It is contemplated that the Institute would have an interdisciplinary, broadly experienced professional staff of modest size. The staff, as directed by the governing authority, would not assume the functions presently performed by other organizations; rather, it would undertake functions not now being performed or being performed on a very limited basis.

It is not anticipated, for example that the Institute would itself be a large research organization. It would contract with universities, law schools, bar associations, legal associations, bar foundations, other professional organizations, private corporations and governments to carry out evaluation and research projects.

The staff would be responsible to and serve under the direction of a governing body which might be constituted as a Board of Directors.

Governing Authority

It does not seem desirable at this juncture to suggest the specific type, size, or constituency of a governing board. Suffice it to say that the governing body should be appointed for a term of years by the President with the advice and consent of the Senate. Ex officio members might include the Chief Justice of the United States and other high government officers. In all events, members of the governing body should be selected with due regard to their experience, knowledge and proven dedication to the mission of justice.

What the Institute Should Not Be

In any attempt to define what the National Institute of Justice should be, it is critical to inquire as to what it should not be.

The Institute should not usurp functions of existing entities. On the scene today are a number of public and private organizations dedicated to the modernization and efficient functioning of the law society. These include the Federal Judicial Center, the National Center for State Courts, the Law Enforcement Assistance Administration, the American Judicature Society, the American Bar Foundation and other private foundations of research and action in the field of justice, bar-related organizations and research centers. In its coordination role, the Institute would utilize existing organizations, and indeed nurture their further development and usefulness.

The role of the Institute would most certainly not include any attempt to federalize the state courts. Such a statement hardly seems necessary except for the extreme fear of some that action at a national level that involves funding by the federal government may be so motivated. It is contemplated that the Institute would be as much the servant of the states as it would of the federal government. If the Institute were to be successful, its reputation would depend upon its even-handed administration, its thoroughness and its understanding of the broad spectrum of problems in the administration of justice on the local, state and national levels.

It was said long ago and repeated many times since that the law is too important to be left to lawyers. The work of the Institute would be much too pervasive and too important to be other than interdisciplinary in its governing body, its staff and its concept.

The institute is envisioned as a cooperating, coordinating, and consulting organization that would make its resources available for the investigation, analysis and solution of legal and law-related problems. Thus, its staff would primarily perform consulting services, as opposed to having direct responsibility for the implementation of reform movements. In short, the staff would provide insight into ways that modernization resources might be utilized most efficiently.

Because the Institute would not be possessed with coercive power, its effectiveness could only develop as a result of its creativity and its applied expertise in fulfilling its functions. Only if the Institute proves capable of performing that function would its services be in demand or its recommendations be heeded.

III. STRUCTURES OF RESPONSE IN OTHER DISCIPLINES

The concept proposed in this article is not entirely new. Almost precisely fifty years ago Mr. Justice Benjamin Cardozo urged the creation of a ministry of justice.[6] He envisioned that a ministry consisting of five members might observe the law in action, develop recommendations for reform in the civil law and report to Congress and the state legislatures where change was needed. In making his recommendations, Mr. Jus-

tice Cardozo observed that his thought was not novel, pointing to the prior proposals of Roscoe Pond, Lord Westbury, Lord Haldane and others.[7]

Other proposals have been made in Congress in more recent years. The late Senator Dirksen and Congressman Emanuel Celler proposed the creation of a national foundation of law in bills submitted in 1967.[8] These bills were offered in full cooperation with the American Bar Association, the Association of American Law Schools and the American Association of Law Libraries. In both the 90th and 91st Congress Senator Fred Harris submitted proposals for the creation of a National Foundation of the Social Sciences.[9] Senator Harris' proposal envisioned a foundation designed to support academic research, education and training in the fields of political science, economics, psychology, sociology, anthropology, history, law, social statistics, demography, geography, linguistics, communications, international relations, education and other social sciences. In presenting his bill, Senator Harris called particular attention to the fact that his proposed foundation would perform no in-house research, but would, in keeping with the precedents set by the National Science Foundation and the National Foundation for the Arts and Humanities, underwrite, fund and support academic research, education and training in the social science field.

Appropriate inquiry might be made as to whether a National Foundation for the Social Sciences could adequately perform the functions of the proposed National Institute of Justice. The argument can be made quite forcefully that the interdisciplinary atmosphere of an organization devoted to the social sciences might indeed have a statutory effect.

This proposition has been thoughtfully analyzed by Robert B. McKay, Dean of New York University Law School, when he made the following observation: [10]

"[S]ocial scientists do not regard law as a kindered discipline. Accordingly it seems likely that in a social sciences foundation the law would always be the poor relation and, that the important tasks we believe should be undertaken would not be supported except where there was an interdisciplinary study to be made in which law could play a complementary, but secondary, role."

With respect to the Dirksen-Celler proposals of 1967, it should be made clear that the leadership of the American Bar Association played a very significant role. Indeed, the leadership of the ABA, the Association of American Law Schools and the American Association of Law Libraries actively solicited the support of Senator Dirksen, Congressman Celler and their colleagues in both the House and Senate in support of that proposal. Why then, it may be asked, after four years has the proposal not been more actively pursued by the associations to the point that it might even today already be a reality. Such legislation commonly requires a germination period. At the time the Dirksen-Celler proposals were introduced it was assumed that it would take a number of years to bring about the adoption of them or similar legislation. Indeed, the history of the several models described above indicates that this has been the pattern in each case.

The present proposal is thus not reflective of any abandonment of the broad principles contained in the original Dirksen and Celler bills, but is rather reflective of the refinements in thought that have evolved during the past four years. Indeed, it is recognized that there may be other refinements of the concept suggested from many sources before any proposal becomes a reality.

Footnotes at end of article.

Both the Dirksen and Celler bills and the Harris bills envisioned the creation of their proposed foundations as independent administrative agencies of the federal government—one of four general types of independent government or government funded entities. These are the independent administrative agency, the government owned corporation, the federally chartered not-for-profit corporation, and federally chartered profit making corporation. The National Institute of Justice is envisioned as a federally chartered not-for-profit corporation.

Existing models of independent administrative agencies are the National Science Foundation and the National Foundation of the Arts and Humanities. An example of a federally chartered not-for-profit corporation is the Corporation for Public Broadcasting.

The National Science Foundation was created to strengthen both research and education in the natural sciences. It was brought into existence as the result of a report prepared at the request of the President describing how best to develop a national science policy and to support basic research and education in the natural sciences. The report was submitted in 1945 by Dr. Vannevar Bush, Director of the Office of Scientific Research and Development. It recommended the establishment of an independent federal agency composed of members to be selected by the President. The establishment of the National Science Foundation took some five years after submission of the Bush report. The Foundation is authorized to make grants to institutions and provide fellowship programs for individuals; it now receives about a half-billion dollars annually for its work.

The National Foundation of the Arts and Humanities was created to encourage and support the humanities and the arts through studies and grants. It was many years aborning. In 1951 President Truman requested a report on the status of the arts with respect to government. Two years later a report was submitted to President Eisenhower and in 1962 President Kennedy urged approval of a measure establishing a federal advisory council on the arts. Proposals were made in the next two years for a national council on the arts and a national arts foundation. In 1964 the National Council on the Arts was created and in the following year the National Commission on the Humanities joined forces with the Council to bring about the creation of the National Foundation of the Arts and Humanities. The Foundation has certain unique qualities of organization that are not here relevant. Its importance lies in the fact that responsible individuals in the field envisioned an independent agency modeled along the lines of the National Science Foundation, which would provide general support for research and education in the humanities. There appeared to be no other logical place within the federal establishment to provide a home for the arts and humanities.

The Corporation for Public Broadcasting was created in 1967 following a study by the Carnegie Commission on Educational Television. While acknowledging the free speech dangers implicit in government participation in the communications media, the Commission recommended extensive federal funding for television program production. In terms of structure, it is significant that the Commission proposed the establishment of a federally chartered not-for-profit corporation which would be neither an agency nor an establishment of the United States Government. Under the enabling legislation the President of the United States, operating under certain guidelines, appoints the fifteen members of the Corporation's Board of Directors. The Corporation may receive funding from federal and other sources.

It was thought that the federally chartered not-for-profit, corporate structure would most effectively provide the independence, continuity, funding and political insulation vitally needed for operation in this controversial and sensitive area.

Each of the foundations and corporations described above bears some similarities of purpose and function to the proposed National Institute of Justice. Each is designed to provide a home for a discipline or a profession with great public service commitment that will make possible a continuity of direction and leadership, will encourage development, research and education, will provide responsible funding grants and will insure competent, independent and neutral direction. Each of these provides an analogy and insight for considering the creation of a National Institute of Justice.

IV. THE MANY PRESSURES OF MULTIPLE CHANGE

An overview of developments within the profession emphasizes the need for the creation of a National Institute of Justice.

In addition, inquiry is justified as to whether any existing institution, or a combination of institutions, including the organized bar, are presently capable of performing along the functions deemed necessary for effective and comprehensive modernization.

Accordingly, some of the major areas of evolution in the modernization process are considered, followed by an analysis of the role of the organized bar in this process.

During the Twentieth Century the components of our machinery of justice—the courts, the practicing profession, legal education, the methods of practice, law related research—have too frequently lagged in their response to the problems and challenges of our rapidly changing society. Indeed, the practice of law in this country has been described as the last cottage industry. It should be observed that this has not been for want of concern on the part of dedicated lawyers, judges and numerous organizations of the profession. Rather, problems concerning the administration of justice and the practice of law have for too long been considered primarily the provincial concern of judges, lawyers and their constituent organizations. As has been described, in areas such as medicine, the natural sciences, and the arts and humanities, it was deemed in the national interest to create national organizations to foster development, research and innovation.

In contrast, the failure of this nation, until recently, to view problems concerning the effective administration of justice with sufficient seriousness to warrant a commitment of substantial resources from the federal government, has meant that those struggling to modernize the legal profession, legal education, and our justice machinery, have had to work with minimal funding wholly inadequate to meet the magnitude of the problems. We have too often gone in separate ways without carefully evaluating the merits and effectiveness of our efforts and without resources to interrelate results with the overall problems of judicial administration. The inescapable conclusion one draws from most of these past efforts is that the approach has been comparable to trying to construct a space vehicle by assigning a thousand engineers, each left in isolation, to design one specific component with little comprehension as to how the components would function together when assembled. It may, therefore, be helpful to look briefly at certain components of the justice system in terms of the recognized needs of an urban society.

How law is practiced

In comparison with other vital aspects of society, the practice of law today and the basic methodology of the courts have changed relatively little from the days of Thomas Jefferson and John Marshall.

For many early nineteenth century lawyers

the primary and often sole source of legal research and knowledge * * * and Blackstone's *Commentaries*. And between 1790 and 1840 our courts produced only about 50,000 reported decisions. The next fifty years produced about nine times as many—450,000. From 1890 to the present the courts have added almost two million published decisions to our legal storehouses of knowledge. And this does not include the hundreds of thousands of new regulations which have been issued by administrative agencies or the approximately 10,000 new statutes adopted by legislatures each year.

New tasks and new demands have been placed on today's lawyer. The call for equal access to the machinery of justice and to professional legal counseling for the poor and for members of minority groups has created new demands to which the bar has responded. Increasingly, questions are being raised as to the adequacy of available legal services to middle income American families.

Inherent in the increased recognition and utilization of the courts as effective vehicles for social and political change has been the mounting pressure on the lawyers and his profession to promote and protect equally due process, and the "public interest" for those who could not individually afford a lawyer's services. New opportunities for public service by younger attorneys have developed. Law firms and bar associations have been challenged to attain an even higher level of public service activity.

Unlike industry and government, lawyers have not been able to reduce appreciably the number of expensive man-hours they devote to routine legal tasks. With certain exceptions, which will be discussed later, the ideal of the profession has long been to provide custom-tailored services to each client. The sources of essential legal research—court decisions, statutes, and administrative regulations—have skyrocketed quantitatively. Lawyers' research has become increasingly costly, and it is the client who must pay for the straining shelves of law books and the expensive manpower necessary to extract needed materials in them.

Yet young associates and solo practitioners, still pore through indices, digest, cases, commentaries and looseleaf services in the same manner as their great-grandfathers. These laborious methods remain the primary information retrieval system of the profession.

To this day routine legal research remains largely untouched by computer technology. The reasons are probably less the limitations of the computer than the high capital cost of better legal indices for computer use and for programming millions of bits of information. This high initial cost has certainly been a major deterrent to extensive utilization of automated information retrieval.

Another characteristic of the legal profession today is its increasing specialization. The lawyers image of himself as a generalist, fully proficient in the law as a whole, bears little relation to reality. New areas of legal practice and inquiry have been added steadily during this century, *e.g.*, labor relations law, federal tax law, civil rights law, antitrust law, and securities regulation law. Numerous other examples could be cited. The practicing lawyer today is constantly confronted with the problem of how little of the "seamless web of the law" he can hope to practice with proficiency.

The growing national uniformity of laws harbors profound implications for the profession and its admission procedures. This century has been particular witness to the growing influence of federal laws and agencies regulating both man and his industry, labor and finance. The portion of a lawyer's time spent on matters regulated solely by state law has declined steadily. Suffice it to say that many practitioners today devote most of their practice to federal matters which were unknown 75 years ago.

The move toward modernization: An unfinished saga

The American Bar Association and the legal profession as a whole have in recent years devoted increased time and resources to consideration of methods for modernization. There exists a growing awareness in the Bar that the profession as traditionally structured has not met many of the legal needs of individual citizens. Changes in society as a whole have exerted certain but incalculable pressure on the profession to change. They have been affected by the emphasis upon research and innovation and by the increasing demands first of the poor and now of the middle class to share in the benefits of an affluent society, including quality professional services of the doctor and lawyer.

Issues with respect to the modernization of the profession have arisen in two broadly defined areas. First, issues concerned with the internal organization of the legal profession, including specialization, use of paraprofessionals and computer technology are increasingly being considered. Second, issues related to the delivery of legal services to individuals are undergoing intensive scrutiny. These include, *inter alia*, prepaid legal cost programs group legal practice, legal aid and judicare, and lawyer referral services.

Specialization

Specialization in the legal profession is a fact of life. A proportionately smaller number of lawyers today practice alone or with one partner—the standard form in rural small town America—the America of the Nineteenth Century. Industrialization and urbanization brought the growth of large industrial, financial and governmental organizations. As these institutions grew, so did the law firms which provided them with legal services. As large law firms developed, the lawyers within them often began to specialize and to organize into departments in order to provide better services to the client. Large corporations promoted specialization in the legal profession by employing lawyers as corporate counsel to serve the highly specialized legal needs of the corporation. The growth of widely diversified and specialized government agencies resulted in the need for large numbers of attorneys to work in the agency's specialized area. Government has become a vast training ground for specialized legal practice. As a result of these changes in the structure of the profession, over twenty percent of the lawyers who practice in the United States today are "one client"—government or corporation—lawyers. The move toward specialization also has affected the single practitioner and small firm. Specialities such as personal injury litigation, criminal law, domestic relations, and labor law are increasingly areas of specialization for the single practitioner or small firm lawyer.

While the de facto growth of specialization has been recognized both within the profession and by its clients, the bar has only began to cope with the implication, opportunities, and problems of the formal recognition of specialization. Much experimentation will be necessary concerning certification requirements, e.g., the roles of law school curriculum, "internship" or apprenticeship, continuing legal education and graduate law study in training for a specialty. The area of examinations in speciality certification is still largely unexplored. No state as yet has developed a comprehensive specialist certification procedure, although California presently is experimenting with a certification system for specialists in workmen's compensation, tax law and criminal law.

The implications of specialization also remain largely unexplored. Careful study and thought must be given to the role of the general practitioner in an era of increasing specialization. A determination must be made as to the appropriate mix of formal education and practice for training in various fields of specialization. For example, it may be reasonable to require a litigation specialist to have more courtroom experience than classroom experience. The mix of the practical and the formal education for a tax expert may be quite different. Heretofore, the resources for exploring these questions have been woefully lacking.

Paraprofessionals

The case for greater utilization of paraprofessional legal assistants was well stated by the ABA Special Committee on Availability of Legal Services, which observed that: "freeing a lawyer from tedious and routine detail, thus conserving his time and energy for truly legal problems, will enable him to render his professional service to more people, thereby making legal services more fully available to the public."

Traditionally lawyers have used clerks and secretaries as assistants for handling administrative aspects of the practice of law such as filing papers, searching court records, preparing forms, and other routine tasks. As the profession strives to extend legal services to more and more individuals in lower and middle income groups, the occasions in which routine operations may be performed by trained lay assistants will be multiplied.

The ABA Special Committee on Lay Assistants for Lawyers recently conducted a pilot training program for legal assistants and is developing model curricula for training law office personnel. The future for the development of educational programs for such training in colleges and law schools and of certification standards and procedures for this new vocation are virtually unlimited.

New systems for delivering legal services to individuals

The profession is in a state of ferment with respect to the development of new systems for the delivery of legal services to persons of moderate means and to the disadvantaged. There are genuine considerations of professional standards concerned with independence of the attorney and with conflicts of interest. Serious questions have been raised as to whether the present pattern of providing legal services to individuals is adequate to enable the average person to know when a problem confronting him is one in which a lawyer can help, to know whether the lawyer's service is worth its cost; and to locate a lawyer he is confident can and will provide the expert legal assistance he needs, at a cost he can afford. The conclusion is unavoidable that the profession, as presently structured, does not adequately meet these criteria, to serve low and middle income people.

Pressures of change have come from several sources. In the 1960s the Legal Services Program of the Office of Economic Opportunity was created, as a result of the widespread recognition of the inadequacy of the then existing legal services delivery system for low income Americans. Today about 2,000 legal services attorneys are handling approximately two million cases each year for the poor. The same questions are being raised now of the adequacy of legal services available to individuals above the poverty line—those in the middle and lower-middle income groups.

Probably the greatest force today behind the development of new systems to make legal services more readily available to middle income groups is the trade union movement. Labor organizations have obtained, through collective bargaining, substantial medical coverage benefits for their members in the form of insurance and group practice

programs. It was predictable that they would also turn their attention to legal services available to their members.

Group legal services

The term "group legal services" as discussed here connotes a plan in which a group or organization designates one or more lawyers to represent individual members of a group. Numerous group legal service plans are operating today, frequently under the sponsorship of unions.

These plans have created continuing controversy within the legal profession. However, the issue no longer primarily revolves around whether such plans may be allowed to exist. The United States Supreme Court, in a series of decisions, the most far-reaching of which was *United Mine Workers* v. *Illinois State Bar Association*,[11] has shielded such arrangements against charges of unauthorized practice. One commentator has stated that the holding in the *Mine Workers case* makes it "difficult to conceive a practical and attractive group legal arrangement that would not be protected by the rule it announces."[12]

Group legal services have been around for some time. Certain forms of group practice have been accepted by the profession. Probably the most common group legal service arrangement is in the automobile insurance industry. Individuals protected by automobile casualty insurers must, in the event of a claim, accept counsel of the company's choice. In addition, the legal needs to the poor served tnrough the OEO-funded Legal Services Program are primarily met by a group legal services structure. A substantial amount of additional study and analysis must be performed to determine the effectiveness of group legal services plans. But the need for new methods to better meet the legal services requirements of large numbers of people can be said to constitute one of the most pressing problems facing the profession today. The Bar can ill-afford to ignore the reality of group legal service programs; a brochure published by the ABA Standing Committee on Lawyer Referral Service has observed that "the time may well come when a majority of the general public will receive all needed legal services from lawyers provided by lay organizations."

Prepaid Legal Cost Insurance

Another change in the structure, primarily in the funding of legal services for the middle class, has been embryonic development of prepaid legal cost programs. Examples of the growth and success of hospital and medical insurance plans have raised the question of the feasibility of financing legal services generally through pre-payment plans. The funding of "routine" legal services under this concept is, strictly speaking, a pre-payment or financing mechanism rather than a spreading of the risk. The automobile insurance industry has long had experience in calculating the cost of legal services as part of the insurance premium; but this has been primarily coverage for legal catastrophe. As yet we have had little experience with prepayment mechanisms for routine legal services.

The American Bar Association Special Committee on Prepaid Legal Services is sponsoring a pilot program in Shreveport, Louisiana, in cooperation with the Shreveport and Louisiana State Bar Associations, which has been in operation since January, 1971, with Ford Foundation funding. The Committee is undertaking sponsorship of a pilot program in Los Angeles, California, which has not yet begun operation. Prepaid legal service programs are attractive to trade unions, and other consumer groups, including teachers and municipal, state and federal employee associations. However, problems concerning such sponsorship are myriad. For example, employer contributions to such plans are presently not authorized under the Taft Hartley Act. Unlike health and medical service benefits, contributions to these plans are not tax deductible. Whether state insurance departments will consider prepayment plans as insurance for the purpose of state regulation is not presently known. These and other questions require further exploration.

Many members of the organized bar see prepaid legal cost programs as a vehicle for providing more effective legal services for individuals without placing a lay intermediary between the attorney and his client. Indeed, due in large part to efforts of the Association, twenty-three state bar committees have been established to explore the establishment of prepaid plans.

Lawyer Referral Services

Although lawyer referral systems have been in operation in the United States since 1937, there are today only 267 lawyer referral offices in operation, dealing with approximately 250,000 clients each year.

The present system bears some similarities to the legal aid system as it was constituted prior to the introduction of the OEO Legal Services Program. It is typically under-financed, inadequately advertised, and underutilized. To be sure, the present system is making a substantial day-to-day contribution to the availability of legal services to the public, but those who have given the most penetrating consideration and study to the problem are generally dissatisfied with the capacity of the present system to meet the much wider unfilled needs of middle-income families. The ABA Standing Committee on Lawyer Referrel Service has indicated that a major problem is to provide some assurance to the public that the quality of service which an individual will receive would be significantly better than could be accomplished by selecting a lawyer at random from the yellow pages of the telephone book.

Judicare

The OEO Legal Services Program has almost exclusively utilized the approach of funding offices staffed by attorneys employed to perform legal services for the poor. Only a few OEO-funded programs permit the client to select a private practitioner who is then reimbursed by the funded agency. This system is known in the profession as "Judicare," and its supporters argue with considerable logic that it is the only practical method of providing legal services in rural and sparsely settled areas.

The need for evaluation of methods

Thus, there is a pressing need to intensify the study of the effectiveness and relative cost of new and old systems for the delivery of legal services. The basic obligation of the profession is to provide legal services to the public, to make such services available to all members of society, and, in so doing, to insure that they are performed by qualified persons who have been adequately educated.

Legal education—Law schools in lockstep

Law schools are today in a period of profound soul searching and re-evaluation. With striking uniformity they have followed curriculum and teaching methods developed in the late Nineteeth Century. Most are now revising their curricula to introduce more effective methods of educating and training lawyers to deal with the problems of the late Twentieth Century.

Traditionally, the source of most law school teaching materials has been appellate court opinions. Of course, any practicing lawyer knows that the world of the appellate court opinion is often a considerable distance from the real world of most legal practice. Until recently there was little innovation in law school teaching methods and content. The case method of teaching long reigned supreme.

It has been suggested that the complete lawyer should receive three types of education which may or may not be subject to combination. He should be taught to analyze the legal significance of issues. He should be taught techniques of practice. He should learn the social, political and economic dynamics of our society inasmuch as the law is the basic regulator of these dynamics Traditionally too, law schools have seen themselves as educating prospective lawyers to *think* like lawyers, leaving to others education in the technique of practice. Clinical teaching was relatively rare, with legal writing reserved, in the main, for the law review editor.

Until recently little concern was evidenced over the failure of legal education to familiarize prospective lawyers with how society works. But today, law schools are profoundly involved in a re-evaluation of their role and responsibility to themselves and to society as a whole. Law schools are increasingly concerned with the relevance of their curriculums. This concern has produced new courses and orientation. There has been increasing concern with interdisciplinary aspects of legal education. Clinical training is increasingly supplementing the traditional classroom curriculum.

In the past a major limitation of experimentation with curricula and teaching methods was the view perhaps accurate, that most law students were headed in the same direction; i.e., toward traditional private practice. Law schools today are faced with a far greater diversity of student interest. This is due in part to expanded opportunities for legal practice in government, legal aid, and other full-time public service activities, and to the increasing specialization of private practice. Teaching has been oriented to training legal generalists on the theory that even a specialist needs to know something about other areas of the law. However, the reality of specialization has raised questions about whether there is a role for law schools in the training of specialists. Moreover, continuing controversy revolves around the relevance and use of the third year of law school. Clinical training, interdisciplinary studies and specialization are all increasingly vying for that last year of the law student's education.

Increasingly, law schools are asking whether they should break the uniformity of past patterns and begin to develop specialties and particular emphasis, i.e., should urban law schools emphasize urban legal studies with perhaps a greater research and behavioral orientation.

Three major barriers have served to retard experimentation with new curricula; the conservation inspired by the success of the case method in its time; bar examinations; and funding. The so-called "national" law schools are perhaps most affected by the first factor, because they have been most successful by traditional standards of legal education. On the other hand, although the national law schools have not oriented their course primarily toward bar examination, the majority of schools have been sensitive to that practically. Undoubtedly, tradition-bound bar examinations have discouraged innovation in law schools. Some experimentation with a national bar examination is now going forward under the auspices of the Association of American Law Schools and the National Conference of Bar Examiners. This effort is being widely applauded and carefully observed.

Formal education in the law is still a remarkably young idea in this country. In fact, it has only been in the last half century that the majority of practicing lawyers have been trained by law schools. Historically, young aspirants to a legal career "read law" in the office of a licensed practitioner, and the requirement of formal legal education as a prerequisite to taking a bar examination is a comparatively recent development.

Footnotes at end of article.

Many law schools had their beginning in the basement of a YMCA and as night schools catering to the part-time student. A large number of schools were started as proprietary institutions and there remain a surprising number of such institutions, especially in the State of California. Among the law-budget proprietary operations large classes are the normal mode of operation. It is also true that even the law schools forming a part of universities are expected to produce a profit. The motion of a university law school receiving research and educational grants from its parent organization generally has been a foreign thought. As an inevitable result, curricular innovation, including greater clinical and research programs, which would require significant increases in law faculties, facilities and funding, have been slow to develop.

Research by law school faculties and students has, over the years, been minimal, especially as compared with other disciplines. That which has been undertaken has largely been of a doctrinal nature.

The history of the funding of legal education and research from private sources suggests that significant change in the foreseeable future is unlikely, unless new and substantial sources of income are made available.

Continuing legal education

Continuing legal education has in recent years become a significantly more important component of the lawyer's training.

This, too, reflects a recognition of the incompleteness of law school education as preparation for legal practice.

The early efforts of the Practising Law Institute and the Joint Committee on Continuing Legal Education of the American Law Institute and the American Bar Association paved the way for rapid growth of programs of continuing legal education. Such programs are now widespread. Today most state and some local bar associations, as well as many law schools, sponsor continuing legal education programs.

Increasingly, the profession sees continuing legal education as at least a partial answer to a number of its problems. It is seen as a way of minimizing the learning which a new attorney might otherwise experience at a client's expense. It is looked upon as a method by which specialists can increase their proficiency and general practitioners develop specialties. It is an avenue for bridging the knowledge gap created every time major new legislation is enacted.

Funding is and will continue to be a major problem in continuing legal education. It restricts the types of programs which can be offered; programs must appeal to significant numbers of attorneys in order to pay for themselves. To a limited extent profitable programs can support the unprofitable ones, but this places serious limitations on developing programs for less profitable specialties or in areas of public service. The result is that these areas are likely to be neglected.

Two illustrations of education in the area of court administration are worthy of note. Until 1964 there did not exist in this country a school for state trial court judges. It was only with the inspired leadership of Tom C. Clark, then Associate Justice of the U.S. Supreme Court, and the infusion of substantial funding by the Kellogg and Fleischmann Foundations that the American Bar Association's National College of the State Judiciary became a reality. More than 30 percent of the state trial judges of courts of general jurisdiction have since attended the college.

Until last year there was no institution in the United States for the education of court administrators and executives. Under the leadership of the Chief Justice, Warren Burger, and with a large grant from the Ford Foundation, the Institute for Court Management was created. It already has graduated two classes and has inspired some law schools to undertake the development of programs leading to a master's degree in Court Administration. It was a large factor in persuading Congress to enact the Court Executives Act creating "business managers" for each of the Federal Circuits.

Regulating professional qualifications

The state has conferred on the lawyer the exclusive right to provide legal services. Yet neither the profession nor the state has developed a procedure for admitting attorneys to the bar which assures the public that those who are licensed to practice have achieved a reasonable level of competency or possess the necessary moral qualifications. It is fair to say that there is near consensus within the legal profession that state bar examinations do not truly test whether an applicant is competent to practice law. Indeed, no law firm would base its decision to employ an admittee on the strength of his passage of such a written examination. The plain fact is that no written test can measure the ability of an applicant to perform many of the facets of practice. Furthermore, while specialization is a growing reality in the legal profession, bar examinations do not reflect this fact, and at the present time there is no later certification procedure regulating such specialization.

Many are of the view that the regulation of professional qualifications is not the concern of the law school. Some suggest that it is the responsibility of the organized bar. Others lay the responsibility on the judicial branch of the state government. In any event, it is certainly the responsibility of some group within the profession, and the plain fact is that professional competency is not now receiving sufficient constructive attention.

Research in and about law

One of the hallmarks of today's society is its reliance upon research as an instrument of development and progress and for the solution of problems. One need look no further than his television set to observe the constant emphasis on research in the advertisements of program sponsors. Typically, one hears such slogans as "progress through research;" "Ford has a better idea;" "progress is our business;" etc.

Insofar as research in the law is concerned, it may be divided into two types: doctrinal and empirical. They have been described by Professor David Cavers of the Harvard Law School as research in law and research about law. In the field of doctrinal research, or research in law, the legal profession has historically made important contributions. This kind of research required little money and could be traditionally performed in the library. This was pointed out by Dean Robert B. McKay of New York University Law School in his testimony before the Senate Subcommittee on Government Research [13] in which he observed that lawyers have made great progress in systematizing and unifying the law through their doctrinal research. This has been true despite the obstacles presented by a diverse federal system comprising more than fifty separate jurisdictions. By way of illustration, Dean McKay pointed to the substantial contributions of the American Law Institute and the Commissioners on Uniform State Laws as examples of what lawyers could do with modest sums of money.

However, it has been only in very recent years that the profession has come to realize the importance of empirical research and the responsibility of the profession for its conduct. This awakening concern for research about the law led to the establishment of the American Bar Foundation, the research arm of the American Bar Association. The work of the Foundation has been primarily limited by the funds available to it. Law schools evidence a growing commitment to research about the law, but here, too, financial resources are limited.

As Chairman of a Special Committee on Financial Resources of the Association of American Law Schools, Dean McKay conducted a study financed by the Walter E. Meyer Research Institute of Law, the purpose of which was to ascertain the level of private philanthropic contribution to legal education and legal research. The results of that study indicated that private foundation support has not been large. During the twelve-year period of the study most of the funds were granted for construction, fellowships and individual research. Only a modest amount was made available for empirical research.

Of the funds granted to law schools, more than 60 percent was concentrated among five schools and nearly 80 percent was concentrated among ten. The Ford Foundation was the principal grantor, accounting for more than two-thirds of all foundation support. Grant money went primarily to international legal studies, graduate fellowships for law teachers and the administration of justice, particularly in the criminal field. In the final year of the period studied, only a little over one percent of all foundation grants allocated to the sciences and social sciences was directed to law.

In the same period, the government was providing only negligible support for legal research. At the time of Dean McKay's study, the National Science Foundation had made no grants for legal education or legal research. Likewise the National Endowment for the Humanities made no research grants to lawyers. Proposals introduced in Congress for a National Foundation for Social Sciences and a National Foundation of Law and Justice have not yet received wide support.

In contrast, research in support of the physical sciences has fared very well at the hands of both private and public agencies. Admittedly, the legal profession has been slow to awaken to its responsibilities and opportunities to improve the function of our law society through research about the law. But it has been demonstrated that lawyers working together and working in conjunction with other disciplines are quite capable of making the system work better. The obvious need today is to provide adequate funding, continuity and direction.

The crisis in the administration of justice

The inadequacy of our nation's judicial machinery, which was designed to meet the needs of an agrarian society in the late Eighteenth Century, has produced a crisis in our judicial system. This crisis is the result of a multitude of long-neglected problems which, because of increasing demands being placed upon our court system, now threaten much of the system with virtual collapse. There is hardly an urban court which is not touched by the crisis. Interminable delays threaten to destroy the usefulness of our civil courts for the peaceful and orderly resolution of conflicts. Delays in the criminal courts too often mock both the concept of deterrence or the rights of accused. Many judges now must devote an inordinate amount of time to administrative details which could be better handled by others. At the same time, assembly line justice often prevails. Appellate courts are equally affected. In many state systems the average time required to process an appeal can consume in excess of eighteen months.

The task of resolving the problems which contribute to this crisis is not easy, for resort to simplistic solutions usually creates a high risk of destroying the very system which such solutions are intended to save. What is needed is reform within the context of our legal traditions.

The focal point of the machinery of justice

Footnotes at end of article.

in our country is, of course, the judge himself. Too frequently judges, especially in the minor courts that process the bulk of the civil and criminal litigation, receive little or no judicial training or orientation. There remain substantial problems with respect to insuring that judicial officers are competent and have the requisite temperament to adjudicate disputes in a courtroom setting.

On the positive side of the ledger, this is an area which is receiving substantial direction and attention from Chief Justice Burger. He, for example, has been instrumental in the creation of the new National Center for State Courts. His predecessor, Chief Justice Warren, was the moving force in the establishment by Congress of the Federal Judicial Center. Under the broad mandate of Congress, one of the primary functions of the Federal Judicial Center is "to conduct research and study of the operation of the courts of the United States, and to stimulate and coordinate such research and study on the part of other public and private persons and agencies."

The new National Center for State Courts, together with the Federal Judicial Center, the National College of the State Judiciary under the sponsorship of the Section of Judicial Administration of the ABA, and the Institute for Court Management, all are recent examples of advances in strengthening judicial training and support.

V. TRANSLATING DESIRE INTO REALITY

Inherent in the efforts of most legal reformers, voluntary and professional, has been the assumption that if enough human energy were applied by enough dedicated groups existing machinery could be improved and the crisis in justice could be met. The piecemeal, uncoordinated nature of the various efforts seems not to have been regarded as a deterrent. At least they have been accepted as an inevitable fact of judicial life. But with it all, comprehensive, coordinated national planning is lacking and effective modernization of the system appears still to be an elusive and urgently needed element.

From the time of the creation of our constitutional government, the condition of justice has suffered almost directly in proportion to the increasing population and the increasing complexity of our society. The responsibility, although often the subject of partisan political debate, has fallen on the lawyer and ultimately the organized bar. Lawyers are educated to understand and deal with the application of the rule of law. Moreover, they are virtually the only professional group having complete access to the machinery of the administration of justice; the enforcement of social mandates through law. In short, they are intermediaries between the theory of the law and its application to society.

Yet the very nature of the practice of law can be contradictory in terms of the interests of society and the interests of particular individuals, or organizational and governmental entities. They are paid advocates, ethically bound to consider the client's interest as paramount to virtually all other considerations. This obligation is to be juxtaposed with a commensurate obligation—also a matter of ethics—to work for the public good.

Efforts to accommodate these co-equal obligations have been pursued, in the past, mainly through the organized bar or through government. One has only to consider the makeup of the executive, judicial and legislative branches of government to note the intricate and pervasive involvement of the lawyer in the administration of justice. Chief Justice Burger aptly articulated this in his State of the Judiciary address at the 1971 ABA Annual Meeting several months ago:

"A strong, independent, competent legal profession is imperative to any free people. We live in a society that is diverse, mobile and dynamic, but its very pluralism and creativeness make it capable of both enormous progress or debilitating conflicts that can blunt all semblance of order. One role of the lawyer in a common law system is to be a balance wheel, a harmonizer, a reconciler. He must be more than simply a skilled legal mechanic. He must be that, but in a larger sense he must also be a legal architect, engineer, builder and, from time to time, inventor as well. This is the history of the lawyer in America, and in this respect he is unique among the lawyers of all societies."

While it cannot be said that kinship among lawyers is so great that one may find them huddled together under one roof, they are gregarious enough that the vast majority of them belong to state and local bar associations. More than half of them voluntarily belong to the American Bar Association, the national organization of the profession.

The movement to organize lawyers into bar associations on a national, state and local level is a little over a hundred years old. The organization started in metropolitan areas and the more populated states. The early associations were voluntary in nature and had modest budgets. Permanent staffs did not exist; association projects were carried on by volunteers. The Bar was not seen in those days as responsible for the discipline of members and certainly not as the harbinger of reform.

The passage of time brought many changes. As bar associations assumed larger roles in professional standards of conduct and practice, and a larger share of responsibility for the machinery of justice, the so-called integrated bar began to develop among the states. This concept requiring every practicing lawyer to belong to the professional organization of lawyers in a state, took place largely during the middle third of this century. Today, half of the States have integrated bars and the trend in that direction is continuing. Even with this movement, inadequate funding has in most states prevented the mounting of effective programs of discipline, education and improvement of judicial machinery.

It may surprise some to realize that the American Bar Association had no permanent staff for the first half of its nearly one hundred years. Indeed, not until the middle of the 1950's did it have sufficient funds to staff a limited number of projects and activities. Membership in the American Bar Association has trebled in the past fifteen years, while its income has grown by more than 600 percent. In the last decade an even more significant development has taken place—the funding of public service and educational projects through foundation and government funds. About half of the Association's annual income now comes from such sources. It is this writer's belief that that percentage will grow in the decade ahead to between 65 percent and 75 percent of the Association's entire income.

Indeed, the progress of the organized bar in the past decade has been so marked that some believe that the crisis in the administration of justice can be met by the organized bar under the direction and leadership of the American Bar Association. While the forward strides of the last decade are a source of encouragement and even some pride, and while the leadership of the American Bar Association is dedicated to the proposition that this organization has the potential for even greater and more significant contributions to the cause of justice, it must be recognized that there are some inherent qualities of a voluntary organization that militate against its completely effective fulfillment of this lofty role.

On the one hand, the ABA House of Delegates includes the widest possible range of representation from all groups who constitute the legal profession today. The Association's present day structure is its strength when called upon to pass upon the conclusions or proposals of others. Nevertheless, because it is a voluntary organization and represents so many diverse and often irreconcilable views, it should not surprise or discourage us to note that the contribution of the organized bar to the solution of today's social problems has been, of necessity, confined largely to the realm of ideas. Time freely contributed by volunteers, projects financed by volunteers, machinery tuned to decision by consensus, cannot produce the kind of massive, venturesome, sustained and coordinated attack which is required in the field of justice today. Volunteer bar associations, the American Bar in particular, perform at their maximum efficiency in unfolding and debating a wide range of views. By their very nature, however, voluntary bar associations cannot, at the same time, be fearless in research, forceful in exposition and confident in criticism.

Even if the organized bar could, through reorganization or otherwise, build a sufficient structure from which to conduct far-reaching research programs and substantial pilot programs in our quest for a better society, an argument can well be made against proceeding in that direction. As long as bar associations remain voluntary, their ability to represent all lawyers is impeded. Should the day come when all lawyers speak with one voice, the rest of society may nonetheless readily question both our method and our motive.

The very size of life and society today minimizes the effectiveness which any voluntary group can now offer. Individual contractors alone cannot produce coordinated space programs. Individual railroads cannot serve a sprawling nation. Society today requires a National Institute of Justice.

VI. CONCLUSION

The late Reginald Heber Smith once observed that men can learn, if they must, to put up with physical imparity and economic inadequacy; but that a brooding sense of injustice makes them want to tear things down. We who bear the primary responsibility for the machinery of justice in this nation, if we are to be faithful to our oath, must be vigilant in our search to find new and better ways to make equal justice under the law a living reality. It is incumbent upon us to move forward with common purpose and high aspiration that is worthy of our heritage. The National Institute of Justice is a concept whose time has come.

FOOTNOTES

* Executive Director, American Bar Association, Chicago, Illinois; A.B., Duke University, 1944 ('46); J.D., Harvard University, 1949. Mr. Early wishes to thank his associates, John W. Atwood and David C. Long, for their invaluable assistance in the preparation of this article. Mr. Early practiced law in Huntington, West Virginia from 1949 to 1962.

† The Chief Justice of the United States.

[1] Pound, *The Causes of Popular Dissatisfaction with the Administration of Justice*, 40 AM. L. REV. 729 (1906).

[2] *Id.* at 742, 749.

[3] Pound, *A Hundred Years of American Law*, in LAW: A CENTURY OF PROGRESS 8 (A. Reppy, ed. 1937).

[4] *Id.* at 20, 23, 24.

[5] *E.g.* Laswell and McDougal, *Criteria for a Theory About Law*, 44 S. CAL. L. REV. 362 (1971).

[6] Cardoza, *A Ministry of Justice*, 35 HARV. L. REV. 113 (1921).

[7] *Id.* at 114.

[8] S. 2627 and H.R. 13584, 90th Cong., 1st Sess. (1967).

[9] S. 836, 90th Cong., 1st Sess. (1967), and S. 508, 91st Cong., 1st Sess. (1969).

[10] *Hearings on S. 836 Before the Senate Subcomm. on Government Research*, 90th Cong., 1st Sess. (1967).

[11] 389 U.S. 217 (1967).

[12] Schwartz, *Changing Patterns of Legal Services, in* LAW IN A CHANGING AMERICA 117, (G. Hazard, Jr., ed. 1968).

[13] *Hearings on S. 836 Before the Senate Subcomm. on Government Research*, 90th Cong., 1st Sess. (1967).

[From the Federal Legislation Report, Jan. 31, 1976. The Association of the Bar of the City of New York]

A NATIONAL INSTITUTE OF JUSTICE

(By the Committee on Federal Legislation)

INTRODUCTION

Vigorous attention is given to specific aspects of justice and law in the American community by numerous government and private groups. But, no overall program exists concerning law and justice. Toward that end, the American Bar Association has proposed the establishment by Congress of a National Institute of Justice. The proposal is the product of a three-year effort by a distinguished commission of the American Bar Association, which conducted hearings, solicited comments from a broad cross section of organizations and individuals, and carefully studied the concept.[1] At its August 1974 meeting the House of Delegates of the American Bar Association voted its approval for a law establishing a National Institute of Justice.[2]

Briefly, the Institute would be established as an independent federal agency along the lines of the National Science Foundation, designed to aid in the continuing task of improving the quality of justice and the administration of law. The Institute would not be empowered to effectuate changes but rather it. mandate would be to inquire, study, and report to decisionmakers and the public recommended measures for improving the manner in which law and justice function.

Unlike existing agencies,[3] the Institute's mandate would extend throughout the entire field of law and justice. Areas to which it would devote attention include legal protection for consumers, availability of legal services, access to health-care services, and economical adjustment of private legal disputes.[4]

To implement its far-reaching purposes, yet to avoid duplication, the proposal envisions that the Institute would coordinate its efforts with the many governmental, academic and other organizations currently working in the field of law and justice.

In our opinion, the American Bar Association's proposal for the establishment of an independent, nonpartisan agency to provide leadership on matters concerning law and justice has considerable merit. Although we suggest changes in the present form of the proposal, we join the American Bar Association in urging the establishment by Congress of a National Institute of Justice.

I. EXPLANATION OF THE AMERICAN BAR ASSOCIATION PROPOSAL

Since no bill embodying the proposed National Institute of Justice has been introduced in Congress,[5] our comments necessarily are limited to the form of proposal endorsed by the American Bar Association at its August 1974 meeting. The principal features of the ABA proposal are as follows:

Section 1 of the proposal establishes the Institute as an independent agency of the federal government.

Section 2 authorizes the Institute to conduct research, experimental programs, training and educational programs, and clearing house and library functions. Such efforts may be carried out by the Institute through grants, contracts, or its own activities, and must be coordinated with the activities of other bodies to avoid duplication.

Footnotes at end of article.

Section 3 provides that the Institute shall be composed of a board of trustees, a director and a council.

Section 4 sets forth rules concerning the constituency of the Institute's board of trustees. Charged with primary responsibility for the activities of the Institute, the board would consist of 16 members appointed by the President, with the advice and consent of the Senate. In order to insure that a broad representation of views will influence the board's decision making, it is provided that the members of the board shall include not less than:

(i) Two persons chosen from a list suggested by the National Governors Conference;

(ii) Two state court judges chosen from a list submitted by the Conference of Chief Justices;

(iii) Four lawyers; and

(iv) Four members who are neither judges nor lawyers.

In addition, the membership of the board must include one resident of each of the circuits of the United States Courts of Appeals.

Section 5 provides for the election of a chairman by and from among the board members, as well as for the appointment of an executive committee. This section also describes the powers and duties of the board, to-wit: to hold periodic meetings, formulate the policies and programs of the Institute, and prepare annual reports concerning the program plans and descriptions of projects proposed and contemplated by the Institute.

Section 6 provides for the appointment of a director for the Institute, whose responsibility is to carry out the day-to-day functions of the Institute. The director is to be appointed by the board, and serve a six-year term unless removed earlier by a majority vote of board members.

Section 7 provides for the establishment of a council of the Institute consisting of not less than 50 nor more than 100 members appointed by the board, selected to provide broad representation for the views of private citizens and groups with emphasis on diversity of experience and geography. As so constituted, the council would function as an advisory panel to make suggestions to the board in connection with the work of the Institute.

Other sections of the ABA proposal endow the Institute with various housekeeping powers and authority; provide that neither the director nor any other Institute employee may take an active part in political management or campaigns; provide that the director shall be compensated under the provisions of 5 U.S. Code § 5315 (level 4); and authorize the appropriation of such sums as may be necessary to carry out the provisions of the proposal.

II. L.E.A.A. AND S. 2212

Although, as noted, the American Bar Association proposal has not been introduced in Congress, the issue of whether an independent Institute should be established may already have been joined through the introduction of S. 2212, which deals generally with the Law Enforcement Assistance Administration of the Department of Justice.

By way of background, in 1968 there was established within the Department of Justice a mechanism to provide financial and technical assistance to help state and local governments control crime (42 U.S.C. § 3701 et seq.). The program, identified as the Law Enforcement Assistance Administration ("L.E.A.A."), includes a "National Institute of Law Enforcement and Criminal Justice" as a subsidiary facility and therefore under the control of the Department of Justice.[6]

The L.E.A.A. was originally granted an eight-year tenure, to expire in 1976. In June 1975, however, President Ford urged extension of the L.E.A.A. through 1981, and in response Senator Roman Hruska (for himself and Senator John McClellan) introduced S. 2212.

In addition to extending the tenure of the L.E.A.A., S. 2212 would authorize Department of Justice grants "to strengthen courts and improve the availability and quality of justice including court planning."[7] (In this regard, we wish to emphasize here that neither this report nor our Committee expresses any opinion concerning the extension of the L.E.A.A.) The previously authorized National Institute of Law Enforcement and Criminal Justice would have its name changed to the National Institute of Law and Justice[8] and the Attorney General would be authorized to make grants for research and projects pertaining to both criminal and civil justice.[9] We note that in introducing S. 2212, Senator Hruska stated, with respect to broadening L.E.A.A.'s research arm to include civil justice, that "it is sometimes impossible to reform the criminal justice system without at the same time reforming the civil justice system." He also indicated his view that the provision had particular applicability to state and local court systems which perform both civil and criminal functions.[10]

III. NECESSITY FOR AN INDEPENDENT INSTITUTE OF JUSTICE

In April 1974 this Committee issued a report on the proposal to remove the Department of Justice from the Executive Branch.[11] The report concluded that the advisory and prosecutorial functions of the Department of Justice should remain intact under the jurisdiction of the Executive Branch, but stated that "the functions of the Department might well be examined to consider whether any of these [functions] might more effectively be performed by an independent agency or agencies."

We think that research projects pertaining to law enforcement methods and the procedural aspects of the criminal justice system, subject to constitutional restraints, correctly belong within the controlling discretion of the Attorney General.[12] However, to an important degree, other aspects of justice can be, and should be, dissected under the eye of an agency which is in no way perceived to be political and which enjoys a reputation for disinterested appraisal. The need for independence in areas of law and justice recently was underscored by both the President and Congress in creating the Legal Services Corporation.

Establishment of the Institute as an independent agency would abrogate the risk that its work would be subject to one of the political branches of government controlling its research priorities so as to paper over or disregard establishment infirmities or selecting research projects which could be accompanied by directions to produce "legislative facts" thought of as politically desirable. To be effective, the Institute must consider all views and can not be subject to accusations that its work is slanted so as to achieve a desired result. More importantly, the Institute must be permitted to devise and conduct its programs without political interference of any kind.

A. The Institute's Research Function

The federal funding of research and investigative projects dealing with our system for delivering justice, and the quality of justice so delivered, is a governmental imperative which is long overdue. The need clearly exists for an interdisciplinary approach to the broad range of problems confronting the administrators of justice today. We foresee for the Institute a vital role in assembling data from the fields of economics, sociology, political science and even raw public opinion, which must all be of significant concern to those addressing legal issues with broad policy implications. The intent of the ABA proposal

is to include, in addition to those previously mentioned, such areas as due process in dealing with public agencies, legally secured opportunity to participate in government decision-making, protection of privacy from official intrusion, and accountability of public officials for actions that affect individuals.

B. The Institute's Coordination Function

At the present time, a number of entities of all varieties exist on the federal, state and local levels for the purpose of conducting studies, developing plans, making recommendations or funding specific projects relating to various aspects of our system of law and justice. Virtually all of these entities, however, were created to deal with a specific part of the system such as, for example, poor court administration, lack of available legal services for the needy, or the failure of correctional institutions to rehabilitate inmates. Moreover, a substantial majority of these entities focus primarily on improving the criminal justice system, where the problems are particularly visible.

Nowhere does there exist today an entity charged with broadly viewing our nation's entire system of justice, civil as well as criminal, and suggesting improvements from this broader perspective. Indeed, no central organization currently exists for the purpose of providing administrative or clearing house functions to diverse groups dealing with similar problems. It is to be hoped that the Institute would fill this void.

Notwithstanding the obvious advantages in favor of a central agency such as a National Institute of Justice, it is equally important that the Institute neither duplicate nor interfere with the work of the many existing groups which focus on specific aspects of our system for delivering justice. Examples of some of these excellent organizations are the Federal Judicial Center.[13] The National Center for State Courts,[14] the Administrative Conference of the United States,[15] and the American Law Institute.[16]

IV. RECOMMENDATIONS WITH RESPECT TO THE FORM OF THE AMERICAN BAR ASSOCIATION PROPOSAL

A. Scope of the Institute

In reviewing the form of the present ABA proposal to create the Institute, many members of our Committee expressed concern that the Institute might take positions on isolated substantive legal issues, including questions arising under the Constitution, thereby interfering with the work of the Judiciary. In particular, there was concern that the Institute might conceivably operate in a manner that undercut judicial policy and undermined the constitutional principle that the authority to interpret the Constitution and the law rests with the courts. Some Committee members expressed the view that the present wording of certain sections erroneously indicates that the Institute should give priority to substantive issues of equal protection under the Constitution. As we understand the intent of the ABA proposal, however, the Institute is to give priority not to these substantive issues but rather to mechanisms for insuring the delivery of quality legal services to all. Because of these concerns, we believe that certain language changes should be made in the proposal:

First, we suggest that the third paragraph under the heading "Findings and Purposes" and Section 2(c) be amended to make clear that the Institute, although not precluded from dealing with substantive matters, is to give priority to the problem of assuring the availability to all of quality legal services and mechanisms for the just, speedy and inexpensive resolutions of disputes.[17]

Second, we suggest that Section 2(a)(1) be amended to insure that the Institute does not purport to assume the role of interpreting the law. Consideration might be given to adding a provision to the effect that the Institute shall take no position on the proper construction of any regulation, statute or constitutional provision or on the remedy required by any such regulation, statute or constitutional provision to redress any violation thereof. Such a provision, however, should not preclude the Institute for setting forth its understanding of the law while taking a position on what the law should require.

Third, we believe that an Institute recommendation for the enactment or modification of legislation is of sufficient importance to warrant plenary consideration by both the board and council of the Institute and that such recommendations should not be made on the authority of the board alone. We therefore suggest the addition of a new subdivision (d) to Section 2 providing that any recommendation by the Institute for legislative action be made only with the approval of a majority of both the board and council.

B. Fact Finding

Section 2 of the ABA proposal authorizes the Institute to conduct all forms of research inquiry in its efforts to evaluate and appraise the effectiveness and quality of justice and the administration of law. In so doing, it is imperative that the Institute be entitled to maximum cooperation from other instrumentalities of government. In this context, we believe that consideration should be given to including in the proposal some form of statutory mandate to other agencies, consistent with the laws of privacy governing those agencies, to cooperate with the Institute. However, this mandate should not include the furnishing of information concerning specific individuals or groups of individuals and the Institute's authority for fact finding should be assiduously tailored.

C. Status of Director

The effectiveness of the Institute will essentially become a function of its record and reputation for excellence and independence. We believe that in order for the Institute to provide significant impact on the decision-making bodies and public officers who will ultimately decide the fate of the Institute's recommendations, the director of the Institute should be granted greater visibility, power and esteem than is provided by Sections 6 and 10 of the ABA proposal. In order to enhance his position, we suggest that the director be chosen by the President, with the advice and consent of the Senate, rather than appointed directly by the Board. Obviously, the President should and would solicit the views of the Institute's board in making the choice. As a presidential appointee, we believe that the director should be compensated under the provisions of Section 5314 (level 3), and not Section 5315 (level 4), of Title 5 of the U.S. Code. As such, his compensation would be established at a level already in existence for the Director of Defense Research and Engineering, Department of Defense; the Deputy Administrator, Energy Research Administration; and the Director of the Federal Bureau of Investigation.

D. Membership of Board and Council

We agree with the Institute's objective of having a broad representation of views on its board and council. In this regard, one suggestion made during our Committee's deliberations was that the Attorney General and possibly representatives of other agencies operating in the legal area should be made *ex officio* members of the Institute in order to facilitate the Institute's role as coordinator.

We question the advisability of limiting the President's choice of certain nominees to the board to lists of certain groups. We prefer instead the flexibility of an earlier draft of the ABA proposal which placed no rigid restrictions on the President in his choice of persons of merit. In this regard, we note that there are no similar restrictions in the legislation creating the Legal Services Corporation or the National Science Foundation.

E. Reporting Function

We note that in a prior draft of the ABA proposal, the Institute was granted authority to issue reports from time to time embodying the results of its research and its recommendations. Such express authority is deleted from the most recent draft. We believe, subject to appropriate privacy safeguards, that this authority should be restored, since the Institute will have no power of persuasion other than the reputation of its work. That work should be disseminated as frequently as possible and should not be limited to an annual report.

CONCLUSION

As we mark the first two hundred years of our history, we believe that the establishment of a National Institute of Justice would be a meaningful affirmation of our belief in law and justice. As Daniel Webster said, "Justice, sir, is the great interest of man on earth." And, indeed, it probably remains true that an ultimate measure of our society is the quality and availability of justice to all our citizens.

We recognize that merely establishing another governmental body is no assurance that justice and its availability will be improved. But we are satisfied that a unifying point for coordintaion and leadership such as the Institute is needed and, if staffed well, can do important work. We have indicated our national concern with Science and Health and Arts and Humanities by establishing National Institutes and Foundations in those areas. We believe that Justice merits no less a place of national priority and concern.

Our profession can be proud that the system of justice, as imperfect as it may well be, is so often sought out as the mechanism for dealing with the social and economic problems we face. Multiple and diverse approaches to problem solving are desirable. Coordination and cooperation will, in our judgment, make success in solving these problems more likely.

COMMITTEE OF FEDERAL LEGISLATION

John D. Feerick, Chairman
Harvey E. Benjamin.
Barry A. Berger.
Eric Bregman.
Jack David.
George A. Davidson.
Evan A. Davis.
Albert W. Driver, Jr.
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William Josephson*
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Steven B. Rosenfeld.
Rhoda S. Roth.
Thomas J. Schwarz.
Richard C. Seltzer.
Robert C. Sheehan.
Leonard W. Wagman.
Harold P. Weinberger.

FOOTNOTES

*Mr. Josephson dissents from this report.

[1] The commission, under the chairmanship of Charles S. Rhyne, solicited comments from over 12,000 lawyers, judges and laypersons; over 100 suggestions for changes were analyzed and the draft was reworked in response thereto. The vast majority of respondents agreed that the Institute would be valuable.

[2] The vote was recorded as 141 for and 86 opposed.

[3] See notes 13–16, *infra*, and accompanying text.

[4] These areas are specifically identified in the informational material accompanying the ABA proposal.

[5] A bill to establish a National Institute of Justice was introduced by Senator Humphrey during the 93rd Congress, but no legislative action resulted.

[6] 42 U.S.C. § 3742.

[7] S. 2212, Part C, § 4(1).

[8] S. 2212, Part C, § 4(2).

[9] S. 2212, Part D, § 5.

[10] 121 Cong. Rec. S. 14089 (daily ed. July 29, 1975).

[11] Federal Legislation Report No. 74–2 (April 30, 1974).

[12] For example, the National Institute of Criminal Law and Justice has conducted studies relating to voice identification, private police, patterns of burglary, and ballistic resistance of police body armor. The annual budget of this organization exceeds $30,000,000, representing only a small fraction of the L.E.A.A.'s multibillion dollar program.

[13] Pursuant to P.L. 90–219 (1967), a Federal Judicial Center was established within the judicial branch of the government. The Center's purpose is to further the development and adoption of improved judicial administration in the federal courts. Its reports are channeled to the Judicial Conference of the United States for action. Its fiscal 1974 appropriation amounted to some $2,500,000. The Center's studies have focused on such matters as reducing the workload of the Supreme Court and the use of video technology on the trial court level.

[14] The National Center for State Courts was incorporated as a non-profit organization in June 1971. Its financing (approximately $3,000,000 per year) has to date come primarily from grants made by the Law Enforcement Assistance Administration. Its studies are concerned with aspects of state court administration and modernization on both appellate and trial levels. For example, the National Center has funded studies relating to technology and information gathering, financing of state court operations, budgetary procedures, and computer preparation of court transcripts.

[15] The Administrative Conference of the United States established by P.L. 88–499 (1964), is charged with studying the efficiency, adequacy and fairness of the procedures used by administrative agencies in carrying out their programs. Based on its studies, the Administrative Conference provides evaluations and recommendations for changes to the President, Congress and the Judicial Conference of the United States, as it deems appropriate. In addition, the Administrative Conference arranges for the interchange between administrative agencies of information potentially useful in improving administrative procedures, and collects and publishes informational and statistical reports dealing with administrative procedures and their improvement. Its budget for the year ending June 30, 1976, is $850,000, all of which is federally funded. Among the Administrative Conference's most publicized studies is the recently completed critical analysis of the procedures followed by the Internal Revenue Service in dealing with taxpayers.

[16] Established in 1923 for the purpose of drafting "an orderly statement of our Common Law," the American Law Institute today is engaged in a broad range of activities including sponsoring and coordinating the drafting of model legal codes, the publication of legal texts and periodicals, and promoting continuing legal education in various aspects of the law through its sponsorship of conferences. Funded by an annual budget of approximately $400,000 (derived primarily from dues, sales of published materials and voluntary grants and contributions), the American Law Institute has recently completed such projects as the drafting of a model Code of Pre-Arraignment Procedure; and continuing revisions of the Uniform Commercial Code; the development of video programs in connection with such current legal topics as the Employee Retirement Income Security Act of 1974; the publication of various practical legal handbooks; and the sponsorship of study conferences for lawyers in such areas as bankruptcy, estate planning and litigation.

[17] Consideration might be given to the following amendment of the third paragraph under the heading "Findings and Purposes":

"Particular attention must be given to assuring that *the* individual[s] *citizen is* [are] able to secure prompt and *efficient* [effective] recognition of *his* [their] legal rights, privileges, and obligations *and will receive equal justice without regard to income status, race, sex, age, religion, or national origin,** [through the availability to all of quality legal services and through the just, speedy and inexpensive resolution of disputes.]"

And of Section 2(c) as follows:

"In its research, experimental, and training programs, and in making recommendations for improvement of justice and the administration of law, the Institute shall give particular attention to the impact of justice and the adminisration of law on *the* individual[s] *citizen* and *his* [their] opportunity to secure prompt and effective recognition of *his* [their] legal rights, privileges and obligations *and to securing to him equal legal protection and access to legal redress without regard to income status, race, sex, age, religion or national origin,* [through the availability to all of quality legal services and through the just, speedy and inexpensive resolution of disputes.]"

*The Committee's suggestion is that the italicized works be eliminated and the bracketed letters and words added.

AMERICAN BAR ASSOCIATION,
April 18, 1978.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The American Bar Association has been gratified by the support you have voiced, both as Governor of Georgia and as a Presidential candidate, for the American Bar Association's proposed National Institute of Justice. Your public statements recognizing the need for an independent institute to foster research aimed at improving the civil and criminal justice systems, particularly as they affect the average citizen, have been both perceptive and supportive.

We are informed that you will soon be considering a proposal prepared by the Department of Justice and the Office of Management and Budget for the restructuring of the Law Enforcement Assistance Administration (LEAA) in the Department of Justice. The restructuring plan provides for the creation of a research institute within the Department of Justice to be called a National Institute of Justice.

Despite our strong belief in the need for a new federal initiative in justice research, the American Bar Association strongly opposes the plan suggested by the Department of Justice and the Office of Management and Budget. As proposed, the new National Institute of Justice (DJNIJ) would not be independent, would not include a civil justice research component, would be subject to many of the same problems which have plagued the existing LEAA research program, and would not have the public visibility and credibility which we believe are essential for the success of this program.

The question of independence is crucial. The existing LEAA research arm, the National Institute of Law Enforcement and Criminal Justice (NILECJ), has been widely criticized for its lack of independence; yet the current proposal would form the DJNIJ out of NILECJ, leaving the institute not only within the Department of Justice but within the same office which will supervise the LEAA block-grant program. While certain steps to provide some measure of independence for the DJNIJ are proposed, such as the strengthening of the institute's advisory board and the giving of final sign-off authority on grants to the Director of the institute, these measures fall far short of the level of independence needed for this program.

Independence for the NIJ is necessary for several reasons:

(a) The NIJ must not be part of an "action agency" whose operational needs are likely to influence the nature of the research program;

(b) Additionally, political pressure for short-term results are likely to be far greater if the research institute is part of a mission-oriented agency;

(c) The NIJ must not be connected with a grant-making agency which provides state and local assistance. The research institute would be totally obscured and overwhelmed by the grant-making activity;

(d) Justice research, to the considerable extent it involves the Judicial Branch, must not be placed in a line agency within the federal Executive Branch but should be housed in a more neutral setting;

(e) A research entity operated within a Department may be less inclined and less able to attract the diversity of cooperation and support from other disciplines which an independent agency could attract;

(f) Public credibility will be greatly increased if the institute is not part of an action agency but instead has independent status. In addition, independent status would substantially enhance the credibility afforded to a federal justice institute by state and local governments;

(g) Budgetary considerations within a Department may prevent the research program from receiving an appropriate level of funding; and

(h) Public visibility for the research institute and its work will be far greater if it is independent.

The lack of independence is only one of the problems with the proposed DJNIJ. There is a great need to establish an institute to promote research in all areas of the justice system—civil, criminal, administrative, and regulatory—at federal, state and local levels. The new proposal states that the DJNIJ would cover both civil and criminal justice issues; yet the Attorney General has suggested a manner of implementation for the DJNIJ which would seriously inhibit its ability to become involved in civil justice research.

Attorney General Bell proposed, in testimoney before the House Judiciary Subcommittee on Crime on March 1, 1978, that the DJNIJ be created as soon as possible under Presidential reorganization authority. As the Attorney General stated in his testimony, if the new DJNIJ were created under the Presidential reorganization authority, it would be confined to the legislative mandate already given to the existing NILECJ. Initially, therefore, the DJNIJ would be able to generate only criminal justice research. An expansion into the civil justice field would require additional legislation. Thus, the DJNIJ would be created this year with only criminal jurisdiction; its orientation, advisory board selection process, goals and staffing would be shaped accordingly. Expansion into the civil justice field would occur at the earliest, and only if Congress so provided, a year later when LEAA reauthorization legislation is likely to be considered. By that time, the criminal justice component would be well-established, limiting the likelihood that civil justice research would be accorded due consideration.

We are concerned with other features of

the proposal before you. For example, appointments to the advisory board of the DJNIJ should be made by the President and not the Attorney General. Also, the degree of supervision and control to be exercised over the DJNIJ by the Director of the new Office of Justice Research and Assistance should be clarified in a way which will not endanger the independence of the institute. But our principal concerns, articulated above, are sufficient to lead us to the conclusion that we must oppose the proposal submitted by the Department of Justice and the Office of Management and Budget.

The enactment of the half-way measure proposed to you will effectively preclude serious consideration of the ABA proposal which you have previously endorsed. We ask "Why not the best?," and urge that you call for a truly independent National Institute of Justice of which we can all be justifiably proud.

Sincerely,

BILL SPANN.

WILLIAM B. SPANN, JR., PRESIDENT, AMERICAN BAR ASSOCIATION INFORMATION IN RESPONSE TO PRESIDENT CARTER'S REMARKS TO THE LOS ANGELES BAR ASSOCIATION, MAY 10, 1978

LEAA REORGANIZATION.—President Carter refers to plans to reorganize LEAA and make it more efficient. Yet there is little evidence in preliminary reports on his reorganization plan that he is taking any significant steps to implement campaign pledges.

Item: Candidate Carter pledged his support for creation of an independent, publicly-funded National Institute of Justice. Instead, it seems the Administration's current thinking is to call merely for a revamp of the existing National Institute of Law Enforcement and Criminal Justice. As proposed, the Administration's NIJ would not be independent, would not guarantee a civil justice research program, and would not have the public visibility and credibility which is essential for the success of this program.

Item: Candidate Carter criticized LEAA for providing only 6 per cent of its funding to the courts of this country. To date, nothing indicates this situation will be improved under Carter's reorganization plan.

[From the American Bar Association Journal, October 1976—Volume 62, pages 1270–76, President Ford and Governor Carter]

THE CANDIDATES ANSWER

Question No. 5: Do you favor the creation of an independent, publicly funded National Institute of Justice to conduct, appraise, and co-ordinate research and programs in the administration of justice and the quality and effectiveness of justice?

CARTER

A. Yes. Many people believe that they are denied fairness in the courts, in the marketplace, and in the government generally. Fundamental to this attitude is the lack of a workable system of justice in the broadest sense. As governor of Georgia, I studied court records and visited our prisons. I talked with inmates and heard convincing stories of injustice and inequality. I traveled the state and listened, again and again, to the questions and frustrations of average citizens who had come in contact with our system of justice.

With the co-operation of the Georgia bar, I went to the legislature and we were successful in implementing a series of reforms in our judicial system:

A nominating system to ensure merit appointment of judges;

Mandatory retirement for judges and a method of hearing citizen complaints and removing incompetent judges from office;

Automatic review to ensure increased uniformity of sentencing among judges;

A uniform and unified court system (to allow a more efficient and timely dispensation of justice);

Prison reform with emphasis on rehabilitation;

A professionalized Georgia Bureau of Investigation;

A reduction of emphasis on victimless crimes;

Expanded staff aid for judges and administrative officers for the courts.

My experience as a scientist, a naval officer, a businessman, and a governor of Georgia has convinced me of the critical importance of coming to grips with new ideas, so our institutions can be prepared to cope with the future without abandoning the traditional principles in which we believe. To achieve these ends, we must have solid study and research, guided by devotion to honesty and moral principle, and implemented by leaders who can make and stand on tough decisions. A National Institute of Justice would address itself to the demands for significant, often controversial changes in our legal system. In proper coordination with the Federal Judicial Center and the National Center for State Courts, it could lead toward responsible reforms in our institutions.

FORD

A. No, because its establishment would duplicate other activities already supported by the federal government.

The Law Enforcement Assistance Administration provides national leadership in this area, in addition to providing block grant funds to assist state and local criminal justice agencies. L.E.A.A.'s National Institute of Law Enforcement and Criminal Justice, established by law in 1968, now pursues most of the objectives called for by the National Institute of Justice proposal. It encourages research and innovation and provides trainnig and information for local agencies. The administration had asked Congress to expand the charter of the institute to include civil justice, but this was rejected.

Another effective resource for states and localities is the National Center for State Courts, which is funded largely by L.E.A.A. but which operates independently. The center has received approximately $10 million in federal funds for more than fifty projects to assist state and local court systems in meeting their responsibility to dispense justice.

Also important is the work of the National Advisory Commission on Criminal Justice Standards and Goals. The commission has published a series of thorough and comprehensive volumes containing hundreds of recommendations for all elements of the criminal justice system, including courts, corrections, police, community crime prevention, and the criminal justice system as a whole. These standards and recommendations constitute a detailed blueprint for state and local governments to consider in the improvement of their own law enforcement and criminal justice systems. The role of the commission is a continuing one.

NOTE.—The American Bar Association supports the creation by federal legislation of an independent National Institute of Justice to evaluate the effectiveness and quality of justice in the nation, conduct research, provide training and experimental programs, and co-ordinate the gathering and publishing of information about the administration of justice.)

STATEMENT OF GOV. JIMMY CARTER

(Public hearing, ABA Commission on a National Institute of Justice, Stouffer's Inn, Atlanta, Ga., Monday, April 22, 1974)

Thank you Mr. Chairman.

I want to welcome the Commission and its representatives to our state and to its capital. We are honored that you have selected Atlanta as the culmination of your schedule of hearings; and in looking over the list of fine witnesses you will hear from today, I can see that your selection of Atlanta for your final hearing was indeed auspicious.

But I am here today to do more than extend our state's welcome and hospitality to you. I am here because I share with you a dedication to the cause of securing justice for all the citizens of our land. It is a concern which I have held foremost since becoming Governor of this State. In my inaugural address, I stated that no person should be deprived of simple justice. In my first State of the State address, I said "The entire field of criminal justice cries out for improvement in Georgia. I shall stake my own personal reputation on this improvement." With support and hard work from judges, lawyers and laypersons we have successfully completed major improvements in the administration of justice in Georgia.

During the first year of my administration I created a Commission on Judicial Processes and instructed it to come up with meaningful improvements in the administration of justice. It was a broad based body composed of lawyers and judges. The Commission submitted a comprehensive report and at the past three sessions of the General Assembly of Georgia most of its recommendations have been adopted. The result is that more improvements have taken place in the judicial branch of government in Georgia in the past three years than over the previous one hundred years. The success of the program was due to unified support we had—lawyers, judges, legislators, and, most important, laypersons—who were interested in their system of justice.

The most important accomplishment has been the establishment of the Administrative Office of the Courts under the supervision of the Judicial Council and the enactment of a constitutional amendment to be voted on this November creating unified court administration for our state. The people have a right to know what is going on in their courts. With unified court administration they now have the means to get this information.

The second most important accomplishment was the enactment of a constitutional amendment creating a Judicial Qualifications Commission with jurisdiction to investigate complaints against any judge or justice in the Georgia Judicial System for misconduct in office. Now any citizen has a remedy for complaints against the judicial branch of government. This will enhance the integrity of the judicial process.

Public drunkenness as a criminal offense has been abolished. Georgia has now repealed the old common law rule that a person charged with a crime was incompetent to testify under oath and became the last State to abolish the right of an accused to make an unsworn statement.

During the 1974 session of the General Assembly, the Commission recommendation that jury sentencing in non-capital cases be abolished was adopted, as was the recommendation to provide for a sentence review procedure.

We have enacted many proposals to strengthen the criminal justice system and to secure more effective means for administering our criminal laws.

One of the most awesome responsibilities of a Governor is to appoint persons to judicial vacancies caused by death, retirement or new judgeships created by the legislature. In the first year of my administration I created a Judicial Nominating Commission to nominate the five best qualified candidates for a judgeship on the Superior, Appeals, and Supreme Court. Since its creation, I have appointed 10 Superior Court Judges, 3 Court of Appeals Judges and 4 Supreme Court Justices. In every instance I have appointed from the list of five nominated by the Commission.

I will, within the next few weeks, appoint 5 new Superior Court Judges and have asked the Judicial Nominating Commission for

their recommendations with respect to these appointments.

It is important to note that I am not a lawyer. I am a graduate of the United States Naval Academy and was a nuclear physicist. Prior to becoming Governor I was, and I still am, a farmer. I am also a firm believer in the saying that "Justice is too important to be left to lawyers and judges." The average citizen in our nation is becoming aware of many deficiencies in our court system and he wants and deserves the right to participate in its improvement. We would have never made all these court improvements in my administration without the support from the general public.

The courts, of course, are only one part of our legal structure. Our police and law enforcement officials, our jails and prisons, our district attorneys and our public defenders, our various administrative bodies, our State mental facilities and our educational institutions—indeed, almost every aspect of our State Government is influenced by the legal processes of our society. We are blessed here in Georgia with a wealth of capable and dedicated public servants working in all of the institutions of our state government. But they often have to work without adequate resources and information; and in making some of the changes and reforms that we have in Georgia, I often have the feeling that we are either inventing or re-inventing the wheel. This situation isn't their fault or anyone else's; it just reflects the fact that our nation has for too long neglected the problems of justice in this land. It is high time that a concerted effort with substantial financial support was established to provide support and guidance for the State and local components of the justice system.

I interpret your presence here today as an indication that you support, as I do, the establishment of such an Institute of Justice.

Take the area of consumerism, for example. What real rights does the average consumer have? Suppose he or she wants to buy a refrigerator or a car or some other item for which he or she has scrimped and saved. And suppose that the only way he or she can purchase that particular item is by an installment sales contract, or "on time". Now I work every day with legal documents as Governor of the State of Georgia; but as I said earlier I am not a lawyer, I am a layman. And when I look at a piece of legislation or some other legal document, I can call in my legal advisers to tell me the legal implications and consequences of certain provisions of those documents. But if I am out at a store buying a refrigerator, I don't have that option. I am presented with a long contract and am told to take it or leave it. And if I need that refrigerator, I sign that contract and hope for the best. Now as it often happens, the "best" doesn't happen. The refrigerator is damaged when it arrives, or it breaks down under normal use. And the consumer complains, and nothing is done, except that the bills keep coming in like clockwork. Now I am not suggesting that this is the normal course of events, but it happens all too often. And if the matter is ever brought to court for resolution, it is usually brought by the seller's attorneys, while the consumer ends up representing himself.

There ought to be some means or mechanism by which the unequal bargaining position between seller and consumer could be equalized and by which problems such as these could fairly and justly be resolved. I wonder whether some of these problems should even end up in our courts and whether some means of outside arbitration might not be better. No one today, to my knowledge, has even looked to see how widespread this problem is or what its ramifications may be.

Another area where I think we are long on problems and short on solutions is our correctional program—the jails and prisons we maintain and the people who occupy them. There are an estimated 425,000 persons now occupying the nation's jails, prisons, and juvenile detention facilities. Add to this figure the 900,000 persons on probation and the 300,000 on parole, and you have close to 2% of our population at any one time being under correctional supervision.

If we could get at the root causes of crime, we could not only spare our taxpayers from the tremendous burden of supporting our various correctional institutions, but could produce the sort of society in which all people can live without fear or restraint.

Our traditional methods of dealing with those who have violated the law is to lock them up behind bars. Has this proved to be an effective approach to eliminating crime and restoring offenders to a useful and productive role in society? Nationally, it has been estimated that up to 80% of these persons released from prison end up committing further crimes. Obviously our rehabilitation efforts have not been very successful. What is the answer? New, modern prison facilities? Or should we move away from building new prisons in favor of smaller community-based facilities? And what about programs to divert offenders from the usual incarceration process entirely? While these questions are being debated by many, there is a crying need for an intensive and thorough examination of this problem. Only in that way can we eradicate the "revolving door" syndrome that has come to characterize our prisons.

I for one believe that a body like the National Institute of Justice is essential to study these and other problems of our justice system and to achieve meaningful reform. No single city or state can command the resources and personnel to undertake such an effort. Many problems of our justice system are, of course, local in nature; but many others recur time and time again in different cities and in different states. A national body which would study these problems and suggest, not dictate, solutions would be a great resource to me and the other governors. The role which the Institute could serve in publicizing and coordinating existing reform efforts would also be a genuine step forward. I commend you for the fine and diligent effort which your Commission has put into this effort so far, and I heartily endorse your proposal. Its unified approach will assist us in establishing justice throughout the United States and thereby create "a more perfect Union."

Thank you.

RESOLUTION OF THE COMMUNICATION WORKERS OF AMERICA, 1977 CONVENTION

The Chair recognizes the Resolutions Committee.

Chair DEMPSEY. The Delegates will please turn to page 23. I will call on Committee Member Mary Gregory to read Resolution 39A–77–11, National Institute of Justice.

Member MARY GREGORY (Local 12128 Member of the Resolutions Committee):

Resolution 39A–77–11:

NATIONAL INSTITUTE OF JUSTICE

Among the issues which showed Governor Jimmy Carter different from President Gerald Ford was the proposal for a National Institute of Justice, to be created as an independent agency to help improve the quality of law practice in civil, criminal and administrative tribunals.

In his statement of support for the Institute, Mr. Carter said it would ". . . address itself to the demands for significant, often controversial, changes in our legal system. In proper coordination with the Federal Judicial Center and the National Center for State Courts, it could lead toward responsible reforms in our institutions."

The proposed legislation calls for creation of a small Institute, to give particular attention the impact of justice and the administration of law on the individual citizen and the opportunity to secure prompt and effective recognition of his or her legal rights, privileges and obligations, and to securing equal legal protection and access to legal redress without regard to income status, race, sex, age, religion or national origin.

In stating the case for establishment of the National Institute, a study commission of the American Bar Association noted that its members almost unanimously shared several important views: "The most important of these was that public authority, at all levels of government, is suffering from a severe problem of 'credibility.' By this is meant that agencies of public authority, including the courts, were not regarded by the public as usually being fully truthful about what they were doing, wholeheartedly concerned about discharging their responsibilities, or even really thoughtful about what they were trying to do. . . .

"Another widely shared recognition," the ABA study group stated, "was that many of the institutions of justice had become fearful, defensive and introverted."

The new Institute, as proposed, would not duplicate other agencies' functions, nor would it become a bloated bureaucracy. Its attention would be concentrated on such subjects as consumer protection, access to adequate health-care services, availability of legal service, due process and equal protection in dealing with public agencies, the opportunity to participate in government decision-making, protection of privacy from official intrusion, accountability of public officials for actions that affect individuals, and economical adjustment of private legal disputes through such methods as arbitration.

Resolved: That this 39th Annual Convention of the Communications Workers of America endorse Presidential and Congressional actions to establish the National Institute of Justice.

Mr. President, the Resolutions Committee moves adoption of Resolution 39A–77–11, National Institute of Justice.

President WATTS. You have heard the motion, and there is support from the Committee.

At Microphone No. 3, the Chair recognizes Delegate Griffiths, Local 1009.

Delegate ROSALIE GRIFFITHS (Local 1009). Mr. President, all my handsome Brothers and Lovely Sisters (applause) I rise in support of this resolution. There is little question that the American people are troubled by gaps in the law that too often let the wealthy escape with little or no penalty for major financial crime, while imposing harsh penalties upon those unable to secure the services of the well-paid lawyer who enters the courtroom preceded by high reputation and awesome fees.

The American people rightly are concerned with the problems of street crime, violence, personal insecurity and the apparent inability of our system of criminal justice to cope with these problems.

As workers, we are deeply concerned with the ability of the Union-busters in major areas of the country to twist the law and even to defy it and to frustrate the desire of workers to choose Unions to represent them.

The outstanding example, of course, is that of the J. P. Stevens Corporation, which stands as the employer-bulwark against the organization of the South.

We have had during these recent years the divisive issues of Watergate and Vietnam and all that has happened since those days. We now have the issues of equal rights in law regardless of sex, race or national origin.

We also have the question of equal representation before the courts and in the administration of justice for all regardless of

wealth, education, social status, sex, race, national origin or religion.

The law must deal with the problems of consumer rights, accessibility to health care, equal protection of the law, the ability to cope with government and corporate bureaucracy, and in some equal access to the democratic process.

There now is upon the statute books a freedom of information act, which is balanced by federal law, guaranteeing us the right to privacy in our personal affairs. These two must be balanced, so that the citizens shall have access to affairs of government that affect his or her welfare, while being assured that his or her personal life shall not be assaulted without reason or by arbitrary authority.

The American dream holds that there shall be equal justice before the law, that this is a government of laws not of people. This nation approaches that ideal, as do few others upon this earth, but we would be foolhardy not to understand that this is the ideal, not the fact.

The American Bar Association, as this resolution states, has recognized the need for greater credibility in government, and that many of our institutions of justice are in retreat.

President Carter has proposed that we begin now to attend to the problems involved, that we begin by establishing a small and scholarly national institute of justice, which shall be an independent agency, devoted to the improvement of the administration of the law in this nation.

This is a concept whose time has come.

Such an institute can be highly influential in the improvement of the legal climate in our land.

I urge the adoption of this resolution. (Applause)

President WATTS: Microphone No. 5, Delegate Ryan, Local 9415.

Delegate RYAN (Local 9415): Mr. President, in supporting this, how do we insure that the same people who are causing these problems will not be on this institute that we are trying to set up?

President WATTS: One of the ways to insure it would be for us to make recommendations and be involved in the process of developing the institute in its final form. With the present administration, I am inclined to believe that we can have such input to good advantage.

You are entitled to a second question.

Delegate RYAN: We may have input, but just about every agency that is set up ends up being run by the people we are trying to protect our members against.

Some of the problems we are having have been caused by members of the American Bar Association. I don't think that is going to—well, there is too much federal government in our lives now.

President WATTS: That was not a question, but we heard what you said.

At Microphone No. 3, Delegate Kinney, Local 7102.

Delegate WANDA KINNEY (Local 7102): I too rise in support of this resolution.

There is a definite need for the creation of this type of agency, an agency that would give all the opportunity to secure legal advice regardless of income, race, age or sex. We have all been paying the price of unequal justice in America. Every time the Supreme Court overturns a decision of the lower court because someone's rights had been violated, it comes out of my pocket and comes out of your pocket.

Another area the institute would cover is that of consumer protection. God only knows, we need help there.

The Bell System's program to charge for directory assistance is probably the biggest consumer ripoff in this country. We can use all the help we can get.

I am not sure that the National Institute would solve all of our problems, but it seems like a viable alternative.

I urge support in passage of this resolution. (Applause)

President WATTS: At Microphone No. 1, the Chair recognizes Delegate Ibsen, Local 9415.

Delegate IBSEN (Local 9415): I move the previous question. (Applause)

President WATTS: You have heard the motion to close debate. There is support.

Will all those in favor signify by raising their right hand. Down hands. Opposed, by a like sign. Down hands. Debate is closed.

The question before you now is the adoption of the resolution on a National Institute of Justice, Resolution 39A–77–11.

Will all of those in favor of adoption signify by raising their right hand? Down hands. Opposed, by a like sign. Down hands. The motion is carried.

The Chair recognizes the Resolutions Committee.

Mrs. HUMPHREY. Mr. President, I am asked to join my distinguished colleague, Senator BIRCH BAYH, as a cosponsor of the National Institute of Justice Act. I urge prompt and favorable consideration of this measure by the Senate.

This legislation would establish an independent agency to fund research and pilot projects aimed at making the justice systems in this country more responsive and more efficient. There is an urgent need in this country for increased funding and coordination of the few already existing efforts in this area.

As many of you know, Hubert Humphrey was a strong supporter of actions which would infuse funding into legal research and reform. He introduced legislation providing for a similar program in the 94th Congress.

I, too, have strong feelings about improving the quality of justice and access to it as well as the fairness and effectiveness of the administration of law; and, the assurance that all persons are able to secure prompt and effective protection of their constitutional rights.

Again, I urge the Senate to move quickly in enacting the proposed legislation; and, I offer my support and assistance to Senator BAYH in this important undertaking.

By Mr. JACKSON (by request):

S. 3283. A bill to amend the Energy Policy and Conservation Act, as amended, to improve the States' capacity for energy planning and management, to provide a consolidated program of Federal financial assistance to the States to meet their respective goals for energy conservation, production and distribution and for energy conservation, production and distribution, and for other purposes; to the Committee on Energy and Natural Resources.

THE STATE ENERGY MANAGEMENT AND PLANNING ACT

● Mr. JACKSON. Mr. President, I am today introducing on behalf of the administration, a bill to improve the States' capacity for energy planning and management and to provide a consolidated program of Federal financial assistance to the States to meet their goals for energy conservation, production, and distribution.

The bill, entitled the State Energy Management and Planning Act (SEMP) would consolidate three energy grant programs now administered under the National Energy Extension Service Act, the Energy Conservation and Production Act, and the Energy Policy and Conservation Act into a single core grant program. It would also expand State energy activities to include energy supply and demand planning, assessment of new energy facility needs, energy emergency preparedness, and development of new supply initiatives.

Mr. President, I ask unanimous consent that the text of the State Energy Management and Planning Act as well as the administration's section-by-section analysis of the bill and the transmittal letter from the Department of Energy be printed in the RECORD.

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

S. 3283

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 "State Energy Management and Planning Act of 1978."

AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT

SEC. 2. (a) Title II of the Energy Policy and Conservation Act is amended by deleting Part C and substituting therefor the following:

"PART C—STATE BASIC ENERGY PROGRAM AND CONSOLIDATED APPLICATIONS

"TABLE OF CONTENTS

"Sec. 351. Findings and Purposes
"Sec. 352. Definitions
"Subpart A—State Basic Energy Program
"Sec. 353. Program Authorization
"Sec. 354. Application for State Basic Energy Program
"Sec. 355. Requirements for State Energy Plan
"Sec. 356. State Coordination with Local Government and Regional Agencies
"Sec. 357. Approval of State Energy Planning Process
"Sec. 358. Mandatory Activities
"Sec. 359. Restrictions on Funds
"Sec. 360. Allocation of Funds; State Share
"Sec. 361. Authorization of Appropriations
"Subpart B—Consolidated Applications and Administration
"Sec. 362. Application Process and Administration
"Sec. 363. Termination of Financial Assistance
"Sec. 364. Transition to State Basic Energy Program
"Sec. 365. Recordkeeping and Reporting
"Sec. 366. Annual Report

"FINDINGS AND PURPOSES

"SEC. 351. (a) The Congress finds and declares that—

"(1) the United States faces a critical energy problem arising from its increasing dependence on oil, particularly on imported foreign oil;

"(2) the solution to our national energy problem will require concerted and continuing efforts at all levels of government, as well as efforts by the private sector;

"(3) the States have significant opportunities to undertake energy planning and programs to conserve energy, to encourage the expanded use of alternatives to oil and natural gas, including solar and other renewable energy sources, to encourage increases in energy supply, and to provide for more efficient distribution and use of energy supplies, with due regard for social, economic, and environmental concerns;

"(4) Federal financial assistance to the

States should be consolidated to encourage States to improve and expand upon existing energy conservation activities as well as to develop and implement state energy plans and to meet conservation and energy production objectives.

"(b) The purposes of this Part are—

"(1) to assist States to carry out State energy planning as a means to establish State energy goals and policies, to monitor progress toward achievement of and to evaluate on a continuing basis such goals and policies, and to provide unified management and coordination of State energy programs to meet such goals and policies;

"(2) to assure consideration of employment, economic, environmental and other relevant factors in the formulation of State energy plans and due regard for citizens of special need, such as the poor, the handicapped, and the elderly;

"(3) to assist States in the collection and analysis of energy information, to the extent such information is available or is practically obtainable, thereby enabling States to assess their respective energy situations and to encourage States to take into account existing energy and natural resource plans and policies of all levels of government in the formulation of State energy plans;

"(4) to promote coordination of Federal and State activities during periods of energy emergency;

"(5) to reduce and simpify the administrative requirements imposed on States to obtain Federal financial assistance for the development, implementation or modification of State energy programs.

"DEFINITIONS

"SEC. 352. As used in the Part—

"(1) 'Conservation' means any activity or program carried out by a State intended to increase efficiency of energy use, reduce energy consumption or produce energy from solar or other renewable energy sources.

"(2) 'Governor' means the chief executive officer, elected or appointed, or his designee, of a State including the Mayor of the District of Columbia.

"(3) 'Secretary' means the Secretary of Energy.

"(4) 'State' means a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Government of the Northern Mariana Islands.

"(5) 'State energy plan' means a plan developed by a State which meets the requirements of section 355 of this part.

"(6) 'State energy program' means any of the following programs of the Department of Energy:

"(a) the program established pursuant to 42 U.S.C. 6861 et seq., providing financial assistance for Weatherization Assistance for Low-Income Persons;

"(b) the program established pursuant to section 205, U.S.C. 6805 as amended; and

"(c) any other program which is administered by the Secretary and which provides financial assistance to States pursuant to an allocation formula established by or pursuant to statute.

"(7) 'Unit of local government' means any city, county, town, municipality, or any other political subdivision which is a unit of general purpose local government of a State.

"(8) 'Indian Tribe' means any Indian Tribe or Tribal Organization as defined by paragraphs (5) and (6), respectively, of section 102 of the Older Americans Act of 1965.

"SUBPART A—STATE BASIC ENERGY PROGRAMS

"PROGRAM AUTHORIZATION

"SEC. 353. (a) The Secretary is authorized, subject to the availability of funds—

"(1) to provide financial assistance to assist the States in the development, implementation, or modification of a State energy plan or part thereof submitted pursuant to this part and in the development and implementation of mandatory activities prescribed under this part; and

"(2) to provide technical assistance to enable the States to develop their capabilities and resources for energy planning and management.

"(b) Subject to the provisions of this part and in other applicable Federal law, a State may use the assistance provided by the Secretary under subsection (a) for—

"(1) development, maintenance, and improvement of State energy planning, policy development, and management systems;

"(2) preparation of studies and analyses in support of energy policy development;

"(3) implementation of programs and projects pursuant to the State energy plan; and

"(4) such other purposes as the State deems to be consistent with its energy policies and goals.

"APPLICATION FOR STATE BASIC ENERGY PROGRAM

"SEC. 354. (a) The Secretary shall, by rule, prescribe guidelines for annual applications for financial assistance authorized by section 353. A State which receives financial assistance authorized by section 353(a) of this part and which has not previously developed a State energy plan approved by the Secretary under section 357 shall, within nine months after the date such grant was made or such longer period as the Secretary for good cause may allow, submit to the Secretary a State energy plan.

"(b) After publication of the guidelines prescribed pursuant to subsection (a) of this section, the Secretary shall invite each Governor to submit an initial application for financial assistance for the development of a State energy plan and the development and implementation of the mandatory activities of section 358 of this part. Such initial application shall include—

"(1) a statement by the Governor that the State intends to develop and submit to the Secretary a State energy plan;

"(2) a designation by the Governor of the State agency or agencies which will be responsible for the development, management, and implementation of the State energy plan;

"(3) assurance that the Federal assistance provided to the State under this part will be expended in a manner consistent with the purposes of this part;

"(4) assurance that at least one-half of the Federal assistance provided to the State under this part will be expended by such State for development and implementation of conservation programs;

"(5) assurance that the expenditure of State appropriated funds in any fiscal year of the State for State energy activities will not be less than the expenditure of State appropriated funds for such expenses during the fiscal year of such State which coincides most closely to the fiscal year ending September 30, 1978;

"(6) a description of the implementation of the mandatory activities prescribed in section 358;

"(7) a description of the procedures by which the State will prepare its State energy plan, including provisions for the participation of units of local governments, Indian tribes, and the public in the development, modifications, or implementation of the plan;

"(8) a description of the manner in which the State intends to make use of existing plans and programs developed by agencies of the State, by units of local government or by Indian tribes within such State, to carry out the purposes of this part, including plans and programs developed for transportation, growth management, economic development, coastal management, environmental and energy-related purposes;

"(9) a description of the manner in which the State intends to provide timely information developed by such State pursuant to section 355(b) (1) and (4) to units of local government and Indian tribes within the State to assist such entities in their energy-related activities;

"(10) assurance that the State will to the fullest extent practicable coordinate its activities under this Part with energy-related planning and program activities of units of local government and Indian Tribes within the State and of agencies of the State;

"(11) assurance that the State energy plan will consider Federal energy policies and the provisions of the State energy plans of other States, to the extent such plan is based on assumptions of specific energy-related actions taken or to be taken by or in other States;

"(12) assurance that the State has obtained or will seek such authority as may be necessary to carry out the requirements of this sub-Part; and

"(13) such other information as the Secretary may reasonably require.

"(c) After the Secretary has approved the State energy plan, the Governor of such State may make annual application for financial assistance. Such application shall include—

"(1) assurance that the Federal assistance provided to the State under this Part will be expended in a manner consistent with the purposes of this Part;

"(2) assurance that at least one-half of the Federal assistance provided to the State under this Part will be expended by such State for development and implementation of conservation programs;

"(3) assurance that the expenditure of State appropriated funds by such State in any fiscal year for the expenses of carrying out activities covered by this Part will not be less than the expenditure of State appropriated funds for such expenses during the first fiscal year of such State in which funds are received;

"(4) further assurance that the State will meet the requirements of subsection (b)(4) and subsections (8) through (11) inclusive of this section; and

"(5) such other information as the Secretary may reasonably require.

"(d) Each application submitted in any fiscal year for financial assistance under this Part shall be reviewed and approved or disapproved by the Secretary. Such application shall be approved if the Secretary determines that—

"(1) the application meets the requirements of subsection (b) or (c), as appropriate; and

"(2) in the case of an application under subsection (c), an approved State energy plan pursuant to this Part will be in effect during the fiscal year in which such financial assistance is sought for expenditure.

"(e) If the Secretary determines that the application fails to meet any requirement of subsection (b) or (c), as appropriate, he shall disapprove the application in whole or in part, and give the Governor of that State timely written notice of such disapproval. Upon receiving notice of disapproval, the Governor may submit a new or amended application for such fiscal year within such period as may be prescribed by the Secretary.

"REQUIREMENTS FOR STATE ENERGY PLANS

"SEC. 355. (a) Each State seeking financial assistance under this Part shall develop or have in effect a State energy plan approved by the Secretary.

"(b) The Secretary shall, by rule, prescribe guidelines for State energy plans, which plans shall contain:

"(1) a description of State energy supply and demand and of its energy goals and policies. This description shall include, to the

extent such information is available or practicably obtainable—

"(A) a forecast of future energy consumption patterns in the State, categorized by type of energy source and end-use, and where practicable disaggregated by region within the State;

"(B) a description of any data systems the State will use in the development, modification or implementation of a State Energy Plan;

"(C) a description of the likely sources, including price assumptions, for energy supply, categorized by type of fuel, which sources the State anticipates will be available to meet the future energy consumption forecasted by the State pursuant to subsection (b)(1)(A) of this section, including any alternatives to such energy sources or conservation measures under consideration by the State;

"(D) a projection of the sources and amounts of energy supply, categorized by type of fuel, produced in the State which will be used in other States;

"(E) a projection of the need for electric power generation facilities and a description of the major actions, together with a schedule for such actions, which the State anticipates will be required to make available such facilities and assure timely selection of sites for such facilities; and

"(F) a projection of the need for other major energy supply facilities deemed appropriate by the State for consideration in the State energy plan.

"(2) a description of the implementation of mandatory activities set forth in section 358 of this Part.

"(3) a management plan for, and a description of, planned uses of funds provided under this Part and under any other Federal financial assistance program that the State intends to use to implement the State energy plan.

"(4) an energy emergency plan which is coordinated with the plans of the Department of Energy and which provides

"(A) administration of State programs for set-aside of petroleum products and other energy supplies during a period of energy supply disruption, consistent with regulations prescribed pursuant to the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159);

"(B) administration of a State program for the allocation of fuels in short supply and for restraining demand for such fuels in a period of energy supply disruption; and

"(C) monitoring of the energy supply and consumption in the State during a period of energy supply disruption in coordination with any emergency management information system maintained by the Secretary; and

"(D) implementation of Federal emergency measures to the extent such measures require State participation or action—

"(5) a description of the provisions for participation

"(A) by units of local government,

"(B) by Indian Tribes, and

"(C) by the public, which provisions shall include one or more public hearings, regarding the development, modification and implementation of the State energy plan.

"(c) Upon written request by the Governor, the Secretary may for good cause—

"(1) waive any requirement under subsection (b)(1) of this section, and where practicable provide the necessary information called for by such requirement for use by the State in developing, modifying or implementing a State energy plan; or

"(2) grant an extension of time for compliance with any provision of this section.

"(d) If a State so requests, each department, agency, or instrumentality of the executive branch of the Federal Government that either produces or consumes significant quantities of energy within that State shall, consistent with applicable law, provide such available energy-related information as necessary and practicable to assist the State in the preparation of the State energy plan under this section.

"(e) A State receiving financial assistance under this Part and which is participating in an energy impact assistance program, or in a coastal zone management program established pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended, shall ensure that the State energy plan established under this Part is consistent with any plan prepared or information provided pursuant to such energy impact assistance program, or with such coastal zone management program.

"STATE COORDINATION WITH LOCAL GOVERNMENT AND REGIONAL AGENCIES

"SEC. 356(a). The Secretary shall encourage but may not require a State to make available directly to units of local government within the State some portion of the Federal assistance provided under this Part. Each State may make available directly to units of local government in such State for any use consistent with the purposes of this Part some portion of the financial assistance provided under this Part.

"(b) The Secretary shall encourage but may not require a State to establish and participate in interstate or multi-state regional organizations which assist in the development, implementation or modification of the State's energy plan or provide for the coordination of the State's energy plan with the State energy plans of other States participating in such interstate or multi-state regional organization. Each State may make available directly to such interstate or multi-state regional organization some portion of the Federal assistance provided under this Part for any use consistent with the purposes of this Part.

"APPROVAL OF STATE ENERGY PLANS

"SEC. 357(a). Each State energy plan shall be submitted by a State biennially. The Secretary shall approve a State energy plan unless he determines that such plan—

"(1) fails to contain the elements of a State energy plan as described in section 355(b) of this Part;

"(2) fails to meet the requirements of section 355(b)(4) and section 358.

"(b)(1) If the Secretary determines that a State energy plan fails under one or more of the provisions of subsection (a) of this section, the Secretary shall provide to the State written notice of intention to act adversely and a statement of the reasons therefor.

"(2) If the Secretary, after affording the State notice and opportunity to present views or take corrective action, finds that the State energy plan has not been prepared in substantial compliance with the requirements of subsection (a) of this section, the Secretary shall notify the State that the State energy plan is disapproved in whole or in part and that the State is no longer eligible to receive all or a portion of the financial assistance allocated to the State under this Part, until the Secretary is satisfied that there is no longer any such failure to comply.

"(c) Approval of a State energy plan pursuant to this section shall constitute approval solely for the purpose of certifying the eligibility of a State for financial assistance under this Part.

"MANDATORY ACTIVITIES

"SEC. 358. Each State receiving financial assistance under this Part in any fiscal year shall provide for development and implementation of the following mandatory programs and measures:

"(a) mandatory energy conservation standards for new residential and commercial buildings except buildings owned or leased by the United States or an agency thereof. For the purposes for this subsection the term 'building' means any structure which includes provision for a heating or cooling system, or both, or for a hot water system. Development and implementation of guidelines prescribed pursuant to this subsection shall be coordinated with the Secretary of Housing and Urban Development to assure compatibility with requirements of Title III of the Energy Conservation and Production Act of 1976.

"(b) an Energy Extension Service Program as described in section 504(a) of the National Energy Extension Service Act, Pub. L. 95–39, as amended, which shall—

(1) disseminate information and provide advice and assistance to individuals, groups and units of local governments and States by means of:

(A) specific studies and recommendations applicable to individual residences, businesses, and agricultural or commercial establishments,

(B) demonstration projects,

(C) distribution of studies and instructional materials,

(D) seminars and other training sessions for State and local government officials and the public, and

(E) other public outreach programs;

(2) provide, to the extent practicable within personnel and funding limitations, that energy evaluations or audits will be made available to commercial, residential and agricultural energy users; and

(3) make use of existing outreach delivery mechanisms or programs in the State and avoid duplication of existing services.

"RESTRICTIONS ON FUNDS

"SEC. 359. Financial assistance provided under this Part shall be expended for the development, modification or implementation of the State energy plan and development or implementation of the mandatory activities under this Part. No funds provided to a State under this Part shall be expended—

"(a) to pay the costs of any construction or the purchase of real property;

"(b) to pay all or any portion of the purchase price of equipment, except office equipment; or

"(c) for such other purposes as the Secretary may proscribe.

"ALLOCATION OF FUNDS; STATE SHARE

"SEC. 360(a) For the purpose of providing the financial assistance authorized by section 353(a)(1) of this Part, the Secretary shall annually allocate the sums available for financial assistance pursuant to this Title among the States in the following manner—

"(1) sixty-five percent shall be allocated on the basis of the resident population of the States, as reported in the most current population reports prepared by the Bureau of Census, Department of Commerce, for general statistical purposes;

"(2) twenty-five percent shall be allocated equally among all the States;

"(3) ten percent shall be allocated on the basis of energy production as determined by the Secretary.

"(b)(1) Except as otherwise provided in this subsection, a State receiving financial assistance under this Part shall be required to provide funds from non-Federal sources for the development, modification, or implementation of the State energy plan and other programs or measures under this Part in an amount equal to twenty percent of the amount allocated to such State under subsection (a) of this section.

"(2) A State may, after notifying the Secretary in the manner prescribed in paragraph (5), elect to defer the provision of its share under paragraph (1) of this subsection for each of the first and second fiscal years of the five year program established by this Part.

The State shall provide such deferred balance in three equal annual amounts during the third through the fifth fiscal years of the program;

"(3) If a State provides either of (A) its share under paragraph (1) for the third fiscal year, or (B) the deferred amount referred to in paragraph (b)(2) of this section, but not both, the Secretary is authorized to grant eighty percent of the amount allocated for that State for the third fiscal year under subsection (a) of this section.

"(4) If a State fails to provide its share in accordance with any provision of this subsection, the Secretary is authorized to grant sixty percent of the amount allocated for a State under paragraph (a) of this section during the third, fourth and fifth fiscal years of the program.

"(5) A State electing to provide less than its share under paragraph (1) and any deferred amount under paragraph (2) otherwise due for any fiscal year shall provide to the Secretary, in accordance with such guidelines as the Secretary may prescribe, a statement of the need for such election.

"(c) Funds allocated to any State for any of the first four fiscal years under this Part but not obligated by the Secretary in such fiscal year may at the option of the Secretary be reallocated among the States for the following fiscal year.

"(d) Notwithstanding the provisions of subsections (a) and (b) of this section, the Secretary may prescribe a maximum allocation for the Virgin Islands, Guam, American Samoa, and the Government of the Northern Mariana Islands.

"(e) Notwithstanding the provisions of subsection (a) of this section, the Secretary shall annually reserve some portion of the sums available for financial assistance pursuant to this Part and shall, by rule, prescribe guidelines for the allocation and use of such reserved portion to carry out the provisions of this subsection. The Secretary may, after affording reasonable opportunity for comment by the State, provide financial assistance to an Indian Tribe if he finds that—

"(1) such Indian Tribe has demonstrated the need for direct Federal financial assistance for such uses as are deemed consistent with the purposes of this Part;

"(2) Federal assistance provided under this Part will not be used to duplicate or substitute for any energy-related program or activity established by a State or unit of local government for use or benefit of Indian Tribes; and

"(3) such Indian Tribal government is capable of performing all requirements of this Part, including matching requirements under subsection (b) of this section. The Secretary shall ensure that any Indian Tribe which receives direct Federal financial assistance under this subsection shall consult with the State or States in which it is located in the development, modification, or implementation of any energy plan prepared for such Indian Tribe.

"Funds provided under this subsection which are not obligated by the Secretary in any fiscal year shall be reallocated to the States for the following fiscal year in accordance with provisions of subsection (a) of this section.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 361. For the purpose of providing financial assistance to the States pursuant to section 353(a) of this Part, and for administration of this Part, there is hereby authorized to be appropriated to the Secretary for each of the fiscal years ending September 30, 1979 to 1983, $105,000,000, which may remain available until expended.

"SUBPART B—CONSOLIDATED APPLICATIONS AND ADMINISTRATION

"APPLICATION PROCESS AND ADMINISTRATION

"SEC. 362. (a) The Secretary shall review all rules, regulations and guidelines of the Department of Energy issued with respect to any State energy program. Within twenty-four months of the date of enactment of this Part, the Secretary shall, to the extent appropriate, prescribe new rules or guidelines for each program to reduce and simplify the administrative requirements imposed on States for the funding and management of State energy programs and to provide for annual consolidated application for financial assistance.

"(b) Notwithstanding any other provision of law, a State may make an annual consolidated application for financial assistance authorized under this Part and under any State energy program or programs.

"(c) The Secretary is authorized to prescribe rules providing for the orderly transition from multiple applications for financial assistance under State energy programs to the consolidated application described in subsection (b) of this section. To enable a State to submit a consolidated application for a uniform program period, the Secretary and the State may, by mutual agreement, amend the term and any other administrative provision of any financial assistance awarded prior to the approval of the consolidated application, and may agree that the unexpended balance of any funds made available under such program may continue to be available for the purposes for which such funds were appropriated.

"(d) Notwithstanding any other provision of law, a State may elect, through its consolidated application under subsection (b) of this section, to use a portion of the financial assistance provided by the Secretary for administrative costs for any other State energy program for activities which the State is authorized to undertake, pursuant to this Part.

"TERMINATION OF FINANCIAL ASSISTANCE

"SEC. 363. (a) Whenever the Secretary, after affording the State reasonable notice and opportunity to present views, finds that a State receiving financial assistance under this Part has failed to comply with the provisions of this Part or with any regulation issued pursuant to this Part, the Secretary shall notify the State that such State is no longer eligible to receive all or a portion of the financial assistance provided under this Part until the Secretary is satisfied that there is no longer any such failure to comply. The Secretary may withhold all or part of further financial assistance under this Part for so long as such State is deemed by the Secretary not to comply.

"(b) Whenever the Secretary, after affording the State reasonable notice and opportunity to present views, finds that a State receiving financial assistance under an approved consolidated application has failed to comply with an applicable statute establishing a State energy program or with any regulation issued pursuant to any statute establishing a State energy program, the Secretary shall notify the State that such State is no longer eligible to receive all or a portion of the financial assistance for such State energy program until the Secretary is satisfied that there is no longer any such failure to comply. The Secretary may withhold all or part of further financial assistance to a State energy program for so long as such program is deemed not to comply.

"(c) The Secretary shall, by rule, prescribe procedures to carry out the provisions of this section. Such procedures shall not be subject to the provisions of section 554, 556 or 557 of Title I of the United States Code.

"TRANSITION TO STATE BASIC ENERGY PROGRAM

"SEC. 364. (a) Upon approval of a State's initial application for financial assistance under this Part, the Secretary may terminate any existing assistance program or other financial arrangement pursuant to section 363 of Pub. L. 94–163, or pursuant to section 432 of Pub. L. 94–385, or pursuant to the National Energy Extension Service Act, Pub. L. 95–39. Any unexpended balance of funds available under any such assistance program or other financial arrangement shall be available to the State to provide financial assistance requested in such application.

"(b) Except as provided in subsection (a) of this section, nothing in this Act shall be deemed to affect any program of Federal financial assistance or other financial arrangement made or entered into by the Secretary prior to the enactment of this Act.

"RECORDKEEPING AND REPORTING

"SEC. 365. Each State or Indian Tribe receiving financial assistance under this Part or under a State energy program shall keep records and shall make reports to the Secretary, which may include information on the amount and disposition expended by such State or Indian Tribe of the proceeds of the financial assistance, the total cost of the plan, programs, projects, measures, or systems for which the assistance was given or used, the source and amount of funds for the plan, programs, projects, measures or systems not supplied by the Secretary and such other information as the Secretary may deem necessary to prepare the annual report pursuant to section 366 and to facilitate an effective audit and performance evaluation pursuant to guidelines prescribed under sections 354 and 355. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination at reasonable times and under reasonable conditions, to any pertinent books, documents, papers, records and reports of any recipients of financial assistance under this Part in the preceding fiscal program.

"ANNUAL REPORT

"SEC. 366. The Secretary shall include in the annual report required by section 657 of the Department of Energy Organization Act, Pub. L. 95–91, a report of the actions taken under this Part in the preceding fiscal year."

AMENDMENTS TO NATIONAL ENERGY EXTENSION SERVICE ACT

SEC. 3. The National Energy Extension Service Act, Pub. L. 95–39, is amended by—

(a) deleting section 503;

(b) striking out the words "The Service" at the beginning of the first sentence in section 504(a) and inserting in lieu thereof "A State receiving financial assistance under Part C of Title III of the Energy Policy and Conservation Act, Pub. L. 94–163, as amended";

(c) deleting sections 504(b) through 504(d) inclusive;

(d) deleting section 505;

(e) revising section 506 to read as follows: "A State shall implement an Energy Extension Service Program, as described and authorized in the preceding section, in conformance with the provisions of sections 355 and 358 of Part C of Title III of the Energy Policy and Conservation Act, Pub. L. 94–163."

(f) deleting sections 507 through 512 inclusive; and

(g) redesignating the sections of the National Energy Extension Service Act, as amended, in appropriate numerical sequence.

AMENDMENTS TO ENERGY CONSERVATION AND PRODUCTION ACT

SEC. 4. (a) Part A of Title IV of the Energy Conservation and Production Act establishing a program for Weatherization Assistance for Low-Income Persons is amended by—

(1) striking the word "only" in the first sentence of section 414(a) and inserting after the phrase "annual application" the following:

"Which may be submitted as part of a consolidated application in accordance with the provisions of section 362 of the State Energy Management and Planning Act.";

(2) amending subsection (b)(1) of section

415 by inserting at the beginning thereof: "be allocated within the State in accordance with a State energy plan established pursuant to the State Energy Management and Planning Act, or if no such plan exists,"

(3) striking the words "such State or area plan" in subsection (b) (2) of section 415 and inserting in lieu thereof "such State energy plan, State or area plan, as appropriate,"."

AMENDMENTS TO THE NATIONAL ENERGY ACT

SEC. 5. (a) Section (c) of the National Energy Act establishing a Utility Retrofit Program is amended by adding after the first sentence a sentence to read as follows: "A plan may be submited by a State as part of a State energy plan submitted pursuant to the State Energy Management and Planning Act in accordance with the requirements prescribed by the Secretary."

(b) Part G of Title III of the National Energy Act which establishes an Energy Conservation Program for Schools and Hospital Facilities is amended by—

(1) inserting after the first sentence of section 394(a) the following:

"A plan may be submitted by a State as part of a State energy plan submitted pursuant to the State Energy Management and Planning Act in accordance with the requirements prescribed by the Secretary."

(2) inserting after the first sentence of section 397 the following: "Such application by a State may be submitted as part of a consolidated application in accordance with the provisions of section 362 of the State Energy Management and Planning Act."

(c) Part H of title III of the National Energy Act which establishes an Energy Conservation Program for Buildings Owned by Units of Local Government and Public Care Institutions is amended by inserting after the first sentence of section 400F the following: "Such applications by a State may be submitted as part of a consolidated application in accordance with the provisions of section 362 of the State Energy Management and Planning Act."

Amendment to the Energy Policy and Conservation Act

(a) Title III of the Energy Policy and Conservation Act, Public Law 94–163, as amended, is further amended by inserting the following new part:

"PART F—ASSISTANCE FOR SPECIAL ENERGY PROJECTS

"PROGRAM AUTHORIZATION"

"SEC. 391. The Secretary may provide financial assistance to States, units of local government, and Indian Tribes to assist in developing and implementing innovative and creative special energy projects.

SPECIAL ENERGY PROJECTS

"SEC. 392(a) The Secretary shall, by rule, prescribe guidelines for implementing this part which shall include—

"(1) procedures for submission of proposals by States, units of local government, and by Indian tribes; and

"(2) criteria which shall be used by the Secretary to select proposals which shall receive financial assistance.

"(b) The guidelines shall—

"(1) require that proposals approved by the Secretary not be inconsistent with the goals and policies of a State energy plan if such plan is in effect;

"(2) provide financial assistance to States, units of local government, and Indian Tribes for special energy projects which seek to encourage energy conservation or to improve energy supply or distribution;

"(3) give preference to those proposals which are directly related to the achievement of national energy goals and objectives and which have potential national applicability; and

"(4) proscribe the use of funds provided under this Part—

"(A) to pay for all or a portion of the purchase price of equipment, except office equipment;

"(B) to pay the cost of any construction or the purchase of real property; and

"(C) for such other purposes as the Secretary may proscribe.

"(c) A State, unit of local government or Indian Tribe receiving financial assistance under this Part shall be required to provide funds in an amount equal to twenty percent of the amount provided by the Secretary under this Part.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 393. For the purpose of providing financial assistance in accordance with section 391 of this part, there is hereby authorized to be appropriated to the Secretary for each of the fiscal years ending September 30, 1979 to 1983, $5,000,000, which may remain available until expended."

"RECORDKEEPING AND REPORTING

"SEC. 394. Each recipient of financial assistance under this Part shall keep such records as the Secretary may deem necessary."

DEPARTMENT OF ENERGY,
Washington, D.C., July 10, 1978.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am transmitting herewith the proposed "State Energy Management and Planning Act of 1978," a measure designed to assist the States in developing an ongoing energy planning capability and to reduce the administrative burdens associated with the several Federally assisted energy programs.

As you know, in recognition of the particular and important opportunities that States have to contribute to the solution of an increasingly serious national energy situation, Congress in recent years has established a number of energy programs in which States play a major role. Two State conservation planning programs were separately established by the Energy Policy and Conservation Act (EPCA) enacted in 1975 and the Energy Conservation and Production Act (ECPA) adopted in 1976. In addition, Congress enacted the National Energy Extension Service Act of 1977 to establish Federally supported extension service (EES) activties in the several States.

Three other programs, as well as amendments to several existing programs, have been tentatively approved by Congress as part of the National Energy Act.

While the Administration supports each of these programs, experience strongly indicates that their effectiveness could be substantially enhanced if they, as well as other State energy-related initiatives, were carried out as part of an overall State energy plan. At the same time, the proliferation of Federally assisted energy programs has placed a heavy administrative burden on the States which can be ameliorated through establishment of consolidated grant application procedures.

The bill I am transmitting contains the following principal features to address this situation:

1. State Basic Energy Programs and State Energy Plans. The bill would consolidate the EPCA and ECPA State grant programs and the EES into State Basic Energy Programs and provide authority to the Secretary of Energy to assist the States in their efforts—

To establish the capabilities necessary to plan, monitor, and evaluate each State's present and future energy requirements;

To implement energy conservation and production programs;

To develop new programs which a State determines would best serve its energy goals and policies.

Participation in the State energy planning program would be voluntary. A participating State could receive financial assistance for development of a plan for approval by the Secretary, and for implementation and any necessary updating of approved plans.

2. Consolidated applications. The bill would permit the use of a consolidated annual application for all Federally-assisted energy programs administered by the Department of Energy. The bill would also direct the Secretary to review the rules, regulations and guidelines relative to State energy grant programs to simplify to the extent possible the administrative procedures which the States are currently required to follow. These provisions are intended to minimize the administrative burden on the States which has resulted from the separate application procedures now required for each State energy grant program.

3. Special energy projects. Section 4 of the bill would authorize the Secretary of Energy to make grants to State and local governments to develop and implement special energy projects. This section would provide the necessary flexibility for the support of State and local government energy projects which may not qualify for assistance under existing categorical programs but which are nonetheless worthy of Federal support.

The legislation also seeks to assure that State energy plans are developed with due regard for the conservation requirements of citizens with special needs, such as the poor, the handicapped, the elderly, and Native Americans. In addition, these plans must be developed with the participation of local governments and private citizens within each State. This requirement would ensure that State energy policies and goals are found on the broadest possible base.

The State basic energy programs established by the bill would be funded by the Department of Energy at the level of $110 million, which includes administrative costs, for each of the next five fiscal years. Five million dollars of that sum would finance the special energy projects program. Requirements for matching funds are spelled out in the bill. The President's budget as submitted in January included $85 million for these activities in FY 1979. The Department of Energy plans to obtain the additional $25 million by reducing requirements in other areas, assuming the legislation were enacted soon enough in fiscal year 1979 to allow full funding of the program. The bill would authorize the necessary appropriations for the remainder of the proposed five-year program.

The Administration strongly believes that the solution of our national energy problem requires concerted action by all levels of government, as well as by the private sector. We believe that this bill would make a significant contribution toward that end. For these reasons, I urge prompt consideration of this proposed legislation.

The Office of Management and Budget has advised that enactment of this proposed legislation would be in accord with the program of the President.

Sincerely,

JAMES R. SCHLESINGER,
Secretary.

"STATE ENERGY MANAGEMENT AND PLANNING ACT OF 1978"—SECTION-BY-SECTION ANALYSIS

Section 2.—This section of the bill would replace the present Part C, Title III, of the Energy Policy and Conservation Act ("EPCA"). The succeeding sections are numbered to conform to the new Part C.

Section 351. Findings and Purposes:

This section states that the States have significant opportunities to contribute to resolution of the energy conservation and production problems facing the Nation. The States should be encouraged to establish an

energy planning and management capability. Federal financial assistance to the States should be increased and administrative procedures consolidated so that energy programs can be made more effective.

In developing State energy plans, the States are also encouraged to take into account citizens of special need and to utilize existing energy and natural resource plans which have been developed by other levels of government within the State.

Section 352. Definitions:

This section defines "conservation" to include any program or activity carried out by a State which is intended to reduce consumption or produce energy from renewable resources.

The term "State" includes Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Government of the Northern Mariana Islands.

The bill provides for consolidated application procedures for the State energy programs contained in the National Energy Act and all other programs administered by the Department of Energy which provide financial assistance to States pursuant to an allocation formula established by statute.

The term "unit of local government" includes general purpose local government of a State. Indian Tribes and Tribal Organizations are defined by the Older Americans Act of 1965.

SUBPART A—STATE BASIC ENERGY PROGRAMS

Program authorization

Section 353. This section authorizes the Secretary of Energy to provide financial assistance to the States to develop and implement State energy plans and to carry out certain ongoing mandatory conservation and outreach programs which are consolidated by this Act. The Secretary is also authorized to provide technical assistance to States to assist them in developing their capability for energy planning and management.

Subsection (b) outlines the primary activities for which financial assistance is intended. They include the development of the State energy plan, preparation of studies in connection with energy policy development, implementation of the plan, and such other activities as deemed appropriate by the State to be consistent with its energy policies and goals. Implicit throughout this legislation is that States may use these funds to implement State activities and roles pursuant to Federal energy legislation.

Application for State basic energy program

Section 354. The Secretary is required to establish guidelines for applications for financial assistance. States may, upon enactment, apply for financial assistance to develop, implement or modify a State energy plan. In order to be eligible for assistance in the second year, a State must develop a State energy plan within nine months after the first grant was made unless a longer period is allowed by the Secretary. With review and approval requiring about 3 months, the programs would take effect approximately a year after the first grant was made.

Subsection (b) sets forth the requirements for an initial grant application. These include—

(1) a statement by the Governor that the State intends to develop a State energy plan;

(2) designation by the State of the agency or agencies responsible for developing and implementing the plan;

(3) assurance that financial assistance provided shall be used by the State in a manner consistent with the purposes of the Act;

(4) assurance that at least 50 percent of the grant will be used for energy conservation;

(5) assurance that the State's contribution to energy programs will not be reduced below existing levels because of Federal assistance;

(6) a description of the procedures by which the State will develop its plan, which must include provision for participation by local government, Indian tribes, and the public;

(7) a description of how the State plans to implement the mandatory conservation activities in the several States.

(8) a description of how the State intends to make use of energy-related plans and programs developed by local governments, Indian Tribes, and State agencies;

(9) a description of how the State intends to provide its energy forecast information to local governments in the State;

(10) assurance that the State will coordinate its activities with those of local government, Indian Tribes, and agencies of the State;

(11) assurance that the State will consider Federal energy policies and energy plans of other States in developing or implementing the State energy plan;

(12) assurance that the State has or will obtain legislative enabling authority as necessary to carry out its activities under the Act; and

(13) such other information as the Secretary may reasonably require.

Subsection (c) sets forth the requirements for annual applications by States in succeeding years. The requirements are similar to those in subsection (b) above.

The Secretary is required to approve any application which meets the application requirements with the added proviso that an approved State plan will be or is likely to be in effect during the fiscal year in which a grant is sought.

Subsection (e) authorizes the Secretary to disapprove a portion of a grant application without being required to disapprove the entire application. The State may submit amended applications upon disapproval.

Requirements for State energy plans

Section 355. A State must be in the process of developing or have in effect an approved State energy plan to be eligible to receive grants under this Part.

Subsection (b) contains the guidelines for State energy plans. These include—

(1) a description of the State's overall energy situation and a statement of its energy goals and objectives. This includes a forecast of energy consumption patterns; a description of the State's data collection system, if any; a description of the likely sources of energy which the State expects will be available to meet its needs and the price assumptions on which those projections are based; an estimate of types and amounts of fuel to be produced in the State which will be used in other States; and a projection of the need for electric generation and other major energy supply facilities.

(2) a description of how the State intends to implement the mandatory conservation and energy outreach activities under this Part;

(3) a management plan and description of how the State plans to use Federal funds to implement the State energy plan.

(4) an energy emergency plan which is coordinated with the plans of the Department of Energy and which provides for (A) administration of State programs for the set-asided program for petroleum products, consistent with guidelines prescribed under the Emergency Petroleum Allocation Act of 1973; (B) administration of a State program for fuel allocation and for restraining fuel demand; (C) monitoring of energy supply and consumption during a period of energy supply disruption in coordination with the Department of Energy's emergency management information system; and (D) implementation of Federal energy emergency measures which require State participation.

(5) a description of the procedures by which local governments, Indian Tribes, and the public may participate in the formulation and implementation of the plan.

Subsection (c) authorizes the Secretary to waive any of the requirements for submission of information of a State's overall energy supply/demand situation, and to provide information to the State where necessary to fulfill any such requirements. In addition, the Secretary may grant an extension of time for State compliance with any of the other requirements for a State energy plan. This subsection is intended to provide flexibility for States which may have more difficulty than other States in meeting all requirements for a State energy plan within one year.

Subsection (d) requires energy-related Federal agencies operating within a State to provide information, consistent with applicable law, when so requested by a State to assist in the preparation of the State energy plan. The information provided would not include proprietary information or information of a classified nature.

State coordination with local government and regional agencies

Section 356. This section is intended to encourage cooperation among local, State and regional energy organizations. States receiving Federal funds under the Act are authorized to provide a portion of the money to interstate or regional organizations, as well as to units of local government within the State, consistent with the purposes of this Act.

Approval of State energy plans

Section 357. State energy plans are to be reviewed and approved every two years. The Secretary is required to approve a plan unless he determines that it—

(1) fails to contain the required elements of a State energy plan;

(2) fails to meet the requirements for an energy emergency plan and for the mandatory activities under the Act;

Subsection (b) requires the Secretary to provide written notice if he determines that a State energy plan fails to meet the prescribed requirements. After the State is afforded opportunity to present views or take corrective action, the Secretary is required to notify the State that the State energy plan is disapproved in whole or in part and that it is not eligible to receive all or a portion of the financial assistance that it has been allocated. The Secretary must resume such assistance when he is satisfied that there is no longer any such failure to comply.

Subsection (c) is intended to make clear that the effect of approval of a State energy plan is limited to eligibility for financial assistance under this Act.

Mandatory activities

Section 358. This section consolidates and makes mandatory two existing energy conservation programs. In order to be eligible for financial assistance under the Act, a State must implement these two programs. The first program, energy conservation standards for new buildings is intended to require the development of both thermal efficiency standards and lighting standards. These two requirement are part of the current section 362(c) of EPCA. Guidelines made pursuant to this subsection are to be coordinated with the Department of Housing and Urban Development to assure compatibility with guidelines established under the Energy Conservation and Production Act of 1976.

The second mandatory program is the implementation of section 504(a) of the Na-

tional Energy Extension Service Act (Pub. L. 95-39). This is an energy outreach program which is designed to provide technical assistance and information to individuals, businesses and agricultural and commercial establishments for the purpose of reducing energy consumption. The program provides for energy evaluations or energy audits to be made available to commercial, residential and agricultural energy uses.

Restrictions on funds

Section 359. This section provides that no Federal funds under the Act may be used by a State to pay for any construction or purchase of real estate, to purchase equipment other than office equipment, or for any other purpose that the Secretary may proscribe.

Subsection (b) is intended to ensure that the State energy plan established under this Act is consistent with the energy impact assistance program contained in pending legislation and the coastal zone management program as well as with any plan prepared or information provided under the energy impact assistance program.

Allocation of funds, State share

Section 360. Funds provided under this Act are to be allocated annually based on the following formula:

(1) 65 percent based on State population;

(2) 25 percent equally divided among all States, and

(3) 10 percent based on energy production in the State, as defined by the Secretary.

Each State receiving assistance is required to contribute 20 percent of its Federal allocation. A State may elect to defer contribution of its share in either or both of the first two years, but such an election does not affect the amount of Federal assistance available. The deferred amount is to be contributed by the State in three equal amounts in the third through fifth years of the program.

A State contributing its share and any deferred amount due in the third year would, subject to other requirements of this Part, be eligible for 100 percent of its allocation.

The Secretary may grant 80 percent of a State's allocation if it pays its share for the third fiscal year or the deferred amount refered to above. The Secretary is authorized to grant 60 percent of a State's allocation even if it makes no contribution in the third, fourth and fifth years.

The amounts allocated to each State will be disbursed in accordance with normal procedures of the Department of the Treasury which govern disbursement of financial assistance.

Subsection (5) provides that if a State elects not to contribute its full share and any other deferred amount due for any fiscal year, the State must submit a statement to the Secretary explaining the reasons for its decision.

Subsection (c) would authorize the Secretary to reallocate unobligated balances from the previous year's allocations in the following year.

Subsection (d) provides for the establishment of maximum allocation levels for the Virgin Islands, Guam, American Samoa, and the Government of the Northern Mariana Islands.

Subsection (e) authorizes the Secretary to set aside a portion of the funds provided under the Act for direct assistance to eligible Indian Tribes. The Secretary may provide assistance to Indian Tribes if he finds that (1) a need for such funds is demonstrated, (2) the Federal assistance would not duplicate or substitute for funds provided under State or local energy-related programs, and (3) the Tribe is capable of performing all the requirements of this Act, including the matching requirement. The Secretary is to ensure that any Indian Tribe receiving such direct assistance will consult with the State or States in which it is located in preparing its own energy plan.

If any such funds remain at the end of any fiscal year, the funds would be reallocated to the States in the following year.

Authorization of appropriations

Section 361. The sum of $105 million is authorized for each of the next five fiscal years. This amount is intended to provide for both financial assistance to States and Departmental costs to administer the program. This authorization may for FY 1979 duplicate in part the authorizations pending before Congress because this legislation consolidates three existing DOE programs and the Administration intends to finance this legislation from within the FY 1979 budget for the Department as proposed by the President.

SUBPART B—CONSOLIDATED APPLICATIONS AND ADMINISTRATION

Application process and administration

Section 362. This section permits a State to make annual consolidation application for financial assistance under any State energy formula grant program administered by the Secretary of Energy. Any funds which have been committed to a State but not expended shall remain available to that State for the purpose intended despite the transition to consolidated applications.

Subsection (c) allows a State to elect, through its consolidated application, to use a portion of its financial assistance to cover administrative costs for any other State energy program for activities which the State is authorized to undertake pursuant to this Act.

The Secretary is required to arrange for an orderly transition to consolidated applications and prescribe rules or guidelines within two years after enactment which will simplify administrative requirements and facilitate State applications for Federal financial assistance.

Termination of financial assistance

Section 363. After giving notice, the Secretary is authorized to withhold all or a portion of a State's allocation of funds provided under this Act if he determines that such State has failed to meet the requirements for a State energy plan. The Secretary may also withhold funds for a specific State energy program for as long as the program is not in compliance with the statute establishing such program or with any regulation issued pursuant to such statute. Thus, a State energy program which is not in compliance would not cause funds to be withheld for other qualifying programs.

Transition to State basic energy programs

Section 364. This section is intended to assure that States receiving financial assistance under any existing program administered by the Department of Energy will not lose the funds that it would have received under those programs pursuant to any arrangements made prior to enactment of this Act, and to provide flexibility during the transition period.

Recordkeeping and reporting

Section 365. This section requires that recipient States and Indian Tribes keep records and make reports to the Secretary to assist him in providing an annual report to Congress. The Secretary, the Comptroller General or any other duly authorized official shall have access to information concerning a State energy plan for the purpose of audit examinations.

Annual report

Section 366. The Secretary is required to include in his annual report to Congress a report on the actions taken pursuant to this Act in the preceding year.

Section 3.—Amendments to National Energy Extension Service Act

This section of the bill repeals most of the National Energy Extension Service Act (Pub. L. 95-30) in order to "fold in" the essential functions of the program into the mandatory requirements of section 358. Reference is made in the remaining language to the provisions of this Act.

Sec. 4.—Amendments to Energy Conservation and Production Act

This section conforms the language of Part A of Title IV which establishes a program for Weatherization Assistance for Low-Income Persons. The purpose of the amendment is to permit a State to apply for financial assistance under this program as part of a consolidated application.

Sec. 5.—Amendments to the National Energy Act

This section amends the Utility Retrofit Program the Emergency Conservation Program for Schools and Hospital Facilities, and the Energy Conservation and Program for Buildings Owned by Units of Local Government and Public Care Institutions to permit consolidated applications for financial assistance.

Sec. 6.—Amendment to the Energy Policy and Conservation Act

This section would add a new Part F to EPCA. The Secretary is authorized to make grants to States, local government and Indian Tribes to assist in developing or implementing creative energy projects.

The Secretary may provide financial assistance to State, local and Tribal energy projects which are consistent with the State energy plan and which encourage energy conservation or improve energy supply.

The Secretary is required to give preference to those proopsals which directly relate to the achievement of national energy goals and which have potential national applicability. The use of funds to purchase equipment, excepting office equipment to pay the cost of any construction or real property, is prohibited. Subsection (c) provides that State, local or Tribal governments receiving funds are to provide 20 percent of the amount provided by the Secretary for special energy projects.

Authorization of appropriations

Section 393. Five million dollars is authorized for each of the next five fiscal years for this Part. A portion of this amount would be used to meet Departmental administrative expenses.

Recordkeeping and reporting

Section 394. Each recipient is required to keep records and annually report on the amount and disposition of funds awarded to projects under this Part.●

ADDITIONAL COSPONSORS

S. 2128

At the request of Mr. INOUYE, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 2128, a bill to amend the Internal Revenue Code of 1954 to eliminate the adjusted gross income limitation on the credit for the elderly, to increase the amount of such credit, and for other purposes.

S. 2157

At the request of Mr. NELSON, the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 2757, the

Small Business Investment Company Development Act of 1977.

S. 2578

At the request of Mr. CURTIS, the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 2578, a bill to amend the Water Resources Planning Act so as to strengthen and protect the rights of the State and delineate congressional authority and responsibility with regard to national water resources policy.

S. 3053

At the request of Mr. SPARKMAN, the Senator from North Carolina (Mr. MORGAN) was added as a cosponsor of S. 3053, a bill to provide mortgage credit assistance to middle-income families purchasing conventionally financed new and substantially rehabilitated homes and to facilitate the preservation and renewal of urban neighborhoods.

S. 3127

At the request of Mr. BAKER (for Mr. DANFORTH), the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 3127, the International Unfair Trade Laws Procedural Reform Act of 1978.

SENATE JOINT RESOLUTION 134

At the request of Mr. BAYH, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of Senate Joint Resolution 134, to extend the deadline for ratification of the Equal Rights Amendment.

SENATE RESOLUTION 465

At the request of Mr. PAUL G. HATFIELD, the Senator from Missouri (Mr. DANFORTH) was added as a cosponsor of Senate Resolution 465, dealing with negotiation of a United States-Canadian air quality treaty.

AMENDMENT NO. 3097

At the request of Mr. STENNIS, the Senator from Utah (Mr. HATCH), the Senator from Nevada (Mr. LAXALT), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of amendments No. 3097 intended to be proposed to S. 2899, a bill to amend the Endangered Species Act of 1973.

AMENDMENT NO. 3134

At the request of Mr. TOWER, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of amendment No. 3134 intended to be proposed to S. 3079, the Military Construction Authorization Act for fiscal year 1979.

AMENDMENTS SUBMITTED FOR PRINTING

PCP CRIMINAL LAW AND PROCEDURES ACT OF 1978—S. 2778

AMENDMENT NO. 3135

(Ordered to be printed and referred to the Committee on the Judiciary.)

Mr. HATHAWAY (for himself and Mr. CULVER) submitted an amendment intended to be proposed by them, jointly, to S. 2778, the PCP Criminal Law and Procedures Act of 1978.

● Mr. HATHAWAY. Mr. President, last month the Subcommittee on Alcoholism and Drug Abuse held two joint hearings with the Subcommittee on Juvenile Delinquency to explore a relatively new phenomenon in drug abuse; namely, the illicit use of legitimate chemicals. Our specific focus was on phencyclidine, commonly known as PCP, angel dust, killer weed, crystal, Cadillac, cyclone, hog, and many other descriptive terms. It is even called DOA by some—this is police shorthand for "Dead on Arrival."

Regardless of what it is called, PCP is said to be a deadly, devastating drug, worse than anything else on the street. A glance at a magazine stand reveals numerous articles on PCP in a variety of magazines from Women's Day to Newsweek to Human Behavior. Newspapers and television programs have been drawing attention to PCP as well. Just last Sunday, the Washington Post ran a front page story on the destructive effects of PCP. The problem extends far beyond the user alone.

Mr. President, I ask unanimous consent that this article be printed in its entirety in the RECORD at this point.

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

YOUTH NOW HOPING TO START AFRESH—LIFE DEVASTATED FOR PCP USER'S FAMILY

(By Judith Valente)

With 10 kids in the family, four of them teen-agers, Jimmy's father had read all the pamphlets on drug use. He had even given talks on drugs to groups of parents. He knew the signs.

When Jimmy was about 16, his father noticed that Jimmy seemed incoherent much of the time. His blue eyes, so like his father's looked as though you could see right through them, his father recalled. He would just break off in the middle of a sentence. He seemed incapable of remembering anything.

One day, Jimmy's father went to the boy's room and "sniffed around."

There, tucked inside a stereo speaker, were a dozen neatly rolled marijuana joints. In a hole in the wall, concealed by a picture, lay several small one-ounce bags of phencyclidine, the mind-altering drug known as PCP, called "angel dust" and "killer weed" on the streets. It is a drug that is fast surpassing marijuana in popularity among the Nation's youth. It can cause drastic personality changes in the habitual user.

Jimmy's father looks back now on that discovery as "a day of total devastation."

"Here are the things you find that you hope aren't there. . . . Here is one of your own who's doing it. . . . When you face it, it blows your whole world apart. You ask yourself, 'What do I do now? Where do I go from here?' "

The things that happened to Jimmy's family over the past four years seem out of context in the familiar suburban atmosphere where they were played out. But somehow it all happened as this otherwise close-knit Catholic family from Montgomery County watched PCP turn the youngest in a row of four boys from a happy-go-lucky, affectionate youngster into a liar, a thief and a drug dealer—a half-crazed young man capable even of threatening to "slash to pieces" the members of his own family.

It is the story of a father who chaperoned at high school dances, who raised money for the Catholic Church and for his children's school, the recipient of "outstanding parent award," and of a mother who never spent more than 10 days away from her family, who is warm, gentle, and active in church affairs.

It all seemed to fail Jimmy. He saw himself as an outsider, the black sheep of the family who needed to prove that he was special.

Blessed with good looks and charm, Jimmy, at 19, has been jailed, stabbed, nearly beaten to death, and at one point, banished from his own home.

After four years of daily PCP use, two mental hospitals and numerous psychiatrists, Jimmy says he is now ready to pick up the pieces of his life and start afresh.

"I'm tired . . . I'm tired, man. I got . . . I mean . . . I just got so much to look forward to in life," he says in a slurred slow-paced speech—a legacy of his years of PCP use. It seems that something is going to explode inside him everytime he starts to speak.

Whether Jimmy will make it is still a question mark for his parents. But the lingering question that gnaws at them constantly, they say, is "how did this happen to us?"

"I was always a curious kid," Jimmy says as he begins to relate his story outside the family's Montgomery County home. There are bicycles in the driveway, a basketball hoop on the garage, swings in the backyard. A flag is displayed for Flag Day.

When Jimmy was 11, and a student in elementary school, he picked up an older brother's baseball glove. Stashed inside was a small plastic bag full of pot.

"I didn't know what it was, so I took it to school. This one kid, he knew what it was so we smoked it. I choked, I coughed, like, I got sick, I couldn't stand it."

But just as he'd grow accustomed in the sixth grade to smoking cigarettes, by eighth grade, Jimmy and his friends were smoking pot before and after school and during recess. Whenever the teachers would let them outside for gym, they'd sneak off to a wooded area near the school and smoke pot.

Jimmy liked the sort of familiar bond his pot-smoking created between him and his friends. It set them apart from the other kids at school. Most important to Jimmy was the way it made him feel superior to his older brothers.

"I have a lot of brothers . . . They always told me to get lost, you know. 'Get lost, you're nothing but trouble.' That's what they'd say. They put me down, man. They put me down really bad."

He constantly got in trouble in those days, Jimmy's mother recalls. The first time Jimmy was caught shoplifting—six Bic pens from a Montgomery Ward store—she remembers how upset she became.

"I was shocked to think he would do something like that . . . That was breaking the law and breaking God's commandment."

Jimmy's mother says she used to break down and cry whenever a policeman would come to the door with Jimmy because he was found drunk or involved in something like shooting slingshots at cars. She soon learned—through habit—to take these things in stride

In the ninth grade, Jimmy went to a school where his brothers were known as athletes and serious students and his parents were involved in several activities. Jimmy took an after-school job mowing the lawn for two men who rented a house near his home.

One day he saw the men mixing an odd-smelling liquid substance in a container in the kitchen. The two men caught Jimmy looking and threatened him if he reported what he saw to the police. In return for keeping silent, he got to take his first couple of "hits" of PCP.

For the next two years, during the 10th and 11th grade, Jimmy says he smoked an ounce of PCP a day. Most PCP users smoke the drug, as Jimmy did, sprinkled on parsley or basil leaves. Because it looks like marijuana and is smoked, many youths, who

don't know of PCP's added potency and who would otherwise stay away from harder drugs, are tempted to try it, drug officials say.

"I just kept getting high, getting more burnt out, more burnt out. Kept going down, down," Jimmy says.

At home his presence was like a time bomb ticking away for every member of the family. Things began disappearing around the house, "little things like this ring," Jimmy's father says, fingering the silver pinkie ring he wears, "which I'd find later in Jimmy's room."

Jimmy began stealing money from his parents and birthday money from his brothers and sisters. Once he stole a large sum of money his father had raised for his high school and his father then had to replace the money.

Things also appeared mysteriously. Stereos, stereo equipment, cassettes, eight track tapes, car radios.

Jimmy broke into a neighbor's house and stole a stereo only to return it the next day. Soon he was being blamed for whatever went wrong in the neighborhood. One neighbor, whom Jimmy's family had been friendly with for almost 20 years, sarcastically told Jimmy's mother one day that the neighbors were thinking of taking up a collection to send Jimmy away.

Soon Jimmy learned that PCP wasn't only a good way of getting high. It also meant money. Lots of it. Once he got his hands on just an ounce of PCP, he could make a $200 profit on a $150 purchase. Soon he was making $3,000 to $6,000 a week.

He began buying leather jackets, $300 suits.

The PCP was apparently easy enough to find. "All you had to do," Jimmy says, is "walk down the street . . . or go to a party and say, 'Hey, man, where can I get some KW? Where can I get some Green?' "

At home, it was a nightmare. Jimmy's parents recall, as their son seemed less and less in touch with reality.

"One night Jimmy came home flying high on something. And he spent the whole night in my arms, crying like a baby, and you know that he's over six foot. I thought to myself, this has got to be it, he can't get much lower than this. I thought now he'll wise up.

"The next morning when he got up from bed, he didn't remember a thing about what had happened," recalled Jimmy's father, a burly soft-spoken man who worked himself up from construction equipment operator to a field supervisor.

It was about that time that he found the drugs in Jimmy's room. "We knew something had to be done, but what? Who do you go to? The police? . . . I tried to talk to Jimmy. I told him "Look, you only have two more years of (high) school. We'll do the best we can for you, but you've got to help yourself.

"(He'd say) Why are you always lecturing me, Dad."

Jimmy's mother had little more success with her son than her husband.

"There was this one time when I was really afraid he'd do something to the little kids. I was sitting at the table, helping one of the little kids with homework and Jimmy leaned in over the doorway next to the kitchen. He had this strange expression on his face. He said, 'You know, I could just kill you all.'

"I know now this was his way of crying out for help."

Although there were no overt attempts at suicide, Jimmy seemed to be on an extended dare with death. He swallowed quaaludes with beer. He drank fifths of vodka in a single evening. But most of all, he found himself in the midst of fights, usually over drug thefts.

After one of these fights, for which he was hospitalized, Jimmy's parents asked that he be examined for drug use. The hospital found that he was a heavy user of PCP.

"We had to do something," Jimmy's father said. So they enrolled him in a drug day care program based at Montgomery General Hospital. The family began receiving counseling at Bethesda Community Psychiatric Clinic. Jimmy went to his therapy sessions only a few times, then withdrew. His parents meanwhile continued with the counseling.

To this day, Jimmy's parents disagree over the benefits of counseling. "They'd ask us a lot of questions, but if you ask them what can be done, they don't give any answers," Jimmy's father said.

"They asked me, what kind of pregnancy did you have? When did Jimmy first talk, when was his first smile. I guess some mothers write these things down. But I didn't," Jimmy's mother said.

So she began keeping notes on Jimmy's teen-age behavior in a black-covered record book. Now, however, the entries were not about first smiles or first words. They said things like, "Using pot heavily . . . weekly (counseling) sessions not enough . . . Jimmy is stabbed in the back."

As the family's attention centered more and more on Jimmy, jealousy grew among the other members of the family.

"We were spending all this money on Jimmy . . . At one point we had used up all the family's savings. We had to say to the older boys, you can't have this or that right now because we just don't have the money. It was hard for them to understand," Jimmy's mother said.

She and her husband became more suspicious of their other children—and the kids noticed it. "They say to us we weren't being fair to them, and we weren't," Jimmy's mother said.

Jimmy's father began scouting around for a mental hospital to place the boy in. He found that most were far more expensive than he could afford. Then he learned that the juvenile court will help pay for the rehabilitative care of youths who are deemed beyond parental control.

So one day in July, 1975, Jimmy's parents told the juvenile court they could no longer control their son.

"It was just terrible. It was admitting that you are a failure as a parent," Jimmy's mother said of the court appearance.

But through the court, Jimmy was able to enter a hospital but seemed to make little progress.

After he came home, Jimmy soon slipped back into his old life style. He was dealing drugs regularly, and then, in a fight with a man who claimed Jimmy had stolen PCP from him, Jimmy was stabbed in the back on the lawn of a Silver Spring apartment building. The knife had ripped into one of his lungs, causing it to collapse.

When Jimmy was released from the hospital, he was 18 years old and his father asked him to move out of the house.

"It had just gotten too much for my husband. He had just been hurt too much," Jimmy's mother said.

Jimmy subsequently spent a month on the West Coast with relatives. When he returned, he told his parents he had changed.

"I just looked at myself in the mirror. I thought, hey man, this isn't me. I looked like a ghost, a skeleton . . . I just had to get it together."

Now Jimmy has a steady job and his own place to live. He talks about trying to get into TV commercials, like a girl he knows who's been in Coca Cola ads. He thinks he'd like to write about his experiences, so he might prevent other kids from using PCP. He would call the book "The K-W Connection," he says, because those are the initials of Killer Weed, and of the Kensington-Wheaton area where he grew up.

His relationships with his family seem to be improving. One morning last month, he hailed his father in the street to give him a Fathers Day present.

"My father you know, like, he smiled at me."

Mr. HATHAWAY. Mr. President, that PCP has become a national problem, as reflected by the media, is also supported by what little statistical information we have available. Use of PCP is growing in alarming proportions, especially among our Nation's youth. Federal officials estimate that nearly 7 million people, most of them from 12 to 25 years old, have tried this dangerous drug. Recent news reports indicate that last year alone, PCP sent at least 4,000 users to hospital emergency rooms, took 100 lives, and was responsible for an untold number of strange, suicidal, or homicidal acts. Reported incidents include drowning in a shower, self-inflicted gunshot wounds, and other bizarre behavior.

PCP is a nonnarcotic, nonbarbiturate chemical agent. It is apparently easy to make from readily available legal chemicals. This drug is extremely toxic and can cause severe reactions with a single dose.

Because of its widespread abuse and potential for devastating effects, PCP warrants national attention and Federal controls. This became increasingly clear at the hearings. Three former PCP users testified about the dangers of PCP and how easily one can obtain the drug. A convicted PCP manufacturer who is currently serving time in Federal prison, described the ease with which PCP is made and the enormous profit that can be realized with a small investment. Researchers, treatment professionals, and law enforcement personnel testified about the widespread and growing use of PCP, especially among our Nation's youth, and cited examples of the bizarre and violent behavior which can be attributed to its use. We also heard from the administration about current efforts with respect to prevention and education, treatment and rehabilitation, and Federal law enforcement activity related to PCP. Finally, we were pleased to have the benefit of testimony from our distinguished colleague, Senator LLOYD BENTSEN, the author of S. 2778, the PCP Criminal Law and Procedures Act of 1978.

This bill would increase the penalties for PCP trafficking and require reporting of the sale or transfer of piperidine, an essential ingredient of PCP. I am pleased to be a cosponsor of this bill, and commend Senator BENTSEN for his fine efforts.

The amendment I am submitting today is based in large part on the testimony received during the hearings, and is intended to strengthen S. 2778. It is entitled the Drug Abuse Control Act of 1978. This amendment revises the penalty structure for the unauthorized manufacture or distribution of PCP contained in S. 2778, so that it is in conformity with the Controlled Substances Act. This amendment also revises the

provision in S. 2778 requiring reporting of transfers or sales of piperidine to require reporting within 7 days instead of 30 days. This will make it easier for law enforcement personnel to track down the substance should there be suspicion of improper use.

Controlling PCP is more difficult than controlling most abused drugs, because it is composed of readily available licit chemicals which are used for legitimate industrial purposes. However, if we can get a handle on piperidine, an essential ingredient of PCP, then we should be able to get PCP under control. The Drug Abuse Control Act of 1978 attempts to do just that.

Mr. President, I ask unanimous consent that the text of 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. 3135

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Drug Abuse Control Act of 1978".

SEC. 2. Section 841(b) of title 21 of the United States Code is amended—

(a) by inserting after the phrase "such person shall" in the first sentence of paragraph (1)(B) the following: ", except as provided in paragraphs (4) and (5) of this subsection,".

(b) by adding after paragraph (4) the following new paragraph:

"(5) Notwithstanding paragraph (1)(B) of this subsection, any person who violates subsection (a) of this section by manufacturing, distributing, or possessing with intent to manufacture or distribute, except as authorized by chapter 13 of title 21 of the United States Code, phencyclidine, shall be sentenced to a term of imprisonment of not more than 10 years, a fine of not more than $25,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under paragraph (1)(B) of this section or for a felony under any other provision of this subchapter or subchapters II and III of this chapter or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 20 years, a fine of not more than $50,000, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 4 years in addition to such term of imprisonment."

SEC. 3. Chapter 13 of title 21 of the United States Code is amended by adding at the end thereof the following new subchapter:

"Subchapter III.—PIPERIDINE REPORTING

"§ 980. Reporting requirement

"(a) It shall be unlawful—

"(1) For any person to sell, transfer or otherwise furnish any piperidine unless such person reports such sale, transfer or exchange to the Attorney General pursuant to regulations promulgated under section 981.

"(2) For any person to sell, transfer or otherwise furnish any piperidine unless the purchaser, transferee, or other recipient of such piperidine presents positive personal identification pursuant to regulations promulgated by the Attorney General under section 981.

"(3) For any importer of piperidine to receive piperidine without reporting such receipt to the Attorney General pursuant to regulations promulgated under section 981.

"(b) The provisions of paragraph (a) of this section shall not apply to—

"(1) Intra-company sales or transfers of piperidine.

"(2) A common or contract carrier or warehouseman, or an employee thereof, whose possession of piperidine is solely for the purpose of transporting such substance in the usual course of his business or employment; provided, that the Attorney General may require any such carrier or warehouseman to retain and report any shipping documents for such substance.

"§ 981. Nature of reports

"(a) Any person required to submit a report pursuant to section 980 shall submit such report on a common reporting form to be issued in blank by the Attorney General.

"(b) Such reporting form shall contain information as to—

"(1) The quantity and form of the piperidine sold, imported, transferred, or otherwise furnished.

"(2) The date the piperidine was purchased, imported, transferred, or otherwise furnished.

"(3) The name, address and age of any individual who purchases, imports, or otherwise receives such piperidine.

"(4) The type of identification presented by the purchaser, importer, or other transferee.

"(5) The name and address of any business entity that purchases, imports, or otherwise receives piperidine, including the name, address, and title of the authorized purchasing agent for such business entity.

"(6) The purpose of such purchase, importation, or transfer, including a description of the intended usage of such piperidine.

"(7) The date and manner that such piperidine was shipped or otherwise transferred and the address of the destination of any such shipment or transfer.

"(8) Such other information, including that necessary for establishing positive buyer or transferee identification, as the Attorney General may deem necessary for the enforcement of this subchapter.

"(c) The Attorney General is authorized to promulgate such regulations as are necessary for the enforcement of this subchapter.

"(d) Not later than one year after the effective date of this section, the Attorney General shall submit to the President and the Congress an analysis and evaluation of the effectiveness of piperidine reporting in reducing the illicit manufacture of phencyclidine. Such analysis and evaluation shall also contain an assessment of any burden such reporting places on legitimate transactions in and uses of piperidine and such recommendations as the Attorney General deems appropriate.

"§ 982. Filing deadline for reports.

"(a) Except as provided in subsections (b) and (c) of this section, any person required to submit a report to the Attorney General pursuant to section 980 shall submit such report within seven days of the purchase, transfer, importation, or other exchange of piperidine.

"(b) The Attorney General may authorize any person required to submit a report to the Attorney General pursuant to section 980 to submit such on a quarterly basis with respect to repeated, regular transactions between the furnisher and the recipient if the Attorney General determines that (1) a pattern or regular supply of piperidine exists as between the person who sells, imports, transfers, or otherwise furnishes such piperidine and the recipient of the piperidine and (2) the recipient has established a record of utilization of such piperidine for lawful purposes.

"(c) Any person required to submit a report to the Attorney General pursuant to section 980 within the first 90 days after the enactment of this Act may submit such report at any time up to 100 days after the enactment of this Act. Such report shall contain the information specified in paragraphs (b)(1) through (b)(7) of section 981.

"§ 983. Retention and inspection of records

"(a) Any person who sells, imports, transfers, or otherwise furnishes piperidine shall maintain such records as are deemed necessary by the Attorney General to enforce this subchapter. Such records shall be kept and be available, for at least two years, for inspection or copying by officers of employees of the United States authorized by the Attorney General.

"(b) The Attorney General may enter during business hours the commercial premises of any person who sells, imports, transfers, or otherwise furnishes piperidine for the purpose of inspecting, examining, or copying any records or documents required to be kept by this Act. Upon the request of any State or any political subdivision thereof, the Attorney General may make available to such State or any political subdivision thereof, any information which he may obtain by reason of the provision of this Act with respect to identification of persons within such State or political subdivision thereof who have purchased, imported, or otherwise received piperidine together with a description of such piperidine.

"§ 984. Lost or stolen piperidine

"Any person who manufactures, sells, purchases, imports, transports, transfers, or otherwise furnishes or receives piperidine shall report any theft or loss of such piperidine to the Attorney General within seven days of the actual discovery of such theft or loss. Such reports shall contain such information as the Attorney General may require under regulations promulgated under this subchapter.

"§ 985. False or misleading statements

"It shall be unlawful for any seller, purchaser, importer, transferor, transferee, or other provider or recipient of piperidine to knowingly make any false, oral, or written statement or misrepresentation with respect to information required to be reported pursuant to regulations promulgated under this subchapter or to knowingly omit any material information required to be reported pursuant to regulations promulgated under this subchapter.

"§ 986. Penalties, enforcement

"(a) Whenever it shall appear that any person has violated any provision of sections 981, 982, 983, 984, or 985, the Attorney General may bring a civil action for such relief (including injunctions) as may be appropriate.

"(b)(1) Except as provided in paragraph (2), any person who violates sections 981, 982, 983, 984, or 985 shall, with respect to any such violation, be subject to a civil penalty of not more than $25,000. The district courts of the United States (or, where there is no such court in the case of any territory or possession of the United States, then the court in such territory or possession having the jurisdiction of a district court of the United States in cases arising under the Constitution and laws of the United States) shall have jurisdiction in accordance with section 1355 of title 28 of the United States Code to enforce this paragraph.

"(2)(A) If a violation of sections 981, 982, 983, 984 or 985 is prosecuted by an information or indictment which alleges that the violation was committed knowingly and the trier of fact specifically finds that the violation was so committed, such person shall, except as otherwise provided in subparagraph (b)(2)(B) of this section be sentenced to imprisonment of not more than one year or a fine or not more than $25,000, or both.

"(B) If a violation referred to in subparagraph (A) was committed after one or more prior convictions of the offender for an offense punishable under paragraph (2), or for a crime under any other provision of this subchapter or subchapters I and II of this chapter or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 2 years, a fine of $50,000, or both.

"(3) Except under the conditions specified in paragraph (2) of this subsection, a violation of sections 981, 982, 983, 984, or 985 does not constitute a crime, and a judgment for the United States and imposition of a civil penalty pursuant to paragraph (1) shall not give rise to any disabflity or legal disadvantage based on conviction for a criminal offense.

"§ 987. Prohibited transfers of piperidine

"It shall be unlawful for any person to import, purchase, transport, transfer, receive, conceal, store, barter, sell, manufacture, or otherwise furnish or dispose of any piperidine if—

"(a) such person:

"(1) is under indictment for, has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(2) is a fugitive from justice; or

"(3) is an unlawful user of any depressant or stimulant substance (as defined in 21 U.S.C. 802(9)) or narcotic drug (as defined in 21 U.S.C. 802(16)), or

"(b) such person knows or has reasonable cause to believe:

"(1) that such piperidine will be used to manufacture phencyclidine, except as authorized by chapter 13 of title 21 of the United States Code;

"(2) that such piperidine has been stolen, or

"(3) that the purchaser, transferee, or other recipient of such piperidine:

"(A) is under the age of 18;

"(B) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(C) is a fugitive from justice; or

"(D) is an unlawful user of any depressant or stimulant substance (as defined in 21 U.S.C. 802(9)) or narcotic drug (as defined in 21 U.S.C. 802(16)).

"§ 988. Criminal penalties

"Any person who violates any provision of section 987 shall be fined not more than $20,000, or imprisoned not more than five years, or both."

DEFINITIONS

SEC. 4. For purposes of this Act—

(1) "Person" includes any individual or business entity.

(2) "Piperidine" means piperidine, its salts and its acyl derivatives.

(3) "Phencyclidine" means 1-(1-phenylcyclohexl) piperidine, its salts and its acyl derivates and any analogue, derivative or variant of phencyclidine that is in a schedule pursuant to section 812 of title 21 of the United States Code.

(4) "Attorney General" means the Attorney General of the United States.●

● Mr. CULVER. Mr. President, I am joining with Senator HATHAWAY in submitting an amendment to S. 2778, the PCP Criminal Laws and Procedures Act of 1978, a bill sponsored by Senator BENTSEN. This amendment will strengthen and improve the effectiveness of S. 2778 in combating a serious and rapidly increasing drug problem—the use of phencyclidine or PCP. This amendment will be considered by the Juvenile Delinquency Subcommittee in its markup session tomorrow morning on on S. 2778.

Mr. President, this amendment is the result of 2 days of joint hearings conducted in June by my Juvenile Delinquency Subcommittee and by Senator HATHAWAY'S Subcommittee on Alcohol and Drug Abuse. At these hearings we received testimony from the National Institute on Drug Abuse that over 7 million people in the United States have used PCP and

That in several areas of the country, PCP is becoming the drug of choice among our young people. We heard about the effects of PCP from three young former users. We also listened to testimony from persons who bought PCP, who trafficked in it, and who manufactured it. We heard from the top Federal officials who are responsible for the prevention, education, treatment, and law enforcement programs aimed at curbing PCP. And finally we heard from a number of law enforcement officers and prosecutors who are engaged in apprehending and prosecuting PCP traffickers.

Mr. President, the Subcommittee to Investigate Juvenile Delinquency and the Subcommittee on Alcoholism and Drug Abuse have long histories of concern with various forms of drug abuse. But frankly, much of what we heard during these hearings on PCP alarms me, for I believe PCP represents a new type of drug abuse that poses unusually serious problems for those who must combat it.

Unlike most drugs of abuse, PCP can be manufactured by virtually anyone using a relatively inexpensive process. It does not have to be smuggled into this country, stolen from a legitimate drug firm, or made in a sophisticated illicit laboratory. Instead, anyone, including teenagers, can simply walk into a chemical supply house and obtain the necessary chemical ingredients for PCP. Then using a simple formula and such primitive equipment as bathtubs, sinks or even garbage cans, they can, in a matter of hours, turn $125 in chemicals into $35,000 worth of drugs.

This situation has led to a number of weekend entrepreneurs who manufacture PCP and makes it extremely difficult for law enforcement personnel to locate all of the illicit laboratories. It also assures a large and relatively cheap supply for the street traffic.

Indeed PCP can be found on the streets under such names as angel dust, killer weed, cyclone, hog, and peace pill. It can be snorted as a power, injected as a fluid, swallowed as a pill, or sprayed over parsley, mint leaves, or marihuana and smoked. Often it is used to fortify other drugs or even misrepresented as THC or LSD. Prices vary widely, but often schoolchildren can obtain potent doses for as little as $1.

The effects of PCP also vary with the individual and the amount and form of PCP used. Some experience feelings of peace and detachment and a loss of sensation. Others have developed temporary amnesia, hallucinations, delusions of superhuman strength, acute paranoia and violent and aggressive behavior. When these types of severe reactions occur, the PCP user is often a threat to himself and to society. For example, we heard testimony of PCP users who have leaped off buildings, attempted to stop moving automobiles, drowned while swimming or bathing, assaulted others and even methodically mutilated their own bodies. We know that last year alone PCP sent 4,000 users to hospital emergency rooms and took over 100 lives, and these figures almost certainly underestimate its actual effects.

Mr. President, S. 2778 as amended by our proposal would combat this situation in two ways. First, it would increase the penalties for the illicit manufacture or distribution of PCP from the present maximum of 5 years and/or a $15,000 fine, to a maximum of 10 years and/or a $25,000 fine. It would also increase the present penalty for a second or subsequent offense from 10 years imprisonment and/or a $30,000 fine to 20 years imprisonment and/or a $50,000 fine. I believe these additional penalties will provide the courts and prosecutors with strong, new weapons to deter the illicit manufacture and distribution of PCP.

The bill as amended would also make it much more difficult to manufacture PCP by attacking the most vulnerable part of that process—the use of piperidine. Piperidine is a little-used chemical essential to the manufacture of PCP. At present anyone may purchase this chemical with no questions asked. Under the provisions of the amendment, however, anyone who purchases piperidine would be required to provide Federal drug enforcement officials with such pertinent information as their name, age, address, and the purpose for which they intend to use such piperidine.

I wish to point out that only 500,000 pounds of piperidine is produced in this country every year since the chemical has relatively few legitimate uses. Moreover, the act would allow those who make regular purchasers of piperidine for legitimate purposes to report such purchases on a quarterly basis. Thus, the legislation would not place any cumbersome burdens on legitimate users of piperidine, but it would greatly restrict the ability of PCP manufacturers to obtain this substance without scrutiny.

Mr. President, as with other drug enforcement legislation, this proposal would not completely end PCP abuse. I am convinced, however, that it will greatly reduce the number of PCP manufacturers and traffickers, and PCP will not be as readily available and as cheap as it is today. Moreover, this legislation would greatly increase the ability of law enforcement personnel to find and arrest those individuals who do attempt to manufacture PCP. Finally, it will assist prosecutors and judges in insuring that those who manufacture or traffic in PCP are convicted and given stiff sentences.

In closing, Mr. President, I would like to thank two of my colleagues. First, Senator BENTSEN is to be commended for introducing S. 2778 to increase the penalties for the manufacture and sale of PCP and to require piperidine reporting. His bill has been cosponsored by 29 Senators and endorsed by the Drug Enforcement Administration and 14 State drug enforcement agencies. Our amendment

is designed to perfect his bill and has his support.

I would also like to thank Senator HATHAWAY, who chairs the Subcommittee on Alcoholism and Drug Abuse, and who has a longstanding concern with these problems. His efforts were invaluable in both conducting our hearings and in formulating these amendments.

Mr. President, Senators BENTSEN, HATHAWAY, and myself believe that these measures would be extremely effective in curbing PCP abuse, and we commend them to the rest of the Senate. We also commend to their attention the excellent article describing the effects of PCP on an individual family that appeared in the Washington Post on July 9, 1978, which has been included in the RECORD.●

ADDITIONAL STATEMENTS

SOLAR ENERGY USE IN DEVELOPING COUNTRIES

● Mr. HART. Mr. President, developing countries have been particularly hard hit by oil price increases and they can ill afford the large capital cost and currency drain required by conventional energy sources. These countries are aware of the seriousness of their energy supply situation, and many of them are expressing increasing interest in seeking alternatives to conventional energy resources and technologies to help meet their needs.

A recent New York Times article describes how a small village in Egypt is discovering the benefits of solar energy use. Currently, a solar cell powers the village television set, cassette recorder, and public address amplifier. The villagers are also interested in using solar energy to power their water wheels and ovens.

I would hope that through our programs of energy cooperation and assistance to developing countries, the United States can share its knowledge of solar energy with many villages such as Basaisa, Egypt.

Mr. President, I ask that this very interesting article be printed in the RECORD.

The article follows:

SUN BRINGS TV TO MUD VILLAGE IN EGYPT'S DELTA

(By Christopher S. Wren)

BASAISA, EGYPT.—In the evening when the field work is done, when the water buffalo, goats and sheep have been brought in and kerosene lamps glow in the darkness, the villagers of this Delta settlement come to their mandara, or communal hall, sit on low cots or the dirt floor and watch television.

To Basaisa's 250 inhabitants, the small orange portable set is a wonder. It is powered by the sun or, more precisely, by a solar cell on one of the village's mudwall buildings.

It is the sun that enables the villagers to grow their cotton, rice, wheat and vegetables in the rich black Delta soil. Now the sun provides a few hours of entertainment, whether a soccer match, popular songs of the late Abdel Halim Hafez or reruns of old American movies.

The solar cell also provides power for the village's cassette recorder and a public address amplifier for the local mosque. More elementary systems also heat the water and will shortly help bake the bread.

Basaisa is a community that has moved to solar power without having first experienced more conventional sources of electricity.

ANCIENT EGYPTIAN'S WORSHIPPED SUN

In ancient Egypt, the sun was worshipped as the symbol of life. Today, the Egyptian authorities are studying the feasibility of using solar power for a number of development projects, including a new town totally dependent on solar energy, at Wadi el-Natrun in the Western Desert, and solar-energized navigation buoys in Lake Nasser behind the Aswan High Dam.

Egypt's steady sun offers the right conditions. An official of the Ministry of Power and Energy reported earlier this year that the country's annual solar radiation ranged from about 1,800 kilowatt hours a square yard along the Mediterranean coast to about 2,500 kilowatt hours a square yard in the south.

Eventually, the Government hopes to introduce solar power for radio and television stations in the south, pumping stations on Lake Nasser, water desalination projects and air-conditioning and irrigation units.

Solar power was introduced to Basaisa by Salah Arafa, a 36-year-old physics professor at the American University of Cairo, Professor Arafa said that he had selected the village because it was in a densely populated farming region not far from his home town of Zagazig, 60 miles northeast of Cairo.

SEEKS TO PROMOTE USE OF SUN'S ENERGY

Professor Arafa said that he wanted to get the villagers sufficiently interested in the sun's potential that they would start to think of it as a logical energy source. "Even educated people in towns are not aware of the possibilities," he said.

The solar cell was donated by the Philips electrical products company and the 12-inch television set from a Japanese concern.

Using these attention-catching devices, Professor Arafa encouraged the villagers to try their hand at making use of the sun. A tin can soldered to a wire coil stretched across a metal reflector became an efficient means to boil water. A fiberboard box with opposing reflector lids was made into an oven.

The village sheik, Mohammed Ali Goneim, said that when Professor Arafa approached him late in 1973, "We were hesitant and didn't know whether to say yes or no. But when he showed us how to boil water and installed the television, we were very surprised and tried to help him."

WORD SPREAD TO NEIGHBORING VILLAGES

Word of the solar experiments spread fast around the district. When Mr. Goneim sent invitations to neighboring villagers to come over and watch television, about 2,000 showed up.

Professor Arafa, who finances the work from his own pocket and with the help of donations, said that the solar cell retained power for only two or three hours and that the television viewers therefore must determine beforehand what they want to see on a given night.

The village sheik recalled that the high point of viewing came last November when all the villagers watched the live coverage of President Anwar el-Sadat's visit to Israel.

Some villagers are already asking whether there are ways to ease the burden of their field work with solar power. "We want to try to make our water wheels function from the sun instead of turning them with animals, and use the sun for a big oven to bake bread," said 16-year-old Abdel Saud Abdel Hamid.●

ADMINISTRATION'S POSITION ON THE CO-OP BANK BILL

● Mr. TOWER. Mr. President. The Senate is expected to consider the National Consumer Cooperative Bank Act (H.R. 2777) in the very near future. One of the most disturbing aspects of this legislation has been the change in the administration's position. A little over a year ago, the administration was on record in opposition to its enactment. At that time, Assistant Secretary of the Treasury Roger C. Altman testified in the House that: "before this administration can support H.R. 2777, we must have more evidence concerning the need for, and cost effectiveness of, creating a Consumer Cooperative Bank and the related entities proposed here." Assistant Secretary Altman went on to say that:

It seems to us that much remains to be learned about (1) the specific unsatisfied financial and nonfinancial needs of cooperatives which the Government should address, (2) the type of capital which cooperatives most require, (3) the existing government programs which might be expanded or better coordinated to help cooperatives, and (4) whether an existing government entity, rather than a new one, is best suited to handle cooperative issues.

The administration proposed at that time the establishment of an interagency task force on consumer cooperatives and the establishment of a pilot lending program for cooperatives. Assistant Secretary Altman said that this task force and pilot lending program were needed because "there simply is not sufficient evidence to support a comprehensive commitment of the size and structure envisioned in this bill. There is insufficient data concerning the unmet financing needs of consumer cooperatives, what form of financing assistance would be most effective, and how much of it is truly required."

Assistant Secretary Altman went on to say:

I believe that compelling evidence should be available before any broad new programs, major budgetary commitments, or new federal bodies are established. We do not yet have such evidence supporting this legislation and thus think that the first step should be to develop it.

However, the administration switched its position on this legislation, and last January, when it testified before the Senate Banking Committee's Financial Institutions Subcommittee, the administration was in favor of establishing a National Bank for Consumer Cooperatives. Within a period of little less than a year the administration had reversed itself to now support legislation that would commit millions of taxpayers' dollars to establish a new Government agency whose need has not been clearly established.

What made the administration change its mind? What compelling evidence—as Assistant Secretary Altman put it—had been developed to convince the administration to turn 180 degrees to now support the establishment of a new multimillion dollar lending facility for consumer cooperatives?

According to Assistant Secretary Altman, the administration changed its mind as a result of a series of interviews between the staff of the Treasury Department and various consumer cooperatives, Federal agencies, and private lenders. I should point out that this study of consumer cooperatives by the administration was not a comprehensive or technical study. The administration acknowledged this when Assistant Secretary Altman testified that it was "in no sense a comprehensive 'survey' or a technical study. Rather we thought that the best way to understand the needs of cooperatives and their contributions to American society was to talk to the people who started them and who run them. They are a dedicated and impressive group." They also must have been a very persuasive group in view of the fact that Assistant Secretary Altman had testified less than a year earlier that it would take "compelling evidence" to establish the need for a consumer cooperative bank.

I have reviewed the information collected in that study by the Treasury Department and I do not believe that it contains the type of "compelling evidence" to which Assistant Secretary Altman referred. Many of the consumer cooperatives interviewed in the course of the study stressed the importance of technical assistance over the need for financing. For example, Mr. George Cerny of People Buying Together, Inc., a consumer cooperative in Dallas, Tex., stressed with the Treasury staff:

> . . . the need for technical assistance especially in the training of competent managers who can promote, service and build up the cooperative. Funds are attracted through promotion and membership drives, he said, and acceptance by the financial community comes more readily when the co-op is operated by a reliable manager and/or bookkeeper.

A number of cooperatives interviewed in this study had been able to obtain private financing. For example, the Group Health Co-op of Puget Sound told the Treasury staff that it ". . . regularly borrows its working capital, at the prime rate of interest, from two Seattle banks."

The study also showed that most of the banks interviewed were willing to lend to cooperatives. A manager of a California bank told the Treasury staff that: "They have no problem at all in lending to co-ops. In fact, Associated Co-ops is their largest borrower and they lend to it at prime rates on both secured and unsecured terms."

A number of the cooperatives that were interviewed by the Treasury staff had never even attempted to obtain private financing. Mr. Barry Peters of Good Food Co-op in Coatsville, Pa., and Maggie Heinemann of Weavers Way, Mount Airy, Pa. told the Treasury staff that: "[N]either co-op had approached a financial institution for funding." According to the Treasury Department:

> Peters had not yet approached any financial institutions for financial support. Peters said he recognized that banks would probably require good financial record keeping, something that he and his colleagues were generally unfamiliar with as social workers.

Finally, some of the cooperatives were highly unrealistic about their ability to obtain credit from private financial sources. For example, Mr. Edward Slettom of the Minnesota Association of Cooperatives in St. Paul described the effort of a group of students at the University of Minnesota to obtain financing for a high-rise student housing project. According to the Treasury staff study, however, the "* * * students were unable to secure permanent financing for the housing project until $20,000 in back taxes on land owned by the students had been paid."

In my opinion, this study by the Treasury Department staff does not make a persuasive case for establishing a national bank for consumer cooperatives. For that reason, I intend to offer a substitute to H.R. 2777 when it is brought up on the Senate floor that would authorize a 2-year pilot lending and technical assistance program for consumer cooperatives and a study of consumer cooperatives and their needs by an interagency task force. I believe this would help to establish the "compelling evidence" that Assistant Secretary Altman referred to as being needed before establishing a new government agency at this time.●

U.S. POLICY IN THE MIDDLE EAST

● Mr. STEVENSON. Mr. President, in a statement on June 12, 1976 before the Subcommittee on Europe and the Middle East of the House International Relations Committee, Harold H. Saunders, Assistant Secretary of State for Near Eastern and South Asian Affairs, provided a useful survey of U.S. involvement in the Middle East since World War II and of the policy dilemmas now confronting us in the search for peace in that part of the world. This is a significant statement of administration views that deserves wide readership, and so, Mr. President, I ask that it be printed in the RECORD.

The statement follows:

ANNUAL REVIEW OF U.S. POLICY IN THE MIDDLE EAST

INTRODUCTION

This Subcommittee's annual review of U.S. policy in the Middle East provides a significant forum for the Administration to analyze American interests and goals in the Middle East and to share with Members of Congress and the public our perception of the policies necessary to pursue them. I can think of few areas of the world where it is more important to understand what is at stake for our country and for our friends and how our interests relate to each other.

HOW PERCEPTIONS OF THE MIDDLE EAST HAVE EVOLVED

It may help focus our understanding of what is at stake today in the Middle East to examine how our perceptions of this area have evolved over the last three decades.

After the second World War, our thoughts ran along two lines.

First, on the strategic front, we spoke in terms of physical geography, characterizing the Middle East as "the strategic crossroads" and a "land bridge" joining Europe, Asia and Africa. This perception grew out of pre-war European political concepts and the experience of a generation that fought in the Middle East and North Africa and across the Mediterranean during the war. The later Soviet thrusts in Iran, Turkey and Greece to expand their postwar influence reinforced this view.

Then, in 1948 we committed ourselves to the existence and to the survival of Israel as a Jewish state, as a home for victims of the Holocaust and others who wished to come, and as a functioning democracy.

By the early 1960's, the advent of intercontinental missiles with nuclear warheads and the fact that the USSR had achieved an active position in the Middle East caused us to shift from seeing national interest primarily in terms of the Middle East's geographic position to a perception of the Middle East in global strategic terms. We wanted to enhance our influence in the area partly because the Mediterranean remained an important lifeline to our NATO allies and our allies to the east but also because of the importance of oil to western Europe and the political orientation of key states. We did not at that time see a direct threat to American interests coming from this area. Direct U.S. economic interests, apart from our interest in the reliable availability of oil to our allies at reasonable prices, largely centered in oil-related activities.

The U.S. also continued its firm commitment to Israel's strength and well-being and, at the same time, expressed humanitarian concern for peace in the Middle East which would permit all the people of the area, including the displaced Palestinians, to build better lives.

TODAY'S PERCEPTIONS OF OUR INTERESTS

In the 1970's yet a further evolution in our view of the Middle East has taken place. It reflects new developments there with which we and our friends must deal creatively.

Today there are few areas in the world where so many compelling American interests intersect as is the case in the Middle East. The basic catalogue of interests remains unchanged and familiar to us all, but there are important new points to be made about them. Let me discuss each of them in turn.

A. We have long recognized that it is imperative that the United States seek to prevent conflict in the Middle East from again becoming a flashpoint and that helping strengthen the independence of Middle Eastern countries will contribute to stability in the region and make war less likely.

Since the mid-1960's, the Arab-Israeli wars of 1967 and 1973 have demonstrated to us in the heat of crisis that the Middle East is an area where U.S. and Soviet forces could confront each other in the context of a local war. Now, with estimates of the Soviet Union's own changing energy needs, a new dimension has been added to the traditional Soviet interest in a strong position in that area. These facts provide an important part of the backdrop against which we pursue our interests in the area.

B. Our irrevocable commitment to the security, strength, and well-being of Israel has been reaffirmed by every American Administration since the modern State of Israel was born thirty years ago. It is a permanent feature of American foreign policy. I might add that this has been a deep personal com-

mitment of mine. Many Americans share this commitment to a people who have suffered beyond our ability to comprehend and who have yet contributed so much to our heritage and to our world.

In this decade this commitment has been broadened and strengthened by the passage of time and the steady development of relations between our two countries.

Today, however, Israel and the U.S. must face together new and more difficult circumstances.

It is increasingly obvious that Israel's security can best be guaranteed over the long term by a policy of continued military strength coupled with a peaceful relationship with its neighbors. Close American cooperation with key Arab states is essential to achieving and guaranteeing that peace.

In the past year, the opportunity for peace has increased dramatically. Before 1967, when no Arab state would talk of recognizing Israel and making peace with it, the basis for a final, peaceful settlement of this conflict did not exist. Following President Sadat's historic trip to Jerusalem and Israel's warm reception, Israel for the first time since its founding as a modern state is dealing with an Arab state which is prepared to accept and recognize a Jewish state in the Middle East and to make peace and establish normal relations with it. Opinion in the Arab world has shifted gradually since 1967, and the shift accelerated after the 1973 war. In going to Jerusalem, President Sadat dramatized that shift and broke out of the thirty-year cycle of war and truce to create a new psychological climate in which there can be progress toward peace between Israel and all its neighbors. The issue is no longer whether there can be peace, but whether there can be agreement on the terms of peace.

In that context, we have particularly come to recognize in new ways the importance of a just resolution of the problem of the Palestinian Arabs for a peace settlement. This is no longer seen as simply a refugee problem; it is a problem of fulfilling the legitimate rights of the Palestinian people in ways that enable them to participate in the determination of their own future and to live in peace and security with Israel. The Palestinians for their part must demonstrate a willingness to live in peace with Israel.

Finally, Israel's development has reached a point where the advantages of peace for the further growth of the Israeli people are clearer than ever. Peace can release their extraordinary talents and energies to the benefit of Israel and of the world at large. In per capita terms, Israel possesses more scientists, engineers, physicians and other professionals and technicians trained in public service fields than most nations of the world. Already, despite thirty years of conflict and tension, Israel's contributions to human and material development in areas such as health, agriculture, the environment, alternative sources of energy and water conservation have been remarkable. Under conditions of peace which relieve Israel of the world's most crushing defense burden, its already disproportionate contribution to solutions to some of the most pressing global issues will be magnified.

C. We have long recognized the importance of the Arab world. The strength and moderation of the major Arab countries has been a bulwark against radical forces in the Middle East, and they have in turn looked increasingly to the United States for support in ensuring their security and independence. The oil which some of them produce has long been vital to our allies.

Today, there is a new degree of interdependence between the U.S. and the key Arab nations that are prepared to work with us contructively. The achievement of a peaceful settlement of the Arab-Israeli conflict is surely a central goal in this relationship. There are other benefits as well.

The rapid increase in investable surplus which the Arab Governments hold—now approximately $140 billion—has added a new dimension to our interests in this area. Some of their increased revenues come from the willingness of some oil-producing states to meet increasing demand in the rest of the world by producing more oil than their domestic revenue needs would require them to sell. How these revenues are used will affect the ups and downs of the world economy and of the dollar, and they can play a significant role in the development of poorer nations. At the same time, the U.S. economy is important to the Arab oil-producing nations in accommodating these enormous amounts of capital.

The oil which has long been vital to our allies has become increasingly so to us. Crude oil imports from the Middle East made up 22% of our total petroleum consumption and nearly half of our imports in 1977 (vs. 7% and 29% respectively in 1973.)

Thus, the Middle East figures in our calculations on energy, as well as in our balance of payments position and efforts to maintain a stable dollar, in ways that would have been unthinkable ten years ago.

In the last thirty years, the U.S. has simply become much more involved in the affairs of the Middle East. Important nations in the area have looked increasingly to the U.S. for modern technology. Our relationship to their modernization programs and the increased economic involvement with them have sharply widened the range of contacts between Middle Easterners and Americans. No other country offers the broad range and depth of technology that exists in the U.S. and none is so adeptable to the specific educational requirements of foreign students. There are over 100,000 students from the Middle East in the U.S. now and almost 90,000 Americans are living in the Middle East.

Trade between the U.S. and the Middle East has increased rapidly since 1973. The import side of this trade has been given wide publicity as the U.S. demand for foreign and increasingly Middle Eastern oil has risen. However, U.S. sales to the area have also grown substantially. U.S. exports to the region were $3.5 billion in 1973 and accounted for 5% of our total exports. By 1977 American sales to the Middle East had jumped to a total of $12.3 billion. Our Middle East customers now purchase over 10% of our total exports. In addition, hundreds of millions of dollars of architectural, consulting, engineering and construction services which do not appear in the above trade figures, are being exported and reduce our trade deficit with the region. The link between this market and American employment levels and the importance of these exports to our balance of payments are obvious.

Finally, the key oil-producing nations of the Middle East are increasingly important to the world economy. The rise in oil prices in 1973 demonstrated clearly how oil pricing decisions and the related decisions on production levels can be a major cause of economic dislocation in most countries of the world, from the most industrialized to the least developed. They also play an increasingly positive role in development. By the end of 1977 cumulative OPEC bilateral aid commitments totalled about $26 billion. OPEC countries have also committed substantial amounts of capital—almost $11.5 billion by the end of 1976—to international organizations. Further, they have pledged almost half of the billion dollar capital of the International Fund for Agricultural Development, an organization that is in itself a result of their initiative. These emerging OPEC financial powers soon will enjoy greater voting strength as a result of increased quotas in the IMF.

D. America has long felt a moral and humane commitment to the people of the Middle East to help end a conflict that has caused a generation of suffering and to help remove other obstacles that have impaired social and economic progress.

In the past year in this Administration, we as a nation have redoubled our commitment to a fuller realization around the world of basic human rights. Leaders in the Middle East have repeated to us in many ways at many times that they want to achieve peace so that they can devote their energies and their resources to the well-being of their people. Many of them have a vision of an era of growth and development which could follow a peace agreement. Many of them have asked us to cooperate with them in making that vision a reality. We remain prepared and want very much to provide this cooperation.

PREMISES FOR U.S. POLICY

The preceding analysis of U.S. interests in the Middle East in the 1970's suggests four premises about U.S. policy toward that area in the late 1970's.

First: Because each of our interests in the Middle East is important, the only viable national policy is one which enables us to pursue all of those interests at the same time.

Defining our interests this broadly and recognizing how they are interrelated is the most effective way the U.S. can help strengthen all of its allies and friends. Reciprocally, all of our friends share a common interest in our strength, in our success, and in a strong American role in fostering peace, independence, and growth in the Middle East. This interdependence of all our interests deserves the most serious consideration.

For the United States, the pursuit of all of these interests reflects a coherence of policy in which our moral commitments and our human concerns on the one hand and our strategic and pragmatic national interests on the other are mutually reinforcing.

Second: The experience of the past four years has shown that we are best able to pursue all of those interests simultaneously in circumstances where there is progress toward peaceful settlement of Arab-Israeli conflict.

When there is no movement toward a settlement, tension between Israel and the Arab states rises and relations between the U.S. and Arab nations become strained. The pressure on Arab states to look elsewhere for assistance increases and there is a corresponding diminution in the U.S. ability to play a role in influencing events. Additionally, Israel becomes increasingly isolated and harmony between the U.S. and its allies is jeopardized. When the U.S. is actively engaged in the peace process and when progress is being made toward achieving agreements as has been the case in the past four years, Israel has enjoyed greater security. When as a consequence, the U.S. can strengthen its ties with all of the important Middle Eastern countries, the momentum toward peace grows and our vital interests become self-reinforcing.

Peace, therefore, is not only the best assurance of a secure and prosperous Israel, but also would strengthen moderate govern-

ments in the region and enhance U.S. global interests. It is crucial to the understanding of U.S. policy in the Middle East to recognize that our urgent national commitment to an Arab-Israeli settlement is based both on our enduring commitment to Israel's security and on the fact that peace is a necessity for the U.S. and its allies.

Before leaving this point, I want to address openly a question that deeply concerns many Americans today, as well as our friends in Israel. The question is often put obliquely this way: What kind of U.S. relationship with the Middle East can we see five or ten years from now? On many occasions the real underlying question is: Are we not reducing our support for Israel in favor of the Arab nations?

The answer to the latter question is unequivocally no.

So long as all of our friends in the Middle East share a common interest in peace, in a strong U.S. role in the Middle East and in checking the growth of radical influence, close relations with one party do not mean diminished relations with others. None of our friends, nor we, will gain from a diminished U.S. relationship with any of the key states there. To the contrary, a closer relationship with each party enhances our ability to pursue objectives common to all.

It follows from this that, in pursuing all of our interests in the Middle East, including our historic and unchangeable commitment to a strong Israel, our diplomacy must work toward creating conditions and a framework of relationships that make pursuit of these interests complementary. To do otherwise would not be consistent with our moral, strategic or economic interests. We believe our friends have an interest in our success.

Third: There has been a significant shift toward the West in the relations between principal Middle Eastern nations and the major powers outside the Middle East over the last several years.

Compared with the mid-1950's when the Soviet Union and its Eastern European allies appeared to be in the ascendant and the U.S. position was eroding to a point that most Arab countries broke diplomatic relations with us after the 1967 war, the present position of the U.S. is a significant change for the better. This is not to say that the Soviet Union does not have legitimate interests in the Middle East or that it will not have an important role to play in the future of that area. Our present position does, however, testify to recognition in many of these nations that their economic progress and national independence require a significant relationship with the West.

Entirely apart from political ideology, many Middle Eastern nations have recognized that the West offers the technology and the managerial skills needed to develop their countries, and that U.S. diplomacy can make an essential contribution to a peace which will lift the burden of heavy defense expenditures from their shoulders and let them get on with the constructive work of economic and social development.

While the economic relationship may persist, radical forces could again take advantage of conditions that would follow failure of the peace negotiations. Thus, one thing at stake in the Arab-Israeli negotiations and in cooperation with key Arab countries is the future orientation of the important nations of the Middle East, both in terms of their relationship with the great powers and in the nature of their own political systems. Moderate Arab leaders have turned to the U.S. for cooperation in achieving both peace and development. Their success will limit the role of radical forces. Their degree of success will in turn in large part determine whether Israel faces the future surrounded by radical and hostile states or by nations which are committed to peace and orderly progress.

The fourth premise is that without in any way detracting from our other commitments a definition of U.S. interests in the Middle East must take serious account of the new dimensions of U.S. economic relations with the area.

These economic factors explain why our strategy in the past four years has had two thrusts—not one. The more dramatic has been our high priority drive for an Arab-Israeli settlement. Less dramatic, but of great importance, has been the effort to encourage the broadest possible range of relationships between the economic and social sectors of the U.S. and of the Middle Eastern countries. We have recognized not only the nation's economic need for these relationships, but also the fact that the U.S. presence in the future of the Middle East will be a truly national presence—not just a governmental one.

THE PEACE PROCESS AT PRESENT

Let me turn to one final subject. I know that this Subcommittee has been following closely the progress of efforts to promote an Arab-Israel peace settlement. Because of its importance, I want to conclude this statement with a status report.

A year ago we reported that our objective was a comprehensive peace settlement and that we were concentrating our efforts on reconvening the Geneva Conference for negotiation of such a settlement, a concept to which we are still committed. A comprehensive settlement, in fact, remains the objective of all the parties to the conflict. But President Sadat's visit to Israel opened a new approach and historic new opportunities for peace, and since November we have been working with Egypt and Israel to build on that initiative toward a comprehensive peace. We have done this in full recognition that there will be no peace for Israel or its neighbors until there is a peace that encompasses all of them, including the Palestinians.

President Sadat's initiative must be seen in two perspectives:

First: United Nations Security Council Resolution 242 of November, 1967, established the basic equation for peace which has guided negotiators and mediators since. That equation established the proposition that there would be Israeli withdrawal from territories occupied in the 1967 conflict in return for peace and security. Now Egypt has offered peace, acceptance, and negotiations on Israel's security's needs. President Sadat's visit to Jerusalem made this offer concrete.

Second: A year ago when President Carter and Secretary Vance conducted their initial consultations with the leaders of Israel, Egypt, Jordan, Syria, Lebanon, and Saudi Arabia, they identified three issues that would need to be dealt with in peace negotiations: the nature of peace, Israeli withdrawal and the security measures that would accompany withdrawal, and the role of the Palestinians. President Sadat's visit to Jerusalem resolved on Egypt's behalf that the nature of peace is to include not only the end of war but the acceptance of Israel and normal relations with it.

The purposes of the negotiations now are to restore the momentum created by President Sadat's November initiative and Prime Minister Begin's responses to it and out of this to develop a framework within which the other Arab parties to the conflict can join the negotiating process and address the questions of peace and normal relations with Israel, Israel can address the issues of security and withdrawal, and the problem of the Palestinians can be resolved in a just, humane, and honorable way.

The focal point of our current consultations with Israel and Egypt is the question of the future of the West Bank and Gaza—those parts of the former Palestine Mandate lying outside Israel's 1967 boundaries—and the role of the Palestinians in resolving this question. This is the key to progress at the present stage of the negotiations. Without some understanding on these issues it will be impossible to achieve the Declaration of Principles which both Egypt and Israel want to govern larger negotiations for a comprehensive settlement between Israel and its neighbors. Our role is to help the parties find a middle ground. In practical terms, that means helping them find a formula whereby a practical solution for the future of the West Bank and Gaza can be negotiated on the basis of all the principles of United Nations Security Council Resolution 242 in a way that will give the Palestinians a voice in the determination of their own future.

Our role in this process is not simply as postman between the two sides. At decisive points in the negotiations, where we see it helpful to move things forward, we have in the past given our own ideas, and we will continue to do so in consultation with the parties. That was the way the agenda for the Political Committee meeting in Jerusalem was resolved last January—our proposal broke the impasse. The current discussion of the Declaration of Principles proceeds from an American working draft written at the request of the two parties. That might occur again, but it would occur with the purpose of helping the parties to define middle ground where they might negotiate agreement. That middle ground would be developed from the positions of the parties, not from an abstract American peace plan.

On the issues being discussed, we have important points of agreement with both sides and points on which we differ.

With Israel there is full agreement that the threats to Israel's security which could come from these areas must be dealt with satisfactorily—both the threat of invasion by conventional military forces and the threat of terrorist and guerrilla attack. We are also agreed that issues as complex as these will require time and careful negotiation, so we suggested a year ago that the first objective should be an interim arrangement, perhaps five years, for the West Bank and Gaza, to give time to work out solutions there. During this period, Israel, Egypt, Jordan and representatives of the Palestinians could work out practical security arrangements that would make it possible to separate the question of Israeli security from the question of sovereignty over the territory. During the same time, these parties would work out arrangements for the political future of the West Bank and Gaza, with provision for obtaining the consent of the people affected to the terms of a final peace treaty.

We have disagreed with Israel in one important area. The current Israeli Government, unlike its predecessors, has not agreed that Resolution 242 involves a prior obligation in principle to withdraw from any West Bank and Gaza territory. Israel has, however, agreed to negotiate with all of its neighbors on the basis of Resolution 242, and we have been discussing with it whether and how those negotiations would deal with

the question of withdrawal as it relates to the West Bank and Gaza.

Our position is that the issues of security and sovereignty can be separated—as Israel has already agreed to do in its proposal to Egypt on the Sinai. We are not saying that this agreement in principle to withdraw from West Bank and Gaza territory determines the timing and circumstances of actual withdrawal or the final borders, all of which must be negotiated. That would take place only in the context of a final peace treaty embodying commitments to normal peaceful relations and agreed security arrangements, including possible agreed border changes.

It is difficult to see how the negotiations for all these security and political arrangements can go forward until Israel has indicated that the principle of withdrawal in Resolution 242 can be dealt with in the negotiations as applying to this occupied territory. We have been discussing this matter with Israel and are awaiting their views. Until this is clear, neither Jordan nor other Arab representatives will join the negotiations. They in turn, will have to make clear their willingness to live in peace alongside Israel if negotiations are to succeed.

We and the Arab governments who are key to the peace process agree that the common objective is a peace settlement based on Security Council Resolution 242 which, among other things, recognizes Israel's right to exist as a sovereign state. With Egypt, we have reached agreement that such a settlement should encompass the full range of normal relations that are customary between states at peace with one another. We and those Arab governments also agree that a settlement must include a just solution of the Palestinian problem in all its aspects. And we agree that all the principles of Resolution 242, including the principle of withdrawal, apply to all fronts where territory was occupied in 1967, including the West Bank and Gaza.

On the other hand, we have made it clear over the past months that we do not agree with some key elements of the position of some Arab states. For instance, we do not agree with their call for a prior commitment of Israel to total withdrawal from every bit of occupied territory. That is not part of Resolution 242. We have also made clear that in our view the future of the West Bank and Gaza lies in close association with Jordan and that an independent Palestinian state harboring irredentist feeling in this truncated territory would not be a realistic or durable solution.

A CONCLUDING WORD

This is a period of dramatic new opportunities for the people of the Middle East and for the relationships between the United States and the Middle East. How we together handle these opportunities may well determine the character of the Middle East, the American role there, and many aspects of the economic health of the world for the remainder of the twentieth century. It is because the stakes are so high that I have taken so much of your time today to analyze them in detail and to present them for your study and discussion. We are also engaged in an intensive effort to discuss them with the American people because it is essential that we enter this period of opportunity with a national consensus on policy and a shared sense of direction.●

RUSSIAN CREDIBILITY

● Mr. DOMENICI. Mr. President, once again, across this Nation's headlines, are the stories of two Soviet citizens, Anatoly Scharansky and Alexander Ginzburg—two now familiar faces with familiar plights. Somehow these two men challenged the Soviet Union's historical recipe for social order: absolute adherence to the dogmatism of a closed society.

The Soviet Government apparently charges these two men with anti-Soviet agitation and propaganda, as well as treason. If this is merely another example of a system conducting its internal policies differently than our own, why should we be so concerned and displeased? The answer is simple. We have accepted the principle of détente, have opened trade, cultural, and scientific exchanges, and are attempting to reduce the possibility of "mutual annihilation," in the words of Secretary Vance, through the strategic arms limitation talks. But, are these good faith efforts reciprocated?

How many words will have to be spoken, or written, of our deep concern, our dissatisfaction, our aggravation, our disappointment, et cetera, before the Soviet Union understands that this is not just diplomatic rhetoric but honest appraisals of American views. The Helsinki accords may be meaningless to Soviet officials, but they are considered instruments of good faith by other citizens of the world. As in the past, do the Soviets expect us to turn our heads and shut our eyes to continued abuses of these principles? Perhaps, from experience, they believe our words are not fortified by actions, and they can proceed on the premise all will be forgotten in the next month or two. If so, they should be on notice their assumption is inaccurate.

Almost 60 years ago to the day, July 16, 1918, the Russian Tsar was apparently killed at Ekaterinburg, thus ending forever the monarchical rule of the Russian people. In the name of liberation, a new system of government came into power to deliver these same people from years of oppression. Has it taken us 60 years to realize the Soviet citizen still is unable to question his leaders' decision; to seek alternative lifestyles for himself and his family; or even to read the book of his choice? Admittedly, the Helsinki accords do not give us the right to interfere in the internal matters of another nation. However, here is an example of a Soviet citizen, Mr. Schransky, acting in accord with the international human rights agreements by monitoring his government's activities, charged with anti-Soviet agitation and propaganda. Mr. Schransky's actions did not imperil the security of the world; in fact, they may not affect any but a few of his own fellow citizens. But, the Soviet Union has seen fit to abuse its agreed-upon principles, and in so doing, casts a shadow over the credibility of future agreements it may sign.

If the Soviet Union will renege on an obligation, paled in significance when compared with SALT II, what can we anticipate when billions of dollars and lives are at stake? Does their signature on a document mean nothing? Are their promises meaningless? The actions in the Soviet Union this week tend to confirm the above questions can be answered affirmatively.

Contrary to some, I see important similarities in a document signed in behalf of human rights and a document signed in behalf of arms limitations. In both cases they are only pieces of paper backed up with good faith, confidence, and reliability. If these assets are not proven commodities, then what choice do we have but to assume the new SALT agreement will be compromised, just as Helsinki has been. I, for one, am very concerned. I am concerned enough to believe words no longer suffice to show my displeasure. The Soviet Union should be prepared to accept the fact that some of us will not forget their actions against Schransky and Ginzburg, and mere rhetoric will not be our response to their pleas for a new and different agreement.●

THE RETIREMENT OF JOHN McCORMICK

● Mr. CULVER. Mr. President, a few days ago, John McCormick of Davenport, Iowa, who in recent years has served as political and community affairs editor for the Quad-City Times, retired from the newspaper profession after more than 40 years of distinguished service as a journalist in Iowa. Although he is a small man physically, no one who knows him has ever doubted his stature as a newsman—his courage, his integrity, his insistence on fair, high-quality coverage of the news. As an editor, he was a gruff taskmaster of the old school who demanded and got the best from his reporters. When he himself was reporting the news or writing his column, he spared no effort to achieve accuracy and clarity in his writing. He had a rare knack of searching out the human quality in a news story, reflecting the deep compassion which is his dominant characteristic.

Oldtimers remember Mac over 20 years ago when he was Iowa news editor for the old International News Service in Des Moines. Over the years, he became well known for his thorough and accurate coverage of State affairs. The two houses of the Iowa Legislature honored him with separate resolutions in May of 1977. The senate resolution said the people of the State "are in the debt of John McCormick for his honest, forthright, and impartial reporting." The house resolution praised him for "ceaselessly following the progress of nearly every bill in the Iowa Legislature for years. He has often been glowingly and grudgingly called 'the walking Code of Iowa.'" The house concluded that Mac "is generally gruffy, cynical, presumptuous, cantankerous and a gentleman."

In addition to his journalistic career, John McCormick gave unstintingly of his time, energy and financial resources to public service. He was cited by the Izaak Walton League for his contribution to conservation and ecology; received an Iowa Association for Retarded

Children presidential award for "outstanding service in behalf of programs to aid the mentally and physically retarded"; and was the recipient of the first outstanding citizens' citation by the Department of Family and Children's Services. He was also involved in various studies and efforts to improve local governments and communities.

So in a wide range of activities, John McCormick has left his benign and constructive imprint on the institutions and communities of his State. But first and last, he is respected as a quintessential newsman who loves his profession and exemplifies its highest standards. There is only one Mac, but throughout the country there are newsmen who share his concept of journalism as one of the highest kinds of public service. The Nation is infinitely better because of them.

Mr. President, I ask that an article from the Quad-City Times of July 9, 1978, entitled "A Newspaper Giant Retires," be printed in the RECORD.

The article follows:

[From the Quad-City Times, July 9, 1978]

A NEWSPAPER GIANT RETIRES

(By Forrest Kilmer, Editor)

Readers: Time—and not a competitor—finally has caught up with John McCormick.

Mac has been the political and community affairs editor for the Quad-City Times for the last several years. For much of the past two years he has been in fit health.

Mac wishes things were other than they are, but he is a man of reality.

"I'm not contributing any more," he said from his bed in Mercy Hospital one day last week. "It's time to retire."

Our newsroom will never be the same.

My acquaintance with this man started many years ago when I was a young reporter with the former Democrat newspaper in Davenport and McCormick was Iowa news editor for the old International News Service.

I was also the Davenport stringer for INS. My job was to call in all the big local stories to the Des Moines bureau. Mac usually was at the other end of the line.

But he never talked to me. He growled. You could never please the guy.

When INS merged with the former United Press, Mac moved over to the new United Press International. Still a reporter, I covered the Davenport scene for UPI for several more years. Then I became an editor and the name John McCormick faded into memory.

In 1964 the Democrat and the Daily Times became the Times-Democrat. We were expanding our staff, and we decided to try to lure McCormick away from Des Moines.

I had never met the man until he came to Davenport for an interview. He wasn't frightened. I was. His gruffness was for real.

Mac became our state editor. Then he headed up our night news desk for several years before being named political and community affairs editor. He was instrumental in establishing the Times bureau in Des Moines.

What kind of an editor was John McCormick?

For starters, he was a tough one. He demanded only the best. He was good, and he expected everyone else to be just as good.

Mac usually was working with young reporters, but he regarded them as adults. And as adults he assumed they were ready for adult responsibilities.

Some of the reporters under him could not cut it. But those who survived his tutoring became the real good ones.

John Willard, of our features staff, credits much of his development to John McCormick.

Willard, now a master of words in his own right, was always impressed with Mac's knowledge of the English language and his demand for clarity in news stories.

" I learned much from Mac," Willard has said many times.

Mac was a walking encyclopedia of Iowa's laws and government.

Through the years he was on intimate terms with all the state's bigshot politicians.

We can't say to this day whether he is a Republican or a Democrat. Probably neither.

His relationship with Harold Hughes, former Iowa governor and U.S. Senator, probably was better than that of any other Iowa newsperson. And yet Gov. Robert Ray, of the opposite stripe, was always high on his list, too.

He liked John Culver, and he was fond of young Jim Leach. I guess you could say there never was a politician he did not like. Some he liked better than others, though.

His "Scraps" column was a regular feature in the Sunday Times. Candidates for political office usually gleaned more from reading that than from listening to their own advisors.

Mac also has left his mark on local community affairs.

When he first came to Davenport, he served several years as a member of the Scott County Conservation Commission. He did much to weld the commission into a highly efficient agency that is responsible for the development of the Scott County Park north of Davenport, recognized as one of the best of its kind in the Midwest.

When the state of Iowa decided to abandon the Annie Wittenmyer Home, Mac suggested that the city acquire the property. The city fathers balked at first. But Mac worked out a financial arrangement with the state that was too good to reject.

All the activity now going on there is a silent tribute to the man who worked so hard behind the scenes to put it all together.

McCormick played a leading role in geting a city administrator for Davenport. In recent years our news staffers have not been permitted to accept appointments to any politically oriented boards or commissions. But on this one occasion we violated our own rule to serve what we thought be the best interests of Davenport.

When we talk to young aspiring journalists, we always tell them that they must have a romance with this whacky business of ours or they will never be a success.

John McMormick was in love with his work. He spent more hours at it than he should. In time his body could not take it any more. But no one was going to carry him, by golly. There is only one way to play the game, and that is to make it on your own.

Mac was probably one of the fastest typists around. He actually made the keys sing. He once demanded two typewriters.

"Back with the wire services I always kept two going at the same time," he said. "What's wrong with me having two here?"

When technology caught up with the newsroom, Mac had his doubts. A newsroom without typewriters, paste pots and scissors? He claimed he was too old to be taught new tricks.

But the terminal was here to stay, and McCormick soon made the leap into a new era of journalism.

Stephen Douglas, the great orator of Abraham Lincoln's time, was known as the "Little Giant."

McCormick did not achieve fame as a public speaker. But his command of words was just as great and he transferred that talent into news stories that will always rank with the best.

There are many Iowans who have gone on to national fame in journalistic circles, but there is none who can match him in reporting the Iowa political scene.

He, too, is a "Little Giant."

There will be those of you asking who will replace McCormick.

John McCormick cannot be replaced.

His jersey will be retired.●

MINOW ON PUBLIC TELEVISION

● Mr. SCHMITT. Mr. President, the Senate Commerce Committee's Subcommittee on Communications recently held oversight hearings on the Corporation of Public Broadcasting and the Public Broadcasting Service. Those hearings were most useful in determining the present status and future needs of public television in our country. Soon the Senate will be considering S. 2883, the bill to provide considerable Federal financial support to public television. I suspect that a number of the Members of this body have an interest in this area.

Shortly before the Senate recessed for the July 4 break, Mr. Newton N. Minow, Chairman-elect of the Public Broadcasting Service, addressed that organization's annual membership meeting. As a member of the Communications Subcommittee and having participated in those recent hearings, I found Mr. Minow's speech detailing his thoughts on public television worth reading. In order to share with others who may share that interest, I ask that Mr. Minow's remarks be printed in the RECORD.

The remarks follow:

REMARKS BY NEWTON N. MINOW

At our 6th Annual PBS Membership Meeting, we celebrate two of public television's major milestones—and the location dictated itself. It had to be Texas.

Texas is where it all began, of course, 25 years ago in Houston. But it's more than a matter of territory. As a state of mind, Texas put its brand on public television 25 years ago. Call it Texas-style vision—or pure Texas presumption—but what the KUHT pioneers set in motion in May of 1953 is now an independent, national, and even international force for innovation, excitement, and excellence for all of broadcasting. What began with two or three hours a day of classroom-by-video, and no certainty about where the next buck was coming from—some things never do change—has turned into a communications adventure unique in all the world.

In public television, we are uniquely national, regional, and local—all at the same time. We share with each other in a broadcasting system which lives off its roots, unlike a centralized network in which the trunk feeds the roots. We combine the dedication of the citizen volunteer with the skills of the broadcast professional. We educate, we inform, we entertain, we celebrate every facet of human experience. We care about all kinds of audiences, sometimes small, sometimes large, sometimes specialized, sometimes younger, sometimes older—whatever audience is appropriate to a particular program. We receive support from many different and diverse sources but are dependent on no one of them. We are rewriting the book on the limits and potentials of the medium of television itself.

Now, we do not know how much of this could have been planned, or even dreamed, by the men and women who put KUHT on the air 25 years ago. But they were Texans,

incapable of thinking small We salute and thank them—for their vision and their presumption.

I said at the start that we are here in Texas to celebrate two of public television's major milestones. The other is to salute Ralph Rogers' chairmanship of PBS.

Ralph's leadership and determination guided us in creating a nationwide institution that is strong and vigorous—with a fierce dedication to its own independence. Public television is independent because it is sound at its roots. It is engaged in discharging "the people's business."

Public television depends not only on the people's support, but also on their direct participation in the affairs of their stations in some 276 communities around the country. The American people contribute much to us. They have a right to demand much of us. And more than any law or Congressional or White House direction could ever do, it is the people we serve who rightly hold us accountable.

This is the essence of Ralph's legacy to all of us. He led us in our War for Independence. He helped put in place the elements of our Constitution. During our drive to build a new, basic American institution, he presided over more struggles than any of us care to remember. And somehow, our fragile Union has always been preserved.

Ralph Rogers has always been there when we needed him most. He is utterly selfless in his devotion to our cause, firm in its defense. He merits an imperishable page in the history of public television.

So, while I accept your call to follow Ralph Rogers as Chairman of PBS, I know full well that no one will ever replace him.

Like Ralph, I have worked for many years with a local station. I have seen WTTW, Chicago Public Television, grow into a creative and cherished community resource. It has deep roots in the community, and it has flourished because its roots are deep, with more than 150,000 families contributing to its service. WTTW is not unique. It is typical—and it is this fundamental "localism" that invests public television with a strength that goes beyond mere numbers.

At WTTW I have been one member—sometimes in the leadership, sometimes in the ranks—of a true working partnership. WTTW unites lay men and women of all ages, races, cultures, and backgrounds dedicated to community service. At the same time, it is a team of skilled professionals dedicated to broadcasting excellence. In great part because of Ralph's leadership, PBS too is such a partnership. Thanks to his leadership, PBS is a healthy, strong, and increasingly effective institution. As your chairman, I promise you that it will continue to be.

Let us look together at the present state of our union.

On the one hand, public television today is front-and-center on the national stage. More than two million American families contribute some $50 million a year to its support. Since 1970, the number of public television subscribers has increased more than seven times. More than 63 percent of all television homes tune in regularly to their public stations, in spite of the UHF handicap for two-thirds of them. Our programs, national and local, win Emmys, DuPont Awards, Peabody Awards—more than our share every year. Almost one-third of our entire national program schedule draws upon the talents of the independent creative community. While not as good as we want it to be, our record of opening up careers for women and minorities is the best in all of broadcasting. We are able to attract excellent young people who want to make public broadcasting their careers. We lead in technological innovation—with high-fidelity sound, captioning for the hearing-impaired, and the nation's first and the world's most extensive interconnection system solely by satellite.

All this has been accomplished with financial resources which are minimal and by no means assured. Our annual budgets are less than 7% of commercial television's; their profits are four times our total income. In Japan, to cite just one example from abroad, a government imposed license fee commits more than five dollars per capita for its noncommercial broadcast service; here, the federal contribution is thirty-seven cents!

We're not even close to where we want to be, or where we could be with just a fraction of the additional resources we so desperately need. But, both as broadcasters and as responsive, responsible members of our communities, we are on our way. Incidentally, I saw this first-hand this past year among our young people when I was privileged to be a Phi Beta Kappa Visiting Scholar at eight colleges in eight different states all over the nation. I found young people everywhere who watch public television, who like public television, who care about public television, and who speak up about public television.

On the other hand, I have been learning since being elected to the PBS chairmanship last February—we've all been learning in recent weeks—that our good record is not fully perceived or known at many levels in our country. Certainly not in the Congress.

Why is this?

A good deal of it is our own fault. Being human, we have made some mistakes. Partly because we've been sticking close to our jobs as local broadcasters rather than explaining our cause more persuasively—and partly for a less laudable reason tht I'll come back to in a little while.

My own sense, however, is that public misperception is to a great extent the direct result of our rapid and successful arrival at major national attention. Public television has never been more visible. Public expectations have never been higher.

Inevitably, the result of being watched so avidly and with such high hopes is that every one of our shortfalls is magnified. Every failure to achieve right now all that is expected of us, and all that should be expected of us, is perceived to be a failure period.

The irony is that we, ourselves, are more impatient with our rate of progress than anyone else—whether it's in filling the pipeline with quality programs, or in seeking more minority and women broadcasters, or in opportunities for independent access, or any other index of our performance.

And we know better than anyone else one of the reasons why. While poverty is a great way to build character, it leaves a lot to be desired in building a first-class public television system to serve the American people.

Criticism of this kind is a price we pay for having gotten only part way there. It goes with the territory, and we must have the confidence to accept such criticism gracefully. It is motivated by the same restlessness we ourselves feel about the snail's pace at which we're moving toward the completion of that first-class system.

Another criticism causes me far greater concern—that we're too sensitive to many suggestions about how we should be conducting our affairs. We are told that we perceive the threat of interference where none is intended.

I do not believe we can be too sensitive to any threat to our independence. I believe we have to be sensitive to preserve and defend independence—in order to carry out our unique mission of providing the American people with a vital public television program service which is a beacon of excellence and which earns the trust of our viewers each and every day.

Important consequences flow from that unique mission.

Public television has to meet the highest standards. The only commodity we have to push is quality, and you don't create quality programs without taking risks. We have to be free to risk. We have to be free to try what has never been tried before—to risk failure in the short term so that we can risk success over time.

So the answer is, yes, we are sensitive—extremely sensitive—to even the threat of interference in the program-making process, and we are fiercely protective of our freedom. We have to be, and we must continue to be.

We recognize that we are unlike all other broadcasters in a significant way. While commercial television broadcasters receive federal licenses to the public airwaves—and thus the privilege of making great profits—we are prohibited from seeking profits. We do receive direct federal assistance, about 28 percent worth in terms of our total income. It is important to put this fact in its proper context.

Independence and autonomy have always been hallmarks of our public television system. They were before we received our first dollar of federal assistance, and they have been in the decade since. The Public Broadcasting Act of 1967 was designed precisely to preserve and enhance that independence and autonomy—whether from corporate interests, or foundations, or government, or from the federally-authorized Corporation for Public Broadcasting itself. And that Act has worked and is working today for the most part, thanks both to our vigilance and the restraint and wisdom of the Congress.

The 1967 Act, in other words, did not create us. We created ourselves. The express purpose of the 1967 Act was to hasten and facilitate the development of independent systems of public television and public radio stations—to provide better service to more people.

That still is the purpose and rationale of federal assistance. And that, in essense, is what the present debate is all about: whether the delicate, always fragile barrier separating federal assistance from federal control can be maintained.

Many of us come from universities and are fully aware of the dangers of growing federal involvement in academic life. As a university trustee myself, I have discussed our public broadcasting problems in Congress with university representatives. I am greeted with "Welcome to the club." What are the Presidents of our leading Universities saying these days?

"The critical issue for the next generation is not Harvard's survival but its independence and freedom from ill-advised government restraint." And, from Yale: "I do object to the notion that the receipt of a federal dollar for some purposes subjects a private institution to federal regulation and surveillance of all its activities . . . this is 'now-that-I-have-bought-the-button-I-have-the-right-to-design-the-coat approach'." And from the University of Wisconsin, which recently won one battle for independence with a federal agency: "One of the good things we hope for from our experience, is that it will make others bolder about standing up for their rights."

Public television is in an analogous situation. I suggest to you that whether the issue is academic freedom or public broadcasting freedom, we must never forget Justice Brandeis's admonition: "Experience should teach us to be most on our guard when the government's purposes are beneficent."

At the same time, we do not, cannot, and should not ever ask Congress for a blank

check. We welcome and deserve intensive scrutiny by Congressional oversight. Chairman Hollings and Chairman Van Deerlin, and their colleagues on both sides of the aisle are, in my judgment, genuinely and thoughtfully seeking to help us achieve our mission. While we may agree with them on some issues and disagree with them on others, we know that they share with us the goals of a first-class public broadcasting system for all Americans. We expect to be and should be held accountable to the highest standards of performance. We ought to: we set those standards ourselves.

What we are asking for is a reaffirmation that an independent and autonomous public broadcasting system is the best way—indeed, under the First Amendment, the only way—to achieve that quality of service which the people deserve. To achieve that goal we must be independent—and at the same time accountable.

How can this balance be achieved? I believe the burden is on us, to show and keep on showing that we have earned such a reaffirmation of faith. The fact is, we have not always done so. Insofar as we fracture our credibility in intramural hassles and conflict, to that extent our critics are right. If we do not inspire trust and confidence, we deserve neither.

I am not saying that all the issues which have occasionally divided us within public broadcasting, and even within our own immediate family in public television, are petty and insignificant. Some are purely internal in scope, some are pure ego trips, and they should be kept in the closet where they belong. But some are very real issues indeed. There is, for example, the issue of CPB's proper role in the program-funding process. There are issues going to public broadcasting's structure, to its operating efficiency—and to its independence. These are issues of substance and we needn't apologize for them. They can and will be resolved in time, by reasonable people acting reasonably.

But I simply cannot believe we're incapable of acting like grown-ups and resolving these differences, whether we are a local station, a regional system, PBS, CPB, or any part of our service to the public. We are all engaged in a larger, noble cause, far greater than any particular function. If we don't act in harmony, we not only invite but also deserve outside interference.

As PBS Chairman, I promise you that all the many diverse elements of our system will be treated with respect, good will, and a deep sense that good people are at work to accomplish worthwhile goals. We will debate, we will disagree, as reasonable people do, but we will operate with the philosophy that people can, in fact, disagree without being disagreeable. Thoughtful positions and contrasting viewpoints will be heard immediately and respectfully.

We are, after all, operating with an entity we have all chosen to call The Public Broadcasting Service.

Thus, we are public, working to serve the people.

We are broadcasting, providing a quality program service.

And we are a service of, by, and for the stations and the communities we are committed to serve.

We must never forget that we are neither the creation nor the creatures of the federal government. We are not the Federal Broadcasting System, or the White House Broadcasting System, or the Congressional Broadcasting System, or our Underwriters' Broadcasting System. We created ourselves to meet new standards of excellence in broadcasting—and it's high time we got back to the task of serving our viewers.

Broadcasting great programs and serving our communities is what public television does best. It is why millions watch us and support, subscribe, and participate. It's why we win awards and why, increasingly, we are looked to by the American people as the standard-bearer for quality in broadcasting—as television's last best hope.

While our colleagues in commercial television have an enormous advantage over us in financial resources, they also have an enormous disadvantage. It was well expressed in a prayer given as an invocation by a priest and television producer, Reverend Ellwood E. "Bud" Kieser, at a recent convention of television executives: "Lord, we know what You want. You want us to put people before profits, the quality of our programming before the size of our ratings, the service of our communities before the selling of our products. Lord, do You know how tough that is? The law says Your people come first. But our promotions or demotions, raises and bonuses, depend on something else. We're caught in the middle, Lord. It's a tough place to be!"

We in public broadcasting are liberated from that tough place.

Public television is free from the ratings chase. Naturally, like all broadcasters with pride in our profession, we want people to watch our programs. It's criminal, in fact, starved as we are for adequate promotion dollars, that so few potential viewers even know about some of the best programs on our schedule.

But we do not consistently seek mass audiences. Quite the contrary. We offer some programs of value that cannot possibly attract big numbers. We offer programs of a special quality that are consciously designed to appeal to specialized interests—and we always should. Because we believe that specialized does not necessarily equal unimportant.

As a matter of fact, I would go even further. I have a conviction that we should say to our viewers: We do not suggest that you spend all your free time, or even most of your time, with public television. We suggest that some of your time be spent reading a book, or taking a walk, or viewing commercial television, or calling your mother-in-law, or reading a story to your children, or visiting someone in a nursing home, or working in a political campaign, or just plain sitting in quiet contemplation. There is, indeed, a lot more to life than television.

Aleksandr Solzhenitsyn chastised us this month for living too much in what he termed a television-induced stupor. He said it on public television, too! Clearly, he was referring not just to how much television we watch, but also to what we are watching. And that is the point at which living the full life and enjoying television come together. The mark of great television is precisely that it brings life into the living room, and holds up a mirror to all the richness and variety of our society and our world.

That also is the strength of public television. We say to our viewers: When you are ready, turn to us and we will have material that is worth your while, that will enrich your life, that is worth your attention, and worth weaving into the many demands on your time. Public television has the time to sit back and think, and the willingness to stick with a story until it's done. Our program schedule is flexible—and the satellite will make it even more so. We deliberately repeat our programs so our viewers can see them at convenient times. We have exceptionally talented people spread literally over the map. These are the capabilities we have at hand, unique in all of American broadcasting, and we should use them to the full.

We have made a stunning start.

But our work is unfinished. What must we do?

An hour a night of news, analysis, and commentary is one idea whose time clearly has come. We should be the first. Original investigative reports and documentaries already are features of our weekly schedule. We need more of them. Live coverage of important Congressional hearings and other major public events helped make us our reputation. We should continue and expand such coverage. We must soon be ready to provide the second generation of a rich, full range of continuing life-long learning services to our many audiences, both in the home and in concert with our educational institutions.

Nor should we use these unique capabilities of ours only for what is narrowly defined as public affairs or education. The same combination of scheduling flexibility and our new satellite opens up to us the entire universe of culture and creativity—and our cameras should be there, too.

I have in mind everything musical, from rock to Rachmaninoff, as well as drama and dance, opera and folk festivals, craft shows and exhibitions of the masterpieces of fine arts, Fourth of July parades and Little League baseball games—everything under our national sun, and wherever else in the world we're able to be. We must be much more than a recording service. Television is at its best when it is live television, when it takes us to see something while it happens, when it permits us to share live events with one another. Live television—exciting television—can unite our big country, from border to border. Coverage of the kind I've just described is how that dream could be realized, uniquely and especially on public television.

There's another dream I'd like to share with you, not original with me, and that is for an all-year, every-year series under the umbrella title of American Masterpiece Theater. The BBC does an outstanding job, and we bring American viewers the best of the BBC, and we hope to continue to do so. But if we had sufficient resources, we could produce more in America, both through our stations and through independent producers. Each of our public stations is America's channel. Our programs should dramatize American novels; they should present American plays; they should show us American history; they should dramatize the lives of American political leaders and ideas; they should examine and make people think about the United States. Nor should they simply extol our country's virtues. They should show us the good and the bad, and occasionally, cry out for righting American injustice.

As we meet together here in Dallas to plan the future of public television, we are grateful for the opportunity to engage in such important and useful work. And we are honored by the fact that the distinguished men and women on the Carnegie Commission have joined us here—and are devoting their unstinting efforts and great talents to helping us improve our service.

It is not easy to organize ourselves in a common effort, because we are at once national, regional, and local, desiring to retain the autonomy of these separate realms while benefiting from the needed strength of alliance. We are at a stage not unlike the effort our nation engaged in from 1776 to 1789, after it had declared its independence and worked to create a Constitution and a Bill of Rights.

While not easy, the effort is worth our commitment. Because all of us, I know, share the conviction that public television can make an enduring contribution to the people of America. We share the view of E. B. White who, in the summer of 1938, sat in a darkened room and watched a strange electronic box projecting images into the world, and wrote: "I believe television is going to be the test of the modern world, and that in this new opportunity to see beyond the range of our vision we shall discover either a new and unbearable disturbance to the

general peace, or a saving radiance in the sky. We shall stand or fall by television—of that I am quite sure."

Forty years later, in 1978, let us once again—here in Texas where it all began—reach deep into all our resources of optimism, hope, and energy, and let us pledge to build public television into that saving radiance in the sky.●

PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate I submit for the RECORD the three notifications I have just received. A portion of two of the notifications, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S–116 in the Capitol.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 10, 1978.
In reply refer to: I–1024/78ct
Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover, Transmittal No. 78–62, concerning the Department of the Army's proposed Letter of Offer to Kuwait for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $32 million and support costs of $25.6 million for a total estimated cost of $57.6 million.

Sincerely,

ERNEST GRAVES,
Lieutenant Gen. U.S.A.

TRANSMITTAL NO. 78–62

[Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act]

(i) Prospective Purchaser: Kuwait.

(ii) Total Estimated Value:

	Million
Major defense equipment *	$32.0
Other	25.6
Total	57.6

* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: (Deleted).

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: July 10, 1978.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 10, 1978.
In reply refer to: I–294/78ct
Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover, Transmittal No. 78–63, concerning the Department of the Navy's proposed Letter of Offer to Saudi Arabia for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $46.4 million and support costs of $28.6 million for a total estimated cost of $75 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, U.S.A.

TRANSMITTAL NO. 78–63

[Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act]

(i) Prospective Purchaser: Saudi Arabia.

(ii) Total Estimated Value:

	Million
Major defense equipment*	$46.4
Other	28.6
Total	75.0

* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: (Deleted).

(iv) Military Department: Navy.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: July 10, 1978.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 10, 1978.
In reply refer to: I–12341/76ct
Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78–64, concerning the Department of the Army's proposed Letter of Offer to Saudi Arabia for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $15.8 million and support costs of $5.2 million for a total estimated to cost $15.8 million and support costs of $5.2 million for a total estimated cost of $21 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, U.S.A.

TRANSMITTAL NO. 78–64

[Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act]

(i) Prospective Purchaser: Saudi Arabia.

(ii) Total Estimated Value:

	Million
Major defense equipment*	$15.8
Other	5.2
Total	$21.0

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Fifteen (15) bulldozers (M728 combat engineer vehicles), radios and two-year component spare parts.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: July 10, 1978.●

AMTRAK SERVICE TO NEBRASKA

● Mr. CURTIS. Mr. President, my fellow Nebraskans and I are concerned over the recommendation of the Department of Transportation that Amtrak service to Nebraska be eliminated. Public hearings on this recommendation were held in Lincoln, Nebr., on June 27, and McCook, Nebr., on June 29. At both hearings the response of the people of Nebraska was overwhelmingly opposed to the rerouting of Amtrak. Nebraskans need and deserve better rail passenger service, not the elimination of the only line now serving the State. I submit for the RECORD a letter dated July 5, 1978, from the clerk of the Nebraska Legislature containing Legislative Resolution 26, adopted by the Nebraska Unicameral on June 13, 1978.

JULY 5, 1978.

Hon. CARL T. CURTIS,
U.S. Senator,
Dirksen Building,
Washington, D.C.

DEAR SENATOR CURTIS: Enclosed is a copy of engrossed Legislative Resolution No. 26. This Resolution was presented to the Nebraska Legislature and was adopted by the same on June 30, 1978.

I forward the Resolution to you for your consideration.

With kind regards.

Sincerely,

PATRICK J. O'DONNELL,
Clerk of the Legislature.

Enclosure.

LEGISLATIVE RESOLUTION 26

Whereas, the railroad as a means of services and transportation is important to the citizens of the State of Nebraska; and

Whereas, the United States Department of Transportation is considering discontinuing Amtrak services to the State of Nebraska.

Now, therefore, be it resolved by the members of the Eighty-Fifth Legislature of Nebraska, first special session:

1. That the Legislature go on record as opposing the discontinuation of Amtrak Services to the State of Nebraska.

2. That a copy of this resolution be sent to the President of the United States Jimmy Carter, Secretary of Transportation Brock Adams, and to the appropriate members of the Congress of the United States.●

THE EQUAL RIGHTS AMENDMENT

● Mrs. HUMPHREY. Mr. President, on Sunday, thousands of women from every State in the Nation gathered here in Washington to demonstrate their support for the equal rights amendment and for the ERA extension legislation. Over 40,000 women marched to the Capitol in an effort to begin to persuade the House and Senate to give the States 7 more years to ratify the amendment. Many of these women will remain in Washington to discuss the proposed legislation with

their Senators and Representatives. These women are to be commended for their continued efforts on behalf of the ERA and they have my full support.

On Monday I had the opportunity to meet with an outstanding delegation of Minnesota women who were in Washington for the ERA march. I promised them that I would do all that I could in the months ahead to press for the enactment of the extension legislation.

On July 1, 1978, the Minneapolis Star carried an article I prepared on the ERA. Today, I would like to share with my colleagues the reasons I gave in this article for my strong and wholehearted support of the ERA and the extension legislation.

The article follows:

ARTICLE ON ERA

The Equal Rights Amendment is not a "women's only" issue. The issue of women's economic independence affects everyone in this country. As long as women nationally earn only 57% of what men earn, to cite only one of many appalling statistics, regarding the status of women in this country, everyone is affected.

Husbands, children and families suffer when women work long hours and bring home a little over half of what men bring home for working the equivalent number of hours.

Equally important, women who choose to be homemakers frequently suffer as well—in terms of unequal credit opportunities and social security benefits, for example—because of their commitment to home and family.

Anyone who cares deeply about poverty, inequality and injustice in this country should care deeply about the Equal Rights Amendment, which states simply: "Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex."

It is important to note that opinion polls show this amendment has the support of the majority of Americans. The U.S. House of Representatives approved it by a vote of 354 to 23; the Senate, by a vote of 84 to 8.

Every American President since President Eisenhower has endorsed it.

Thus far, 35 states have ratified the Equal Rights Amendment. In less than ten months, by March 22, 1978, three more states must approve ratification.

Many people are rightfully concerned that time is running out and that full equality for women under the law may not become a reality in this century.

These concerns have prompted congressional action. H. J. Res. 638, to extend the time limit for ratification by seven years, has been introduced in the U.S. House of Representatives. And I have joined Senator Birch Bayh (D-Ind.) in sponsoring similar legislation in the Senate.

In 1972, when the Equal Rights Amendment was sent to the states for ratification, a seven-year time limitation was approved by both Houses of Congress. This provision was adopted, because it seemed to be a sufficient period of time to allow for a reasonable debate on establishing a national policy about which there appeared to be wide agreement: The right of American women to full equality under the law. Regretfully, the reasonable debate which Congress anticipated did not come to pass.

The Equal Rights Amendment has been misrepresented and distorted by its opponents. Myths abound as to what it will do and will not do. False issues have persistently obscured the real issues of the right of American women to full equality under the law.

To many, the questions surrounding the Equal Rights Amendment appeared to remain unanswered. Surveys have shown that many people still do not understand its implications.

Although we are approaching the end of the seven-year time limit, it is clear that debate on this proposal has not been fully exhausted.

The legislation we have introduced signals that the debate on the issue of full equality must continue. By this action, we are not conceding defeat. On the contrary, the extension legislation reflects our unfailing determination to continue to press for ratification until we have achieved our goal.

The extension legislation puts the opposition on notice that the Equal Rights Amendment will not go away and that delaying tactics can no longer be used against it. It will provide the remaining state legislatures the opportunity to address the issue at length.

I sincerely hope that the three remaining states approve ratification prior to the deadline of March 22, 1979, and that the extension legislation will prove unnecessary. But prudence indicates that we must begin to mobilize support for extension legislation now.

The Equal Rights Amendment has the potential to close the gap between what is possible for men and what is possible for women in this country. Let us remember that primarily what is at stake is the fundamental right of economic independence for women.●

NEW OECD STUDY FINDS PUBLIC SPENDING RISING FASTER THAN ECONOMIC OUTPUT

● Mr. DOMENICI. Mr. President, the 24-member-nation Organization for Economic Development has just reported that expenditures in the public sector of every single OECD country has increased considerably faster than their economic output over the last 20 years.

Since I first introduced S. 3200 on June 13, 1978, which would limit any of our concurrent budget resolutions to no more than 20 percent of GNP, I have found that more and more countries around the world are facing exactly the same problem of too rapid an increase in public spending that we have experienced here in the United States.

I find it especially interesting that the OECD, itself made up of many countries with socialist economies, says that—

Too rapid an increase in public expenditure can reduce productive potential by increasing the likelihood of inefficient allocation of resources and lowering incentives to work and invest.

Moreover, says the OECD:

Beyond some threshold, too rapid an expansion of the public sector can provoke retaliatory action by groups outside the public sector aiming to restore their share of income and output.

At this point, I should note that this study was undertaken well before proposition 13 became an issue in California, here in our own United States.

And I find it even more interesting, as we here in our country labor under an annual inflation rate of 10.8 percent, that the OECD says, "this competition for resources can in turn be a source of inflationary pressure." To the OECD, we might say, "How well we know."

Mr. President, I ask that the article entitled "The Rise in Public Expenditure—How Much Further Can It Go?" from the May 1978 issue of the OECD Observer, be printed in the RECORD.

The article follows:

THE RISE IN PUBLIC EXPENDITURE: HOW MUCH FURTHER CAN IT GO?

Governments are increasingly subject to two conflicting pressures—to increase expenditure on the one hand and to reduce taxes on the other. To provide an analytic framework for the politically difficult tradeoff between the two, Working Party No. 2 of OECD's Economic Policy Committee has conducted a detailed study entitled "Public Expenditure Trends", the main features of which are highlighted in the following article.[1]

Public expenditure in all OECD countries has increased much faster than output over the last 20 years: its share of GDP has increased from an average of less than 30 per cent in the mid-Fifties to more than 40 per cent in the mid-Seventies (see Chart A), and two OECD countries, the Netherlands and Sweden, have gone over the 50 per cent mark considered by some economists as a "magic figure"—although it is twice as high as the 25 per cent identified by Colin Clark some twenty-five years ago as being a limit. Even the countries with the lowest relative levels of expenditure—Spain and Japan—have exceeded the Colin Clark figure, though by very little.

What are the forces at work? Is the upward trend likely to go on? Have the basic needs for "collective consumption" been satisfied? Is there likely to be a halt on increasing public expenditure despite continuing demand because of adverse side effects on investment and hence on employment, economic growth and other economic parameters? Will the rise be slowed or reversed by taxpayer revolts—direct or indirect in the form of tax-push inflation? These are some of the questions OECD's report poses, fully recognising that the choice of the balance between public and private activity is at heart a political as well as an economic question and one about which public attitudes may change dramatically in a relatively short period of time.

THE DIVERSITY OF PATTERN

One of the most striking findings in OECD's study is a negative one: there seems to be no typical pattern of growth in public expenditure.

If OECD countries are ranked according to the growth in their expenditure, four groups can be identified:

Six small countries (Belgium, Denmark, Ireland, the Netherlands, Norway and Sweden) where the share of public expenditure in GDP has increased the most—by two-thirds or more in the last twenty years, mainly because of a well above average growth in "welfare" outlays.

Canada, where the ratio of public expenditure to GDP increased by more than 50 per

[1] For the purpose of the report, public expenditure broadly corresponds to the total of various types of expenditure or transfers made by general government. As such it includes both current and capital spending and transfer payments of national, state or provincial and local governments, and social security agencies. It excludes the expenditure of those government-owned enterprises or public corporations which primarily sell the goods and services they produce on the market. As a consequence, the figures for public expenditure given in the report do not typically correspond to the expenditure covered by government budgets.

cent, partly because educational expenditures grew so rapidly.

Austria, Germany, Greece, Japan, Spain, the United Kingdom and the United States where the share of public expenditure in GDP has risen by a third or somewhat more.

Finland, France and New Zealand with the smallest rise. (The latter two started off with the highest ratio of public spending to GDP in the OECD area.)

As to elasticity of expenditure it is Sweden and Denmark which have experienced the greatest increases in public expenditure for a given rise in GDP, New Zealand and France the least.

Taken together with the present levels of expenditure, these figures show no evidence that, for example, public expenditure is related to a country's stage of industrialisation or its level of income. Nor is any tendency evident for countries with a low level of public welfare services to "catch up" by increasing expenditure. If there had been such a pattern, the size of OECD countries' public sectors would have converged; instead the evidence points to growing dispersion.

Despite this fact, there is evidence that the constraints are common to a number of countries as is the concern with the possibly negative influence of the public sector on longer-run economic growth. This concern focuses not only on the size of the expenditures themselves or the role of the government in the money markets as one of the biggest "transactors", but also on disincentives which it may create through taxation and regulation, and the difficulty of achieving efficient resource allocation as the area of non-market activity is expanded.

THE PRESSURE FOR EXPANSION

To an important degree the pressures to increase public expenditure "represent a natural response to the general increase in living standards". OECD's report notes that as incomes have risen, demands for increases in expenditure on such services as education and health, on maintaining and improving the urban environment and cultural facilities have grown more than proportionately. Greater absolute wealth may also make relative inequalities less tolerable and lead to strong pressure to redistribute incomes and to improve the equality of access to essential services such as health care, education and housing. Says OECD economist Rodney Dobell: "The public expenditure trends we have observed constitute a collective decision about the use of the growth dividend. Part of the rapid growth in expenditure of governments is the result of supplying goods and services which are not produced by the market, part is a result of this pursuit of equity directed at welfare expenditures."

Welfare

By the mid-Seventies, welfare—education, income maintenance and health [2]—was the largest area of public expenditure, accounting for 46 per cent of the total, compared with just over 40 per cent in the early Sixties and 37 per cent in the mid-Fifties (Table 1).

By far the greatest contribution to this rising share is attributable to an increase in programme coverage—higher enrollment ratios in higher education, more people eligible for health benefits, pensions, child allowances and unemployment in kind or in cash. On average, 20 per cent of the population is now in higher education at any one time, 10 per cent draw a publicly-funded old-age pension, and in most countries nearly the whole population is eligible for publicly financed health benefits, although there are a few major exceptions, notably the United States where public health programmes cover only 40 per cent of the total population.

[2] OECD's report does not include housing in its analysis of welfare expenditures. This analysis is in fact based on three earlier published reports on specific welfare areas: "Public Expenditure on Education", "Public Expenditure on Income Maintenance Programmes" (July 1976), and "Public Expenditure on Health" (1977).

TABLE 1.—*Changes in public welfare expenditure (excluding housing) in 18 OECD member countries—early sixties and mid seventies*

[Percent of GDP in current prices]

	Education		Income maintenance expenditure		Health		Total "welfare"		Elasticity of total "welfare" with respect to GDP
	A	B	A	B	A	B	A	B	
Australia	2.4	3.8	4.7	4.0	2.5	5.0	9.6	12.8	1.33
Austria	2.6	4.0	14.1	15.3	2.9	3.7	19.6	23.0	1.17
Belgium	3.8	4.9	11.7	14.1	3.1	4.2	18.6	23.2	1.25
Canada	3.5	6.5	5.4	7.3	2.5	5.1	11.4	18.9	1.66
Denmark	(4.0)	(7.0)	6.5	9.9	3.7	6.5	14.2	23.4	1.65
Finland	4.8	5.6	6.7	9.9	2.5	5.5	14.0	21.0	1.50
France	2.1	3.2	11.8	12.4	3.1	5.3	17.0	20.9	1.13
Germany	2.1	3.0	11.9	12.4	2.5	5.2	16.5	20.6	1.25
Greece	(1.7)	(2.3)	6.0	7.1	1.8	2.3	9.5	11.7	1.23
Ireland	(3.0)	(4.9)	5.3	6.4	2.8	5.4	11.1	16.7	1.50
Italy	3.2	4.0	7.5	10.4	2.9	5.2	13.6	19.6	1.44
Japan	3.0	2.6	2.1	2.8	1.9	3.5	7.0	8.9	1.28
Netherlands	(2.8)	5.9	8.6	19.1	2.8	5.1	(14.2)	29.1	2.04
New Zealand	2.8	4.4	7.6	6.5	3.3	4.2	13.7	15.1	1.10
Norway	4.1	4.9	5.1	9.8	2.5	5.3	11.7	20.0	1.72
Sweden	4.0	5.9	6.0	9.3	3.6	6.7	13.6	21.9	1.61
United Kingdom	3.7	4.4	4.4	7.7	3.2	4.6	12.6	16.7	1.33
United States	3.6	5.3	5.5	7.4	1.2	3.0	10.3	15.7	1.52
Average OECD	3.2	4.9	7.3	9.5	2.7	4.9	13.2	18.8	1.42

A: Early 1960's; B: Mid 1970's.

(1) Education expenditure/GDP ratios refer to current outlays only except for Denmark and Ireland for which investment outlays are separately available.

(2) The education/GDP ratios are usually for 1960 and 1970; the income maintenance/GDP ratios for 1962 and 1972; the health/GDP ratios for 1962 and 1974. Because some "welfare" programs have experienced in a number of countries accelerations or decelerations in the 1970's, the total "welfare"/GDP ratios are only an approximation of the situation prevailing at present.

SOURCES: Derived from OECD, Public Expenditure on Education (except New Zealand); Public Expenditure on Income Maintenance Programs (except Greece); Public Expenditure on Health; National Accounts of Greece and New Zealand.

The second most important factor in rising expenditure is the increase in costs relative to other goods and services: one-fifth of the rise in spending on health and over two-fifths of the increase in education were accounted for by this increase in relative costs. Salary increases in hospitals have been particularly important in the United States, Sweden and Italy and out-patient care in Australia and Britain. On the other hand, pharmaceutical prices have declined relative to other consumer prices in all countries. In education, relative prices appear to have increased everywhere but most rapidly in the Netherlands, Japan, Austria and Germany. This trend towards higher relative prices is common to the public services and is in part attributable to the apparent lack of scope for improved productivity, at least as measured.

Usually it is assumed that demographic forces exert a major influence on the demand for welfare expenditure since the need for the different services are very obviously determined by the size of the client population. And indeed this is the case for income-maintenance expenditures which have accounted for more than one-third of the increase in public expenditure as a whole. Pensions of course are particularly responsive to changes in the age structure. Yet changes in the demographic structure of OECD countries proved not to have had much impact on educational or public health spending since the early Sixties.

The extent to which expenditure on welfare has already achieved the aims of the society is of course an important determinant of future trends, but the OECD study found it difficult to draw any but the most general conclusions in this respect. Considerable progress has been made toward the "social insurance" aim—full basic insurance coverage for the sick, the unemployed and the old. But the available evidence does not suggest that the health status of people in the OECD area has improved as a result of the large increase in health outlays. And welfare programmes have made less progress than might have been hoped in reducing inequalities in the distribution of income and opportunity. A significant degree of relative poverty persists. Effective access to medical care is not always equal: some areas

are poorly served, and there is evidence that lower income groups make less use of the health services, possibly because they are less well-equipped to take advantage of these services.

As to education, it has usually been assumed that increased enrollments have helped to provide a better-trained labour force and hence have contributed to economic growth, as well as to the transmission of cultural values. Recently, however, as well-educated young people increasingly have had difficulty in finding employment, this proposition has been called into question. Moreover educational achievement continues to be affected by social inequality.

As a very broad generalisation, therefore, it could be said that society, over the last decade, has more or less succeeded in fulfilling what might be called its "democratic" objectives for welfare—the extension of coverage to as large a share of the relevant population as possible. Only slow progress, however, has been made towards fulfilling its more "egalitarian" aims—selective help to the economically vulnerable and socially disadvantaged. Indeed insofar as the effort to achieve generalised coverage has restricted the increase of benefits, these two objectives may even have been in conflict. This then raises a question: should future improvements in public welfare programmes not concentrate more selectively on providing assistance to target groups whose needs are greatest?

Since in many countries the access of all citizens to certain basic services and minimum income levels has been achieved, it could be argued that OCED countries have reached a turning point. Although it cannot be assumed that the welfare services of governments can now be put on a "care and maintenance" basis, a strong case can be made for a significant slowdown in future growth of expenditure. There appears to be considerable scope for rationalising programmes, gearing them better to their objectives, and this itself might be expected to release resources for further selective and targeted expansion to meet new needs and to make some further improvements, especially in benefit levels for the poorest recipients of assistance.

In order to show more specifically what might be the implications of such a policy, expenditures on education, income maintenance and health were projected to 1985 on three different assumptions: (1) no policy change; (2) increased eligibility; (3) changes in benefits (see Table 2). The results range from a small increase in these expenditures to an increase of 6½ per cent of GDP. This compares with an average increase of 5.6 per cent over the last fifteen years. The wide range of these figures vividly illustrates the importance of the choices which have to be made about public expenditure now and over the coming decade.

The highest estimate would mean major advances in equality, both of income and of opportunity. It would also permit the introduction of imaginative programmes to help people, especially young people, adapt better to changing social and cultural conditions and also to changing aspirations. At least potentially, such programmes would also have the very useful side-benefit of improving labour market flexibility.

On the other hand, the opportunity is there to slow down substantially the future increase in welfare expenditures. Little or no increase in the GDP share of public welfare expenditure would however require very rigorous policies and substantial improvements in programme effectiveness to maintain both standards of service and the real value of benefits provided.

Thus it seems likely that such expenditures will continue to increase even if at only a moderate rate. If that is so, keeping overall public expenditure to its present level will require a slowdown in the growth of other public sectors (Table 3.)

Other expenditures

But here too there are some reasons why restraint is likely to be more difficult than in the past. First—and foremost—defence expenditure has generally fallen in the past 20 years, at least in relative terms, but there are now indications that many countries wish to stabilise the share of defence spending in GDP and some even envisage moderate increases. Second, while the cost of servicing the public debt rose by less than half a percentage point for the OECD as a whole between the mid-Fifties and the mid-Seventies, it has recently accelerated as a consequence of large budget deficits. Thus if overall public expenditure is to be restrained, much of the burden will have to shift onto the other two main areas of government expenditure—housing and urban infrastructure and assistance to industry. But detailed studies of these two functions are lacking, and observations concerning future demand are necessarily speculative.

TABLE 2.—*Projections of public welfare expenditure to 1985 in the OECD area*

Function	Share in GDP early 1970s	Hypothetical changes (percent of GDP) Case 1 No policy change	Case 2 Eligibility change	Case 3 Change in benefits	Of which: Effect of relative price shifts [1]
Education	5.3	1.0	1.5	2.2	1.5
Income maintenance	8.7	0.1	1.1	3.7	[2]
Health	4.4	0.7	0.8	0.2	0.5
Total "welfare" (8 countries)	18.4	1.8	3.4	5.7	

[1] Identical for all three cases.
[2] Not applicable.

Case 1: For education "no policy change" means no change in coverage or real benefits for education and income maintenance; demographic changes however are taken into account. For health the "no policy change" case assumes a lower rate of cost increase and also a lower rate of use than in the past; such a trend has been evident in recent years.

Case 2: "Eligibility change" assumes increases in programme coverage and a reduction in the retirement age so that "best practice" levels already achieved in some countries are equalled elsewhere. For education, enrollment ratios are assumed to increase.

Case 3: "Change in benefits" assumes an increase in real benefits per person for income maintenance, a reduction in average stay in hospital and also fewer admissions as well as reduced expenditure for overall medical care and some convergence towards "best practice" levels in the real resources per student for education.

One might surmise that expenditure on public housing will decline because of lower demographic pressures and the high present stock of housing. But much of this stock is old, and the population of OECD countries is mobile thus creating new demands. One index of this mobility is that in the OECD area as a whole, more than two-thirds of the population is now living in cities as against just a little over 50 percent in 1950.

Much more important are likely to be the demands for urban infrastructure, including the provision of transport and the various educational, cultural and health facilities associated with urban living. Here too there are many unknowns, but it would seem that future rural-urban migration could serve at least to maintain the relative importance of present demand. Over and above this, there may be increasing pressures to renew ageing infrastructure, and there are possibly some important backlogs to be made good, especially in older cities where the revenue base has been declining (for example London or New York), and in some rapidly growing newer settlements.

As for transport, although rising living standards have led to a demand for greater mobility and a consequent increase in the role of expenditure on transport, this does not necessarily entail the use of public funds. A relative fall in the use of public transport and much greater use of private cars have led to major road-building programmes, but in many countries the new network of trunk roads is now nearing completion, and with traffic forecasts suggesting slower rates of increase in future, it seems likely that road expenditure could increase more slowly. On balance, therefore, demand for public capital expenditure on transport may be less strong than in the past.

Turning to the possible evolution of government assistance to industry, manpower and employment, it seems unlikely that there will be further significant increases if progress towards economic recovery is maintained. The stepped-up unemployment compensation and manpower programmes associated with the recession has already led to a significant upward shift in the share of resources absorbed by public expenditure at the same time as the economic resource base—GDP—has contracted. In the ordinary course of events, it might be expected that a recovery in output and employment would help to stabilize or even permit some decline in this kind of public expenditure. But if structural unemployment remained high over a long recovery period, there could be increasing demands on governments for new programmes. This kind of expenditure is closely related to industry assistance, much of which is directed towards maintaining employment.

In sum then, OECD's review suggests that there are still plenty of new demands to be met if expansion of public expenditure rather than restriction seems feasible. Furthermore, it is likely that economic growth itself, and the changes in taste associated with rising incomes, will lead to the articulation of demands for public expenditure which are not as yet widely recognised. Needs such as care facilities, which twenty years ago were scarcely recognised, are now assuming growing importance as women join the workforce in increasing numbers and search for more varied life-styles. If they involved no risk to other economic objectives, governments would no doubt wish to accommodate these demands. At any rate, moderate increases in public expenditure are likely to continue, even if no new initiatives are taken, largely because of continuing relative cost increases in the services for which the public sector is typically responsible.

THE PRESSURE FOR RESTRAINT

But what about the ability of governments to pay for these goods and services? "In the face of demands for increased collective consumption, the main limiting factor has been and will continue to be the impact of a growing public sector on the growth capacity of the economy itself", the report concludes. Of course public expenditure is in part designed to encourage economic growth by improving productive potential and stimulating better utilisation of an expanded resource base. But, at least beyond a certain point, too rapid an increase in public expenditure can reduce productive potential by increasing the likelihood of inefficient allocation of resources and lowering incentives to work and invest.

Moreover, beyond some threshold, too rapid an expansion of the public sector can provoke retaliatory action by groups outside the public sector aiming to restore their share of income and output. This competition for resources can in turn be a source of inflationary pressure. To assess these constraints and answer the question, "has government spending reached its limit?" OECD's study first analyses revenue trends.

What has happened to revenues?

As government expenditure has risen in the OECD area, so of course has government revenue: total taxation rose from 25 per cent of GDP in the mid-Fifties to almost 35 per cent in the mid-Seventies.

It might be supposed that the scope for tax increases reflects, to some extent at least, already prevailing levels of taxation and especially the size of recent increases. In actual fact, however, the picture is not a clear one. France, for example, which during the early Sixties had the highest tax burden of any OECD country, has since then experienced only a small further increase. But, in contrast, the Netherlands, Norway and Sweden, which also had high levels of taxation in the early Sixties, have experienced rapid increases since then and have now passed the 45 percent mark. Even the low-tax countries—Australia, New Zealand, and the United States—show no uniform pattern: in Australia and New Zealand there has been a significant increase in the tax burden, largely as a result of tax-financed social welfare programmes while in the United States there has not. Clearly, if there is a tax ceiling, it differs from country to country.

Of the three broad categories examined—social security, direct and indirect taxes—it is the first two which have been the most dynamic sources of additional revenue over the last 20 years. Social security taxes have more than doubled, rising from 3.4 to 7.6 per cent of GDP. The OECD report considers it likely that the period of explosive growth is at an end, at least for countries with well established schemes. It has been argued that social security taxes levied on the worker are more acceptable than, say, income tax because the benefits are more individualized and visible, but there is a limit to how far this argument can be taken especially as, with the passage of time, social security charges may come to be seen more and more as just another form of taxation.

As to direct taxes on corporations and individuals, they have risen from 8.9 to 13 per cent of GDP. Corporate taxes have been constant in terms of GDP for the last ten years, and are not expected to be a dynamic source of revenue in future unless profits should reverse their trend and increase as a share of national income over the next few years as a result of economic recovery. But even if they do, governments are likely to be reluctant to increase the tax burden on companies for fear of discouraging investment. More widespread use of "inflation accounting"[3] and other measures such as tax credits or fast depreciation rules could reduce the tax liability which has recently reached very high levels.

Personal income taxes, whose share in GDP has risen steadily over the last decade, are likely to remain the dominant source of new revenue, OECD's report concludes, particularly if economic recovery is firmly established so that incomes increase. However, growing public awareness of what they are paying in taxes and what they are getting will discourage governments from continuing to allow inflation to carry people into higher tax brackets. A general slowdown in inflation would also tend to keep income taxes down. In a few countries (e.g., Italy and France) tax revenues may be more buoyant if attempts to reduce avoidance and evasion are successful.

[3] Inflation accounting aims at neutralizing the distorting impact of inflation on the valuation of assets and liabilities of firms. Although there is no technique universally agreed upon, proposals are all based on the implementation of a uniform system of capital gains taxation with compensation for capital losses and a maintenance adjustment.

3. FUNCTIONAL BREAKDOWN OF PUBLIC EXPENDITURE OF 8 OECD COUNTRIES

[Average 1973–75 or near years—percent of GDP at current prices]

	General public services	Defense	Education	Health	Social assistance	Housing and community amenities	Other community services	Agriculture	Trade and industry	Transport and communication
Australia:[1]										
Final consumption expenditure	3.10	2.40	4.65	2.58	0.47	0.22	0.57	0.56	0.55	0.25
Transfers and subsidies (including capital transfers)	.56		.50	1.55	5.88	.05	NA	NA	.60	NA
Gross fixed capital expenditure	.44		.93	.38	.87	.22	.16	.23	.13	1.82
Belgium:[2]										
Final consumption expenditure	1.63	2.32	4.56	.13	.02	.13	.13	.14	.18	.57
Transfers and subsidies (including capital transfer)	.57	.07	1.40	3.79	17.05	NA	NA	.32	.95	2.05
Gross fixed capital expenditure	.13		.79	.08	.03	.05	.01	.01	.07	1.13
Canada:[3][1]										
Final consumption expenditure	3.83	1.72	4.68	4.79	1.16	1.25	.81	.63	.57	3.01
Transfers and subsidies (including capital transfers)	.12		1.23	.12	8.10	.14	.12	1.15	1.40	4.40
Gross fixed capital expenditure										
Germany:[4]										
Final consumption expenditure	3.36	2.84	3.45	.71	.77	.33	.36	.05	.18	.51
Transfers and subsidies (including capital transfers)	.61	.08	.34	4.49	14.16	.31	.07	.62	.34	1.20
Gross fixed capital expenditure	.22	.02	.89	.29	.12	.48	.15	.02	.29	1.39
Italy:										
Final consumption expenditure	3.72	2.15	4.44	.74	.93	.38	.10	.22	.13	.48
Transfers and subsidies (including capital transfers)	.49		.39	6.34	15.11	.09	.24	.37	.88	1.48
Gross fixed capital expenditure	.11		.55	.11	.10	.33	.07	.26	.53	.87
Japan:[5]										
Final consumption expenditure	2.58	.84	3.44	.64	.62	.25	.18	.59	.07	.06
Transfers and subsidies (including capital transfers)	.08		.03	2.06	3.51	.05	.06	1.06	.11	.09
Gross fixed capital expenditure	.29	.02	.73	.25	.14	1.13	.14	1.22	.01	1.90
United Kingdom:										
Final consumption expenditure	2.79	5.06	4.33	4.22	1.11	.52	.40	.17	.27	.63
Transfers and subsidies (including capital transfers)	.59	.03	1.18	.03	9.08	1.46	.04	.84	1.31	1.11
Gross fixed capital expenditure	.48	.09	.62	.38	.10	1.67	.11	.08	.25	.91
United States:[3]										
Final consumption expenditure	2.74	5.91	4.80	.45	1.21	.56	.56	.15	.50	NA
Transfers and subsidies (including capital transfers)	2.35	.42	.19	1.07	7.36	.14	NA	.09	.01	.53
Gross fixed capital expenditure										

[1] Fiscal years.
[2] 1973–74.
[3] Capital expenditures included in final consumption expenditure.
[4] 1973.
[5] 1972.

Sources: National Accounts of OECD Countries, 1975 consistent unpublished submissions of statistical agencies OECD; Eurostat, National Accounts ESA; Member countries national publications.

Among the indirect taxes (which have remained constant as a share of GDP) excise taxes may decline relative to income, but value-added taxes, a comparatively recent revenue source, still provide an opportunity for increasing revenues as more products are brought within their orbit.

Behavioral constraints on tax increases

The ability of governments to raise additional taxes will depend not only on national institutions and conditions but also on the public perception of the link between their tax and the benefits they receive.

Taxpayers seeking to avoid the burden of increased taxation can respond in a number of different ways which can effectively set limits to taxable capacity and these must be taken into account in weighing the pros and cons of a tax increase.

Actions through parliamentary processes to limit taxation.

Tax protests outside the parliamentary process

Tax evasion

Tax shifting through the tax and wage system

Reduced work effort

OECD's report concentrates on the last two.

Tax-push inflation is the struggle by different sectors and groups within the economy to maintain their real incomes and their share of future increases in national income. If a group feels that its position is threatened by too rapid a transfer through taxation, its response will be to seek increases in nominal incomes which will only fuel inflation.

Using an econometric model to test the significance of tax-push inflation, OECD's study finds that personal income taxes have increasingly contributed to such a psychology. The signs of tax-push inflation are particularly strong in the Scandinavian countries, Australia, Belgium and the United Kingdom, but less clear-cut in the United States, Canada, France, Germany, Italy, Japan and the Netherlands. Thus the phenomenon is by no means a universal one.

In countries where tax-push inflation exists, this conclusion has policy implications. First, it suggests that the willingness of taxpayers to absorb increases is subject to a limit beyond which inflationary pressures will simply be exacerbated. Second, the study suggests that tax levels may be pushing more tightly against this limit now than a few years ago and may continue to do so for some years because of the adverse effect on income growth of the oil price rise and the need to shift resources to investment and exports. Growth in national income over and above what is necessary to meet these requirements and ensure a reasonable increase in private incomes might, however, permit a more relaxed attitude to further increases in taxation.

A second potential constraint on the ability of governments to increase taxes is the possibility that to do so will reduce output because of the disincentive effect on labour of high marginal tax rates. An earlier OECD study [1] found that taxation had little detectable effect on the supply of labour although the participation rates of women seemed more responsive to tax changes than those of men. But it may be that in some Northern European countries with the most progressive systems, further increase in tax rates run the risk of reducing work effort.

Thus even though there will be continuing pressure on governments to increase expenditures, constraints are likely to be tighter in future than in the Sixties and early Seventies. It would seem that limits to taxation capacity are being encountered in many countries and, unless there is a major change in collective preferences, future taxation may rise but only in line with incomes. This would effectively inhibit any significant increase in public expenditure as a share of GDP unless governments choose to have more recourse to the other two major sources of revenue—user charges or increased borrowing.

Traditionally, governments have been inhibited from having greater recourse to user charges—making those who benefit pay—because of their supposed regressive impact on the distribution of personal incomes and because they can be introduced easily only for services where most of the benefits obviously flow to particular individuals. However, as the public sector provides more and more services having the characteristics of "private goods" and often provided by private enterprise as well, the scope for their use is clearly growing. While inflationary expectations continue, it is likely that governments will be cautious about increasing user charges because of the impact on prices, but in the longer run governments may come to rely more heavily on them.

Public borrowing may also increase in importance but not in the next few years since most governments wish to reduce their budget deficits. In the longer term the public sector's ability to maintain a budget deficit without inflation will depend on the balance between private savings and private investment. When, for example, the public sector has taken over responsibility for private activities such as transportation, previously financed in part by borrowing, a continuing structural budget deficit may be appropriate. The same is true if private savings have risen because of a switch to collective consumption. In these examples the deficit would not be inflationary as long as it is pitched at the level needed to absorb the excess of private savings over planned private investment at the desired levels of output, employment and prices.

For these reasons it is crucial that key decisions be weighed in the light of fundamental economic criteria and basic social choices rather these being dictated by unduly rigid concerns about the virtues of "budget balance" or "fiscal responsibility".●

[1] "Theoretical and Empirical Aspects of the Effects of Taxation on the Supply of Labour", Paris 1975.

DR. JAY B. CUTLER HONORED BY SOUTHERN COLLEGE OF OPTOMETRY

● Mr. BAKER. Mr. President, it gives me great pleasure to introduce into the RECORD remarks made by Dean John R. Levene, of the Southern College of Optometry, and by one of this body's most distinguished former employees, Dr. Jay Cutler.

Dr. Cutler was honored last week by the Southern College of Optometry in the city of Memphis. He was, for many years, the minority counsel and staff director of the Senate Human Resources Committee; and his contribution to that committee's work, particularly in the field of health care, is reflected in much of the major health legislation passed into law over the past 10 years. I believe Dr. Cutler's insightful remarks to the Southern College of Optometry on the current health care situation are worthy of thoughtful consideration; and for that reason, I ask that those remarks and several articles be printed in the RECORD.

The material follows:

INTRODUCTORY REMARKS PRESENTING THE HONORABLE JAY B. CUTLER FOR THE HONORARY DEGREE OF DOCTOR OF HUMANE LETTERS

Would the Honorable Jay B. Cutler please rise?

Mr. President, Board of Trustees: The great Thomas Jefferson once commented that "the care of human life and happiness, and not their destruction, is the first and only legitimate object of good government." This is a very appropriate and fitting truism in introducing Mr. Jay B. Cutler. Mr. Cutler as minority counsel and staff director of the U.S. Senate Human Resources Committee has, for many years, devoted his energies to the mechanisms for improving life for millions, in areas relating to education, labor, health and public welfare. He has reported directly to Senator Jacob K. Javits, known to all of us. Mr. Cutler's contributions to the U.S. Senate Health Committee, and Alcoholism and Narcotics Subcommittee, attest to Mr. Cutler's dedication to the important social facets of our turbulent society. His other activities produce a wide and impressive spectrum ranging from health profession education, medicare and medicaid, and community mental health programs.

Mr. Cutler's varied talents and attributes as an attorney enable him to analyze and coordinate legal and legislative activities relating to mental health issues that relevant to the profession of psychiatry. The American Psychiatric Association is indeed fortunate to have the aid of a man of Mr. Cutler's broad mental stature.

John Locke, the great philosopher, remarked that a sound mind in a sound body, is a short but full description of a happy state in this world. He that wants either of them, will be little the better for anything else. Mr. Cutler is a noble man, for he has amply demonstrated his devotion to the mechanisms for improving sound minds and sound bodies.

Mr. Jay B. Cutler, gifted attorney, outstanding organizer of health and social reform, is presented to you, Mr. President, for the honorary degree of doctor of humane letters, and I recommend that this degree be conferred upon him at this time.

President Eure, members of the Board of Trustees and faculty, honored guests and most especially to the graduating class of 1978 . . .

First, I want you to know that it is a real pleasure and privilege to be here. I shall always treasure this honorary degree you have conferred upon me.

I thought long and hard about what I should say to you today.

I thought about reviewing with you the milestones of Federal support for health profession educaton—ranging from the pioneering 1963 law with its matching grants for construction to qualified institutions, such as schools of optometry, to its student loan program, (I might note the law was amended the following year to include optometry students); to not only the landmark Comprehensive Health Manpower Training Act of 1971, which extended and expanded the programs stemming from the 1963 law; but also the infamous Public Law 94–154, the Congressional effort to respond to the complex questions of appropriate health profession personnel utilization and geographic and specialty maldistribution, with its stringent shortage service area requirements for students.

I thought about reconciling for you my present American Psychiatric Association responsibilities and why I am with you today. I would try to depict for you the magnitude of the Nation's mental health problem. The recent report of the President's Commission on Mental Health identified an estimated 20 to 32 million Americans in need of mental health care and set forth more than 100 recommendations—in the areas of treatment, prevention, research, new directions for personnel, protecting basic rights and improving public understanding—to develop and implement a strategy to ensure the availability of high quality at reasonable cost mental health care.

I thought we might share mutual concerns about Federal officialdom, its fiscal power and actions in the health care policy arena and the role of a health profession lobbyist—who should be honest and honorable people and experts in the field of interest they represent—in the complex rough and tumble of the democratic legislative process as it occurs in Washington, D.C.

I thought about describing to you my role as a Hill staffer in the politics of health care, including Senator Javits' site visit to and speech at the Southern College of Optometry.

Then I thought and thought about what I and my fellow graduates—or to move into the modern era what my daughters at their respective college and high school graduations last year, or my wife a mere five years

ago at her college graduation, heard from our commencement speakers.

Upon reflection it always seemed to be the effect that we lived in challenging times and that graduates like you now—and I then in eons past—could mold those challenging times and mankind's greatest age yet.

I believe each commencement speaker was convinced, as I am, that this is the case; and that our Nation holds the promise of great rewards if only you will work for them. And by achieving for yourself you will create hope and promise for others less fortunate.

You are uniquely trained professionals.

While your optometric ancestors and the spectacle makers guilds, dating back to the fifteenth century, contributed to the patient's welfare it was not considered a part of health services. You are the beneficiary of educational experience and clinical training which places the optometrist into the health care team concept.

You reflect a change in the service of optometrists and a greater understanding and broader definition of health. Your curricula has moved away from physics, and the contributions of astronomers, mathematicians and others—though not abandoning it—and moved towards physiology, biology and medicine. You represent a health science.

In support of this conclusion I need not rely solely upon what I have learned from your representatives in Washington or your optometry college President when he testified at Congressional hearings.

That optometrists are primarily concerned with human visual performance, its maintenance and enhancement and trained as primary providers to recognize general health problems through detection of ocular manifestations of systemic disease, and refer such patients to other appropriate professionals is well documented. I refer to the 1970 report to the President and Congress where the then Secretary of the Department of Health, Education, and Welfare (Elliott L. Richardson) stated: "Although the primary service performed by most practicing optometrists is the provision of eye examination and visual analysis, optometrists are trained to detect any departure of the optinally healthy eye. The scope of optometric service has expanded beyond basic clinical refractions, fabricating and dispensing eyewear; now included are visual screening examinations, clinical instrumentation, contact lens fitting, visual training, orthoptics, low vision aids for the partially sighted, artificial eyes industrial vision, consultation, and public community health. The most rapidly expanding area of service is in school consultation and remedial services for low achievers."

As the new optometric health professional who has heard about the battles in State Capitols regarding your right to use drugs; about the numerous Federal programs that have authorized the use of the optometrist in the delivery of health care; and about the many avenues of primary care that should include optometry, the challenge to you is not only to provide your patients with quality vision care but also to contribute to the totality of the health care needs of the American people.

At the same time that you enter into and take your rightful place in the health care delivery system I would like to share briefly with you some vexing problems:

The Nation spent $163 billion for health care in fiscal year 1977. These expenditures amounted to $737 for each person in the United States.

Health care expenditures continue to increase at a greater rate than the gross national product. Fiscal year 1977 spending levels for health care were 12 percent higher than those for the previous 12 months while the GNP increased by 10 percent in the same period. Thus, the health care share of the GNP has increased from 8.7 percent for the year ending September 1976 to 8.8 percent in fiscal year 1977.

Spending by all governmental programs for health care increased by 11 percent in fiscal year 1977, while private spending increased 13 percent. Public spending ($68.4 billion) represented 42 percent of all 1977 money spent for health care.

For just these reasons conventional wisdom about the health care system is being challenged.

The answers are not only in Washington, D.C.

You bring to this society the boldness of youth and trained minds straining to provide answers to complex health care issues and the conventional wisdom of Washington, D.C. Educated minds not addicted to health care as usual.

When I first began to speak to you I told you that I thought long and hard about what I should say to you.

Now, after speaking to you if you were to ask me why I am here, I would respond simply . . .

America's health care delivery system and people need you.

Thank you.

[From the Memphis Press Scimitar, June 1, 1978]

OPTOMETRY GRADS TO HEAR PSYCHIATRY GROUP COUNSEL

A special counsel to the American Psychiatric Association will be the commencement speaker at graduation ceremonies of Southern College of Optometry at 10 a.m. tomorrow at Bellevue Baptist Church.

Dr. Jay Cutler, special counsel and director of government relations for the APA, will speak to 135 graduates who will receive doctor of optometry degrees.

SCO will award posthumously an honorary doctorate of ocular science to the late Frank Hollan, who was to have graduated tomorrow but died last June 21.

Honorary degrees also will go to Dr. Earl Horn, a Memphis optometrist and president of SCO's board of trustees Hunter Cochran, a Memphis lawyer and SCC board member; and Cutler.

[From the Memphis Commercial Appeal, May 31, 1978]

GRADUATION SPEAKER IS CUTLER

Dr. Jay B. Cutler, special counsel and director of government relations for the American Psychiatric Association, will speak during Southern College of Optometry's graduation exercises at 10 a.m. Friday at Bellevue Baptist Church.

A total of 135 students will receive doctor of optometry degrees. Several honorary degrees will be given including an honorary doctor of ocular science degree posthumously to Frank Wesley Hollan.

Hollan, who was scheduled to graduate with this class, died June 21.

[From the Memphis Press Scimitar, July 2, 1978]

SCO GRADUATES HEAR ADVICE

(By Henry Bailey)

A new generation of health care professionals should realize that the answers to vexing health delivery problems aren't all to be found in Washington, D.C., the special counsel and director for the American Psychiatric Association told graduates of the Southern College of Optometry.

"Educated minds not addicted to health care as usual" are what the future demands, said Dr. Jay B. Cutler in remarks prepared for delivery at SCO commencement exercises today at Bellevue Baptist Church.

Public dissatisfaction about the rising costs of health care have created widespread distrust of the "conventional wisdom" in health policy planning, he said.

Cutler told the 135 graduates receiving doctor of optometry degrees that modern optometrists now represent a greater understanding and broader definition of health.

"The challenge to you is not only to provide your patients with quality vision care but also to contribute to the totality of the health care needs of the American people," Cutler said.●

SENATOR JOHN GLENN ON THE PACIFIC COMMUNITY

● Mr. SPARKMAN. Mr. President, Senator JOHN GLENN, the extremely able chairman of the Foreign Relations Committee's Subcommittee on East Asian and Pacific Affairs, recently had the honor to serve as President Carter's representative at the independence celebration of the Solomon Islands. On the Fourth of July he stopped over in Port Moresby, capital of Papua New Guinea, and spoke not only of the U.S.A., but of the Pacific community of nations emerging "out of the strife of warfare and the assertion of national independence." He noted that:

The United States is inescapably a Pacific nation . . . which does not seek to dominate the region, but which continues to seek positive cooperation and peaceful evolution there.

I think his pertinent remarks would be of interest to all of the Senate and submit them for the RECORD.

The statement follows:

STATEMENT OF SENATOR JOHN GLENN

I am delighted to be here with you to celebrate the birth of our nation, 202 years ago today. There is a strong tie between our two nations. Despite a distance of about 15,000 kilometers between our capitals, despite differing political and economic problems, our two nations share a love of liberty and personal freedom. That tie is starkly evident in the campaigns of World War II and our mutual concern with events in southern Africa.

Tomorrow our delegation will journey to the Solomon Islands to join them in celebrating their independence as Papua New Guinea did three years ago. There is thus emerging a Pacific community of nations out of the strife of warfare and the assertion of national independence. With the advent of peace in the Pacific, we share together an opportunity to turn our energies to development and the strengthening of economic and political ties. A peaceful and prosperous Pacific is of mutual benefit.

The United States is inescapably a Pacific nation. The Aleutian islands in Alaska extend as far west into the Pacific as New Zealand does. Guam, where the daily sun first shines on American territory, is much closer to Port Moresby than to San Francisco. Most significantly, our trade with Pacific and Asian nations is about $60 billion annually and has exceeded European trade since 1972.

The United States, therefore, supports the internally directed growth of the Pacific community. We joined this quest with you in 1947 in the South Pacific Commission and have continued through active participation in the Commission, the Asian Development Bank, educational and cultural exchanges, and financial support of the South Pacific Economic Commission. I am, therefore, pleased to note Papua New Guinea's decision to become a fully participating partner in the East-West Center in Honolulu.

One of the important but neglected areas of international relations is cultural exchange. Because our histories are so different and the Pacific so vast, greater interaction between the United States and Pacific island

nations is desirable. We need these joint exposures to sustain our relations. America is not simply a place of material wealth, military power and scientific prowess. America is primarily a dynamic and creative society that has allowed the average citizen to evolve to ever greater freedom and prosperity. We all, therefore, share a common desire for peace and human progress.

Equally significant is the recent decision, initiated by Secretary Holbrooke, to recognize the growing importance of the Pacific Islands by creating a separate desk to deal with these states. Thus, we have begun to recognize this vibrant, expanding Pacific community.

To nuture this idea of a Pacific community, all nations must avoid selfish and shortsighted policies. The United States does not seek to dominate the region. Rather, my country is eager to work with Papua New Guinea and other states to consumate a mutually beneficial association.

The South Pacific extends over 30 million square kilometers and contains 4.5 million people. Its "Pacific way" is illustrated by the resolution of the Torres Strait questions between Papua New Guinea and Australia. "Unity in Diversity," a necessity in this multilingual land and the skillful leadership of Prime Minister Somare are testimony to the political wisdom of this new nation. Papua New Guinea has much to offer other Pacific states and is indeed the bridge between southeast Asia and the Pacific.

It would be a tragedy of incalculable proportions if the great potential and opportunities we share in the Pacific were to be lost. The task of America today must be to help others repeat our economic success in a free and peaceful world. One of the truly encouraging trends is the realization and determination of Pacific island nations like Papua New Guinea that development—to be successful—must be a self-sustaining process. To be sure, America can do more. I am personally convinced that our investors still do not understand the economic potential of these nations. This beautiful land in which we celebrate American independence today is a storehouse of treasure in a resource-hungry world. We cannot neglect the Pacific region; we must continue to seek positive cooperation and peaceful evolution.●

FINE PERFORMANCE OF KLAS–TV

● Mr. LAXALT. Mr. President, the technological advances made by our Nation during the lifetime of those of us in this chamber I am sure have staggered even the most sanguine among us. It has really been an age of miracles.

And our ingenuity has translated many of these developments into benefits we can all enjoy. Medicines, tools and countless other spin-offs have resulted.

I suppose, however, if one were to point to that one development which has had the greatest impact on modern society as a whole you would have to look no further than the living room. There undoubtedly sits a television.

Through that picture tube comes the news of the day, the entertainment of an evening, and also the politics of our Nation. Television has widened horizons and provided a window to the world.

Mr. President, we have all heard and considered the concerns expressed over the kind of effect television has had on our society. Being members of an extremely visible profession we are perhaps closer to these considerations than most. In fact, personally, we have all had reason to praise and condemn treatment received through this medium of communication. But when the balance sheet is drawn on the television industry, an objective eye will find more credits than debits.

The opportunities provided for education and enlightenment are there. I believe our system of Government has been aided by the many who have availed themselves of these opportunities. An informed public governs wisely. True, the amount of information we are sometimes fed through today's mass communications systems can stagger us, but after staggering, we ingest and walk to a ballot box better able to make intelligent decisions.

The industry has served my state well and long. This month in Las Vegas, KLAS television is commemorating a quarter century of quality broadcasting. Through the years KLAS–TV has grown with the Southern Nevada area. People there have benefited from the fine job performed by the station just as Americans everywhere have benefited in many ways from the national expansion of this industry.

Mr. President, KLAS–TV stands as a fine example for a mode of mass communication that has grown to maturity and contributed to the public in the process.●

A BIOLOGY LESSON FOR ECONOMISTS

● Mr. STEVENSON. Mr. President, in the New York Times of July 9 Lester Brown, president of Worldwatch Institute, cites the dependence of the economic system on biological systems to illustrate the inadequacy of orthodox Keynesian and monetarist theory. Croplands, fisheries, forests, and grasslands are depleting as demand is rising, and no amount of economic theorizing will produce a tolerable solution. The same conclusion about economic orthodoxy can be drawn from other phenomena, but this is an especially useful illustration because of what it says about the adequacy of world food and fiber supplies. Mr. President I ask that the article, A Biology Lesson for Economists, be printed in the RECORD.

The article follows:

A BIOLOGY LESSON FOR ECONOMISTS

(By Lester R. Brown)

Economically, the 1970's have been traumatic and confusing. They have brought the first global double-digit inflation on record during peacetime. Each month the price reports emanating from Washington remind us that inflation is now a chronic, politically troublesome issue.

In their preoccupation with short-term economic indicators, economists appear to have lost sight of the biological underpinnings of our economic system. Although economists' desks may be covered with references discussing the health of the economy, few pay much attention to the condition of the earth's principal biological systems. This lack of biological awareness has contributed to the failure of many efforts to manage inflation.

Our economic system depends heavily on four biological systems—croplands, fisheries, forests and grasslands. These four systems provide not only all our food but, with the important exception of minerals and petrochemicals, all the raw materials for industry as well. In short, they are the foundation of our global economic system. Their health and that of the economy cannot be separated.

The tripling of world economic output since midcentury has raised the pressures on biological systems, often to an unsustainable level. In more and more situations rapidly expanding human claims are surpassing the carrying capacity of biological systems. The result is rising prices for seafood, lumber, leather, firewood, soybeans and scores of other commodities of biological origin.

Today the economic signs of ecological stress are visible everywhere. As our claims on the earth's biological systems begin to exceed their sustainable yield, the productive resource base itself is consumed. In economic terms, we are now consuming biological capital along with interest.

The most immediate symptoms of ecological stress are physical—deteriorating grasslands, shrinking forests and soil erosion. At the next level, the stresses manifest themselves in economic terms, scarcity, inflation, unemployment and economic stagnation or decline. And finally, the stresses assume a social and political character—hunger, forced migration to the cities, deteriorating living standards and political unrest.

CROPLANDS

The first strong signal that the slack was going out of the food system came with the large Soviet wheat purchase in 1972. From 1950 to 1971 world grain production nearly doubled, raising per capita output by some 30 percent. During the ensuing six years, it has not increased at all.

Prior to 1950, increases in food output came largely from expanding the cropland area, but since then, fully four-fifths of the growth in output has come from intensifying production on the existing cultivated area. But the increases are no longer coming as easily as they once did. Crop response to further increases in the use of fertilizer, the principal source of rising food output since midcentury, is beginning to fall off in the United States, Western Europe, Japan and other countries where its use is heaviest. Most of the easy irrigation projects have been completed.

In addition, the cropland base is shrinking in some countries and deteriorating in others. Per-acre yield of all cereals in the United States peaked in the early 70's. The return to production of marginal lands, rising energy costs, and a deteriorating cropland base have all contributed to the decline since then.

David Pimentel of Cornell reports in the journal Science: "Each year more than one million hectares of arable cropland are lost to highways, urbanization and other special uses." He goes on to note that this loss "is partially offset by the addition (primarily through irrigation and drainage projects) of 500,000 hectares of newly developed cropland per year."

Canada, the world's second ranking exporter of cereals, is also losing large chunks of its best cropland to urban sprawl and other nonfarm uses. According to the Science Council of Canada, "Between 1966 and 1971, 400,000 hectares, or almost one-tenth of the improved farmland in southern Ontario, was lost to agriculture." Canada's total harvested area remains constant only because the loss of prime agricultural land is being offset by the addition of marginal land in lower-rainfall areas.

These trends in cropland loss do not suggest that the United States and Canada will experience food shortages, but they do underline the risks of growing dependence of countries everywhere on North American food exports. They also help explain why the costs of producing food are rising so rapidly in two of the world's most agriculturally advanced countries.

One reason the return to production of the 50 million acres of idled United States cropland during the mid-70's had little impact on production was the marginal nature of the land. Similarly, setting aside perhaps 15 million acres of the cropland area in 1978 under government farm programs will not appreciably reduce output. Indeed, the marginal land may benefit from rest.

Crop yields are falling in several countries as lower quality cropland is substituted for the higher quality land being lost to nonfarm uses, and as erosion reduces the thin layer of topsoil. Yields are falling in Haiti, Nigeria, Ethiopia and Nepal, to cite but a few countries. Soil deterioration is overriding advances in agricultural technologies in these countries

Over much of the earth's surface, the thin mantle of topsoil is only inches deep, usually less than a foot. Nature produces new soil very slowly, much more slowly than the rate at which it is now being lost. Thus once topsoil is lost, a vital capacity to sustain life is diminished.

Even in an agriculturally advanced country such as the United States, the topsoil being lost through erosion exceeds that being formed by nature. Soil scientists analyzing the relationship between soil loss and formation on Wisconsin soils reported in the journal Science that 70 percent were losing twice as much soil from erosion as was being formed through natural processes. The Iowa-based Council for Agricultural Science and Technology reports that as of the mid-70's "a third of all U.S. cropland was suffering soil losses too great to be sustained without a gradual, but ultimately disastrous, decline in productivity."

The gradual loss of topsoil from erosion has been masked over the last generation by the rising use of chemical feriltizer, an energy-intensive product. But as the price of fertilizer rises along with the price of energy, this will become more costly and more difficult.

FISHERIES

Ever since Jules Verne we have confidently believed that once the possibilities for expanding land-based food production began to diminish, we could turn to the oceans to satisfy our food needs, but as the postwar rise in per capita grain output leveled off beginning in 1971, this was not possible. Growth in the world fish catch had already come to a halt. The world's fishermen were having even more difficulty expanding output than were its farmers.

As world fishing fleets expanded between 1950 and 1970, the world catch more than tripled, increasing fish consumption everywhere. But in 1970 the trend was unexpectedly interrupted, clouding the prospects for an ever-bigger catch. Meanwhile, world population has continued to grow, leading to an 11 percent decline in the per capita supply of fish. It has also lead to seafood prices that seem to rise between weekly visits to the supermarket.

In a protein-hungry world, pressures on oceanic fisheries mount with each passing year. Overfishing is now the rule not the exception. In an analysis of the Northeast Atlantic fisheries published in Nature, the marine biologist D. H. Cushing reports that 27 of the region's 30 leading fisheries are being overfished. The fisheries that supply the tables of Western Europe are shrinking. The lowly herring, once taken for granted in Scandinavia, Germany and elsewhere, has suddenly become a luxury. The "fish and chips" on the menus of English restaurants are becoming dear.

The collapse of the Peruvian anchovy fishery, once the world's largest illustrates well the dangers of uncontrolled fishing. By the late 60's, Peru had emerged as the world's leading fishing nation, harvesting 10 million to 12 million tons of anchovies a year. Then in 1972 the catch fell to a fraction of its former level. In 1977 the catch totaled less than a million tons. The Peruvian Government may suspend anchovy fishing entirely in 1978. The collapse of this fishery and the loss of export revenues, coupled with the rise in oil prices, has pushed Peru to the brink of international bankruptcy.

Excessive pressures on oceanic fisheries have affected not only seafood prices but those of alternative sources of protein as well. As the industrial countries of Europe, the Soviet Union and Japan import soybeans as a protein substitute for anchovy meal in livestock feed, soybean prices rise. Indeed, the threefold increase in soybean prices over the last six years is perhaps the best barometer of protein scarcity.

As world soybean prices climb, farmers in Brazil are shifting from table beans to soybeans, pushing up the price of this dietary staple of low-income workers. Rising prices for table beans means more malnutrition among the poor. In effect, the condition of oceanic fisheries and that of Brazilian peasants are indirectly linked.

GRASSLANDS

Overgrazing is now commonplace on every continent. Although the data are not as good as for fisheries, the symptoms are remarkably similar. From early biblical days until quite recently, livestock populations expanded apace with human numbers, but as the latter passed four billion, this was no longer possible.

As population and affluence rose over the last generation, pressures on grasslands increased markedly. Because the best grasslands are gradually being converted into croplands, most of those remaining either are concentrated in arid or semi-arid regions or are located on land that is too steeply sloping to be farmed. Semi-arid and steeply sloping grasslands are among the most fragile, capable of surviving only if grazing is carefully controlled.

In country after country, the demand for meat, milk and other livestock products is exceeding the long-term sustainable yields of grasslands. The situation is most extreme in North Africa, the Middle East, and the Indian subcontinent. A United Nations report by Prof. Ibrahim Nahal says that "although the natural rangelands in the north of Iraq are able to support 250,000 head of sheep, in actual fact they contain about one million head. Similarly, the arid and semi-arid natural rangeland zones in Syria contain three times the amount of livestock they can support."

As the growth in human population begins to outdistance the growth in livestock numbers, livestock products will become scarce. The per capita consumption of meat, milk and milk products will fall, leading to a decline in living standards. In some places this decline is already under way.

Livestock herds in the Sahelian-zone countries of Africa are smaller than a decade ago. In Morocco, overgrazing, drought and the resulting grassland deterioration have contributed to a decline in cattle and sheep numbers of at least 10 percent since 1971. Overstocking and the associated deterioration of grasslands lead to higher world prices for meat, milk and cheese. Aside from the short-term effect of the cattle cycle on beef prices in the American supermarket, consumers can count on longer-term, scarcity-induced price increases as well.

FORESTS

Excessive pressures on the earth's forests are beginning to affect living levels in all countries. Forests are an indispensable source of raw materials, most importantly firewood, lumber and newsprint. For fully a third of humanity, firewood is the principal source of fuel. Lumber is still the universal building material. Newsprint and paper are essential raw materials for both communications and education in the world economy.

In the poor countries where firewood is used for cooking, villagers are decimating local forests. With the average villager in the third world requiring a ton or more of firewood each year, expanding village populations are putting unbearable pressure on local forests. Under the population onslaught, forests recede farther and farther from the villages until entire regions and countries are eventually deforested.

In third world villages, twofold, threefold or fourfold price rises for firewood during the 70's are not uncommon. Erik Eckholm notes in the journal Losing Ground that firewood prices in Katmandu have risen even more rapidly than those of kerosene. A Peace Corps volunteer, Paul Warpeha, reports that the firewood shortage in Ecuador's Andean villages has reduced many facilities to one hot meal a day. In some deforested countries in Africa, what goes under the pot may cost more than what goes inside it.

As firewood becomes scarce, villagers begin burning the animal dung that traditionally was used to fertilize their crops. As soil fertility falls, food prices and malnutrition rise. The fate of our forests and future food prices are closely linked.

Although the daily demand for firewood is the largest claimant on the world's forests, the demand for lumber is also rising rapidly. Each year, the earth's 64 million new inhabitants need to be housed. This continuing pressure, combined with the need to replace old houses, is raising total claims on many remaining forests far beyond the level that can be sustained.

The result is rising prices for lumber. In the United States, prices for lumber have nearly tripled since 1967. As lumber prices climb, the cost of housing goes up everywhere. The average cost of a new house in the United States recently passed $55,000, up from less than $30,000 scarcely a decade ago. In 1960, half of all American families could expect to some day own their own house. That figure has fallen to 32 percent.

In late summer of 1977, the Secretary of Housing and Urban Development, Patricia Harris, alarmed by the soaring cost of housing, called for an investigation. A subsequent analysis of the long-term trends in housing costs by the Council on Wage and Price Stability noted that "soaring lumber prices have been a recurring problem of increasing severity in every expansion of housing demand since the mid-60's."

The study concluded that "over the long term the projected demand cannot be met by the supply of timber that will be forthcoming at current relative prices and under current management policies." The study forecast rising lumber prices for at least a decade as household formation by those born during the postwar "baby boom" presses against the sustainable yields of the nation's forests.

The inflationary pressures associated with excessive claims on biological systems cannot be effectively managed with traditional fiscal and monetary policies alone. Workable economic policies need to recognize explicitly the need to arrest the deteriorating relationship between humanity and the earth's fisheries, forests, grasslands and croplands. The question is not whether the harvests will be limited. They will be, either because we exercise foresight and careful management or because the natural systems are eventually decimated.

Unless economists can gain a better understanding of the relationship between biological carrying capacities and inflationary pressures, they will be hard pressed to advise political leaders wisely. They may end up treating the symptoms rather than its causes.●

THE UNLIBERAL LIBERALS

● Mr. McCLURE. Mr. President, for years liberals have offered the one word

"change" as a justification for not only their acts but their ideas. The congressional "mandate for change" came from the supposedly increasing desire of the citizenry for more and bigger Government. In order to tilt that change in the "right" direction a series of special interests—arbitrarily renamed public interests for acceptability's sake—were carved out for exemption. Those who led and those who acquiesed were called progressives and described as "in the mainstream."

Almost suddenly liberalism today finds itself in an intellectual backwater, defending outworn creeds and past trends. Reform, a buzzword which used to stand for all that was pure, now means, according to which bill you are reading, higher taxes, a return to the good old days of the Wagner Act, and a stand pat attitude on the huge Federal bureaucracy.

Tolerance, that benign attitude denied yesterday's conservatives by yesterday's liberals, is the main hope of those who are left of center today.

In today's world of instant food, fame, and gratification lagtime phenomena are more visible than in the past. The most obvious example is the degree to which the Congress represents a supposed constituency of a decade or two ago.

Only recently has the benevolent American public awakened to the fact that somebody pays for everything and that somebody is usually oneself. The authoritarianism which only short years ago was visible to just a few has increased exponentially to disturb the lives of vast numbers of citizens.

But Americans, in their typically healthy way, have refused to succumb. While it may take the Congress another decade to reflect that fact, certain members of the media, a part of that instant world, are already reflecting it.

Mr. President, I ask that an editorial written for the Panax News Service which underscores my point be printed in the RECORD.

The editorial follows:

THE "UN-LIBERAL" LIBERALS

In classical political terms, a liberal was noted for his tolerance of the other guy's point of view.

For a very long time, there has been as little of that tolerance among most of those who call themselves "liberals" in American public affairs as there is respect in those same ranks for the other true liberal values. In fact, the so-called "liberals" in our midst are, all too often, the storm-troopers of ideas.

We give you two recent examples: the labor law revision bill and ERA.

The labor law revision bill is little more than a bald-faced attempt on the part of Big Labor to get the federal government to do for it what it cannot do for itself: namely, con more middle Americans to shell out expensive dues for the privilege of belonging to a union. As The New York Times observed the other day, "labor's efforts to organize workers have been flagging in recent years, and the percentage of employees who belcng to unions has steadily declined."

"The trade union movement," The Times added, "has placed a high priority on achieving what it regards as labor law 'reforms' to reverse the trend."

Now that's about as plain as can be, and it comes from a source, The Times, that can scarcely be described as "reactionary." In other words, the union bosses want the federal government, through the Congress, to re-write the rule book. Then, more and more workers could be corraled into subsidizing not only the lavish life styles of the bosses, but also pay for propaganda campaigns reflecting the leftist biases of the bosses—views which have precious little in common with those of middle America, labor's largely-ignored rank-and-file.

No surprise, then, that Big Labor would behave as it did when the labor revision bill ran aground in the Senate. Through its Democratic minions, Labor saw to it that the business of the Senate stood still for 19 days while attempt after attempt was made to wear down those who opposed the bill.

Those opposed had the votes to continue a filibuster, a time-honored legislative tradition. Those who wanted to end debate did not. Six times they forced a vote to choke off debate—cloture—and six times they failed. Never before in the history of the Senate had so many cloture votes been forced on a single bill.

Having failed, repeatedly, to get their own way, the so-called liberals then weasled the bill back into committee, meaning the Senate probably will be forced to fight the same battle all over again sometime after July 15th.

That kind of behavior is just plain arrogance, the kind of arrogance—which says we dont' care about your rules, or your right to prevail in a fair fight—we will get our way anyway.

ERA is the other example. Leaving aside the shameful—and probably unconstitutional—efforts to extend the deadline for ratification of the Amendment, ERA advocates have displayed a similarly-shocking disregard for order and fair play.

We have in mind the spectacle of Illinois, where ERA-fanatics have mounted a political blitzkrieg aimed at intimidating the legislature into doing what it has said—repeatedly—it does not want to, namely ratify ERA. ERA forces have admitted to spending $150,000 in current efforts in that state alone, but what is far worse, is that they simply refuse to accept the verdict of the democratic process.

Over the past seven years, the Illinois Legislature has voted no fewer than 15 times on ERA. No sooner had the Illinois House turned it down again last week, in stormy session which saw one member hauled into the chamber on a stretcher to cast his pro-ERA vote, than the advocates said they would raise the issue again.

That kind of arrogance makes a mockery of liberalism.

That kind of arrogance makes a mockery of democracy.●

OHIOANS SERVING AS AMBASSADORS

● Mr. METZENBAUM. Mr. President, today I have the distinct pleasure of recognizing nine outstanding Ohioans for the contributions they have made as Ambassadors to various countries. I am proud to have such distinguished residents of Ohio representing this country in other parts of the world. It is not often that a single State has the privilege of providing nine illustrious individuals to fill the position of Ambassador at one time. I would like to take this opportunity to share with my colleagues the accomplishments and honors achieved by these people.

Steven Low, Ambassador to Zambia since 1976, began his Foreign Service career in 1957 as an economic-labor officer in Kampala, Uganda. In 1960, Mr. Low went to Dakar as labor officer, and later served as chief of the political section in the American Embassy. He returned to Washington in 1964, and spent the next year in the Bureau of African Affairs as officer in charge of Guinea-Mali affairs. From 1965 to 1967, Mr. Low was special assistant to the Deputy Under Secretary of State of political affairs, which was followed by a year at the National War College in 1971, and again in 1974.

David Eugene Boster, the first of nine to be nominated, has been serving as Ambassador to Guatemala since 1976. He began his carreer in the Department of State as a political officer in Moscow in 1949. Between the years of 1954 and 1974, Mr. Boster has held numerous positions as a political officer in the Soviet Union and Mexico. Prior to the appointment as Ambassador to Guatemala, Mr. Boster served as Ambassador to Bangladesh from 1974 until his present position.

Patricia M. Byrne has been serving as Ambassador to the Republic of Mali for the past 2 years. Ms. Byrne began her career as information and editorial specialist for the Central Intelligence Agency in 1948. Since that time she has held many political offices in Greece, Saigon, and Turkey. In 1966 Ms. Byrne was a supervisory personnel specialist, serving as chief of East Asia personnel, until 1967, when she was named special assistant to Deputy Under Secretary for Administration at the State Department. She also attended the National War College for 1 year. After having been Deputy Chief of Mission in Colombo, Sri Lanka, Ms. Byrne attended the senior seminar in foreign policy at the Foreign Service Institute.

Marvin L. Warner, was appointed to the Office of Ambassador Extraordinary and Plenipotentiary to Switzerland in 1977. Since 1959 he has been with Warner National Corp., first as president then as chairman of the board and chief executive officer. Prior to his appointment as Ambassador, Mr. Warner, a well-known community leader was a member of the U.S. delegation to the United Nations 23d General Assembly in 1968 and appointed as chairman of UN activities in Ohio. As a result of his significant participation in national and international affairs, Mr. Warner received the Governor's Award for Outstanding Service to Ohio in 1969.

Milton A. Wolf, of Zehman-Wolf Construction, Inc., in Cleveland has served since 1977 as Ambassador to Austria. Mr. Wolf, a highly respected leader in Cleveland has made substantial contributions in several academic, religious, hospital, and numerous philanthropic areas. Mr. Wolf served as a distinguished member of the resources committee of the Case Western Reserve University School of Medicine, vice president and chairman of the medical affairs committee of Mt. Sinai Hospital, vice president of the Jewish Community Federation and life trustee of the Case Institute of Technology Alumni Association.

Paul Boeker has held the position of Ambassador of the United States to Bolivia since 1977. Mr. Boeker joined the Foreign Service in 1961 as staff assistant

in Bonn, Germany. Between 1961 and 1974 Mr. Boeker held various positions in Washington, D.C., and abroad. In 1971 Mr. Boeker was an active member on the White House Task Force on International Development. For the following 2 years he was the First Secretary, American Embassy, Bonn, after which he was a member of the Secretary's policy planning staff. In 1974 he became the Deputy Assistant Secretary of State for Economic and Business Affairs. Mr. Boeker has received the Department of State's Meritorious Honor Award, and in 1976, the Arthur S. Fleming Award.

Edward Masters was sworn into office as U.S. Ambassador to the Republic of Indonesia in 1977. Mr. Masters has been active in the State Department since 1949. During 1960 through 1962 he was chief of the Indonesian-Malaya Branch of the Office of Intelligence Research Analysis for Asia, after which he held the position as international economist. Mr. Masters attended the National War College from 1963 to 1964. He served as counselor for political affairs in Djakarta from 1964 to 1968 and as a Country Director for Indonesian Affairs at the State Department from 1968 to 1970. From 1970 to 1971 he was Director for the Office of Regional Affairs in the Bureau of East Asian and Pacific Affairs. From 1971 to 1976 he was Deputy of Mission in Bangkok.

William Schaufele, Ambassador to Poland, has been actively involved with the Foreign Service since 1950, Mr. Schaufele was stationed in Duesseldorf and Munich through 1956. He then served as political-labor officer in Casablanca and opened a new Consulate in Bokavu, Zaire. After several years of work in Africa, he was nominated as Ambassador to Upper Volta, where he served until July 21, 1971. After devoting 2 years as deputy representative of the United States in the Security Council of the United Nations, Ambassador Schaufele became Assistant Secretary of State for African affairs in 1975. In 1977, he was nominated and confirmed as Ambassador to Greece for 1 year. The Ambassador holds the rank of Career Minister in the Foreign Service.

On June 15, 1978, President Carter announced the nomination of Thomas Boyatt to be Ambassador to Upper Volta. Mr. Boyatt's involvement with the State Department began in 1959, when he was assigned to Antofagasta, Chile. Between 1959 and his current appointment, Mr. Boyatt served the State and Treasury Department in Luxembourg and Cyprus. In 1975 he became the Deputy Chief of Mission-Santiago. Mr. Boyatt received the merit Honor award and the Christian Hester Award.●

MRS. NANCY C. SHAW RETIRES

● Mr. SASSER. Mr. President, on April 6 of this year, President Carter signed into law the Age Discrimination in Employment Act Amendments of 1978. I am proud to be a Member of the Congress which has established this precedent to end one of the most abusive forms of discrimination in our time—discrimination against our Nation's older citizens.

I believe that the passage of this legislation, which raises to 70 the retirement age for most private sector employees and raises entirely the retirement age for public servants, marks an important step toward ending age discrimination. However, for some public servants the effective date of the law, September 30 of this year, is just not soon enough.

One such public servant is Mrs. Nancy C. Shaw of Pleasant View, Tenn. Mrs. Shaw, born in Ashland City, Tenn., on May 18, 1908, was forced to retire this past May after 20 years with the Pleasant View Post Office. For the last 12 years, Mrs. Shaw has served as postmaster in Pleasant View under an appointment by the late President Lyndon B. Johnson.

I regret that Mrs. Shaw has had to retire from public service. I know that the Post Office in Pleasant View will miss her services. However, I am convinced that the Pleasant View community will gain from her unselfish spirit and dedication. Having received the U.S. Postal Service Bicentennial Award in 1976 for support of community activities, Mrs. Shaw has been an active member of the National Association of Postmasters, the National League of Postmasters and the Modern Woodmen of America. She has also served on the administrative board of the United Methodist Church, of which she is a member, and as Treasurer of the United Methodist Women for 30 years.

I feel that Mrs. Shaw deserves an indication of respect and appreciation for her years of dedicated service, and I am delighted to have this opportunity to honor her and commend her.

Mr. President, I submit for the RECORD an article which appeared in the June 14 edition of the Ashland City Times which acknowledges Mrs. Shaw's contributions to her community, to Tennessee, and the Nation.

The article follows:

[From the Ashland City Times, June 14, 1978]

PLEASANT VIEW POSTMASTER RETIRES

Mrs. Nancy C. Shaw retired as Postmaster of Pleasant View Post office on May 31, 1978 after twenty years with the U.S. Postal Service. She began her career with the postal service in 1958 as a part-time flexible clerk, and worked in career status until November 1965. Due to the death of the late Margaret Harris who was postmaster she was appointed acting postmaster on March 6, 1965 and on May 18, 1966 received a presidential appointment as Postmaster by the late President Lyndon B. Johnson.

She was given the Bi-Centennial award for support of community activities in 1976, and in 1977 she was recognized as an honorary recruiter by U.S. Air Force Commander Bernard M. Stein.

She was a member of the National Association of Postmasters and also the National League of Postmasters.

She has been a resident of Pleasant View since 1927 when she was married to the late Thomas Earl Shaw who died March 29, 1960. She has two sons, Bill Shaw of Madison, Tenn., and Thomas E. Shaw Jr. of Warrenton, Va., and five grandchildren.

When asked how she expects to spend retirement she stated that it will not change her lifestyle, as the only thing she will not do is go to the Postoffice every day, but she will have more time for neighbors and friends.

Highlights of her retirement activities was a dinner given by Cheatham County Postmasters and their wives on the evening of May 16 at Ashland City Marina. At this dinner she was presented a gold locket engraved with 1958–1978 to commemorate her postal service. On the evening of May 31 as she turned the Postoffice keys over to Officer-in-Charge Billy Ellis, she was surprised by her sons, Bill and Tom who pinned a beautiful purple orchid on her shoulder and ushered her off for dinner at the Briar Patch in Clarksville.

On Thursday June 8 she was the guest at dinner of Mr. and Mrs. Charles Boyle at their lovely new home on Possum Trot Road. Mr. Boyle is the rural carrier out of Pleasant View Postoffice. Mr. and Mrs. Harold Stiles were other guests as Mrs. Stiles was a former employee in the office.

"Miss Nancy" as most folk know her in Pleasant View, is the daughter of the late William Thomas and Nellie K. Clark.●

REMARKS OF SENATOR TALMADGE TO THE MIDSUMMER POLICY MEETING OF THE NATIONAL ASSOCIATION OF FARMER ELECTED COMMITTEEMEN

● Mr. BURDICK. Mr. President, on July 11, Senator TALMADGE presented remarks to the Midsummer Policy Meeting of the National Association of Farmer Elected Committeemen. His remarks precisely define issues in agriculture that we must continue to face. I commend the reading of his speech to my colleagues in the Senate.

Mr. President, I ask that Senator TALMADGE's remarks be printed in the RECORD.

The remarks follow:

REMARKS OF SENATOR HERMAN E. TALMADGE

I am deeply honored to be here tonight to address the mid-summer policy meeting of the National Association of Farmer Elected Committeemen of ASCS.

This is the first time I have had the opportunity to participate in one of your national conferences. However, I have attended a number of meetings of your organization in my own state, and I know first-hand of your dedication and service to the farmers of America.

The National Association of Farmer Elected Committeemen possesses a reputation that far surpasses what one would expect from its relatively short history of thirteen years. Your officers and membership have ably served the farmers of this country since its beginning. Today, when Tom Cunningham and your other leaders speak, I and my colleagues in Congress know you speak straight from the shoulder. We know, too, that you speak with knowledge and responsibility.

County ASCS Committeemen enjoy a unique status in the agriculture community. You see farm programs from two viewpoints—that of the farmer and that of the government. This is a rare combination that enables you to appreciate both sides of a farm program and explain it in terms producers can understand.

At the same time, we in Congress can turn with confidence to your leaders and to your members to seek advice and counsel on farm legislation.

You and I share common goals.

We both want to strengthen American agriculture.

We both seek to provide new vistas of opportunity for our farm families.

We both are dedicated to the preservation of the family farm as the backbone of the American agricultural system.

Those of us in Congress have the responsibility for developing legislation to achieve those goals.

Our task is to formulate policies that will assure America and a good part of the world abundant supplies of food and fiber at prices that are fair to both the producer and the consumer.

You as Farmer Elected Committeemen have the responsibility for translating those policies into action at the grass roots. You make the programs that Congress enacts available to farmers across the nation. Through your efforts, policies become tools the farmer can understand and use. Until you put the legislation into action, it is of little use to anyone.

You are the first-line fighters in the never ending struggle to keep American agriculture strong and to seek fair and equitable treatment for American farmers.

The cornerstone of U.S. farm policy today is the preservation of the family farm.

The new farm act begins with a reaffirmation of this historic commitment to the family farm system of American agriculture.

The predecessor of the present law, the Agriculture and Consumer Protection Act of 1973, sought to limit government interference in the farm marketplace. It was designed to provide income protection to farmers only in extreme situations when prices fell to disastrously low levels.

Following passage of the 1973 act—and the abrupt increase in exports with corresponding high market prices—the cost of farm programs for major commodities dropped from more than $4 billion to less than $1 billion.

The Food and Agriculture Act of 1977, which the President signed on September 29, builds on the 1973 law. But it is far more comprehensive and contains many improvements over the earlier law.

The new farm act establishes target prices for major commodities at more realistic levels approaching cost-of-production. Deficiency payments are made to producers when average market prices fall below the target level.

Because of depressed grain prices, deficiency payments under the new program will result in higher government costs this year.

I believe these costs are fully justified. Farm income stabilization is essential to national food security and to the national economy. This feature of the farm law should prevent wholesale farm bankruptcies in times of depressed prices. At the same time, it will help smooth out the violent swings in prices and supplies that are so disruptive to the U.S. economy and to the economies of other nations.

I need not remind this group of the perilous economic state that many farmers are in today. During 1977, farm indebtedness reached an astronomical $102 billion as farmers geared up to meet world food needs.

Yet net farm income dropped disastrously last year—to about $20 billion. This was $13 billion below the 1973 record year.

Because of this, many farmers are having trouble meeting their obligations. I know that in my own state of Georgia, many farmers—particularly young farmers—have come face to face with bankruptcy.

This nation cannot afford to close its eyes to the economic well-being of American agriculture. We cannot walk away from the farmer—no matter what the scale of his production.

We cannot tell him to operate at the mercy of the weather.

We cannot leave him unprotected against the uncertainties of international market conditions that may be influenced by decisions made in Moscow, Peking, Geneva—or even at our own State Department.

Fortunately, there has been a marked improvement in the agriculture economy in recent months.

Prices for many commodities have increased significantly from last year's lows. In the case of beef, the increase has been dramatic—or was until the President's untimely and unfortunate announcement of an increase in import quotas.

The new farmer-held grain reserve also appears to be working well after a somewhat uncertain beginning. More than a half a billion bushels of wheat and feed grains have now been placed in the reserve. This unquestionably has contributed to improved grain prices.

Just last week, barley became the first commodity in the reserve to reach its "trigger" point. This means barley producers participating in the reserve may now redeem their stocks by paying off the Commodity Credit Corporation (CCC) loan and may sell or store the grain as they choose.

Much of the credit for the success of the grain reserve program belongs to the members of your organization—the county committeemen—and to the local ASCS staffs.

Your job was to see that farmers understood the benefits of the reserve program. the fact that the quantity of grain placed in the reserve exceeded what was considered as essential tells me you did your job well. You again proved equal to the task.

The export picture also has improved. Secretary Bergland now predicts that this year's overseas sales of U.S. farm products will exceed last year's record of $24 billion by one to two billion. Agricultural exports thus continue to be the brightest spot in an otherwise dismal U.S. balance-of-trade picture.

Net farm income is also looking up.

The latest prediction from the Department that I have seen places this year's figure in the $25 billion range.

If this prediction is borne out, it would be the highest since 1974—and the third highest on record.

These are encouraging signs. But it would be a mistake to read them entirely through rose colored glasses. Some serious problem areas remain in American agriculture that cannot be lightly wished away.

We still are confronted by bulging stocks of grains and cotton—including the largest wheat carryover since 1963. Favorable weather and growing conditions, in this country and worldwide, would result in another bumper harvest.

If this occurs, we are likely to see a reversal of the recent upward trend in prices and a recurrence of last summer and fall's disastrously low levels.

The economic consequences of two bad years back-to-back would be truly foreboding. Untold numbers of additional farmers would find themselves with their backs to the wall.

The overall economy, which already is losing steam, could well be pushed into a full blown depression.

Even without the possibility of a market glut and low prices, the economic prospect for many farmers is not all optimism.

Farmers are among the hardest hit by the current inflationary spiral. Their production costs continue to rise. Even with improved farm prices generally, some commodities—notably cotton and corn—are barely at break-even levels.

It is no exaggeration to say that few segments of the economy are more vulnerable to the cost/price squeeze than agriculture.

But in spite of the uncertain future for agriculture, I believe the 1977 farm act is a step in the right direction in providing some measure of income protection to farmers while assuring an ample supply of food and fiber at reasonable prices.

The new act is not perfect by any means. When it was being hammered out in Congress, the final version did not go as far as I had wished. But it was the best that could be passed through Congress under the existing political realities, and the best that the President could be persuaded to sign.

Not only was it the best bill obtainable at the time, it is the best piece of farm legislation—the most favorable to farmers—that has been enacted during my twenty-one years in Congress. In fact, for the 1977 crops, even though the new law was not applicable for the entire year, farmers will receive more direct benefits than during the entire four years of the previous administration.

There undoubtedly are improvements that could be made in the 1977 act. I was the author of one of the emergency bills earlier this session that would have required the Administration to use authority Congress provided in the law to increase assistance to farmers this year.

The emergency legislation passed the Senate, but was defeated overwhelmingly in the House. That is a pretty good indication of the political obstacles we have to deal with in Congress in writing meaningful farm legislation.

Congress finally did pass a greatly watered-down version of the emergency bill that provides more flexibility to the secretary to cope with situations such as we faced earlier this year.

I agree with Secretary Bergland that the 1977 act should be given a fair chance to prove itself. The 1978 crop year should provide an adequate test for this. On the basis of a full crop year's experience, Congress and the Administration will be in a better position to determine if more "fine tuning" or possibly even fundamental modifications should be made in the 1977 farm act.

As Chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, I stand ready to take whatever action may be necessary to provide the nation with sound agriculture legislation.

If there are faults or deficiencies in the existing law, they must be corrected.

American farmers cannot be expected to produce at below the cost of production. I know of no other segment of economy that would do that for very long.

Our farmers ask only to be able to earn a fair share of the national income.

They deserve no less.

American farmers also want their voices heard and considered in the councils of government. They have every right to take their case directly to Congress, to the Administration, and to the public—as many of them did during the bleak months of last winter. In my opinion, the American Agriculture Movement played a valuable role in focusing attention on the plight of farmers.

All producers, regardless of their interest—whether it be cattle, cotton, tobacco, wheat, peanuts, rice, hogs, dairy, or corn—must work together. A united effort is the best means of making your influence felt.

There are many areas of vital concern to American agriculture and to farm families. One of these is the adequacy of the existing agriculture credit system, which has also been put to the test by the economic and natural adversities encountered by farmers in most areas of the country.

I can report to you tonight that the House and Senate will take final action within the next several days on major farm credit legislation that will overhaul and update the existing credit programs of the Farmers Home Administration (FmHA).

This legislation is designed to bring these programs into touch with the times so that they will be more responsive to today's farm credit needs.

The bill also creates an entirely new $4 billion emergency credit program for farmers and ranchers who suffer from economic disaster, as distinguished from natural disaster.

This bill is the most significant and far-reaching farm credit legislation to come before the Congress during my two decades in the Senate. I am confident it will be approved promptly by Congress and signed by the President.

A closely related legislative priority is the development of a comprehensive program for all-crop, all-risk insurance. The Administration has submitted a recommended bill to Congress, and my committee will be holding hearings on this subject later this year.

The problems involved in developing a comprehensive and workable crop insurance program are complex, but the need is great. Every year, some producers somewhere suffer from the vagaries of Mother Nature.

We must try to devise some method of evening out the odds for each and every producer throughout the country.

Another area of rising concern to farmers—and a rising concern of mine—involves the reports and rumors that foreign investors are buying up prime American farmland at prices totally beyond the reach of our own family farmers. Some of the reports I have heard indicate that this foreign investment is going on at a disturbing pace in all of the major farm areas of our nation.

At my request, the General Accounting Office has made a preliminary inquiry into these reports. The results of the inquiry, while inconclusive and sketchy, indicate sufficient activity by foreign investors to justify a more extensive investigation.

This investigation is now being conducted for my committee by a number of government agencies, including the ASCS.

Your county office staffs probably will be called upon to assist in this project. I know we can count on your cooperation.

Over the next several months, we hope to obtain documented data on farmland purchases by foreigners. We want to know the actual extent of these purchases, who the foreign investors are, what prices are being paid, and what domestic and international implication these purchases could have on our future food supply.

Once this information is in hand, we will be able to assess the impact on our overall agricultural system—especially its impact on the family farm system—and determine what, if any, action should be taken.

I do not wish to prejudge this matter.

But I have already learned enough to be concerned. In one county in my state of Georgia that GAO selected at random for an on-site look, 6.3 percent of the agricultural land has gone under foreign ownership in the past eighteen months.

I consider that serious. This may turn out to be an extreme and isolated case. But if this should develop into a general trend nationally, I believe it would constitute a clear threat to the future of the family farm system in this country.

This should not be permitted to happen.

Farming today is a tough and risky business. But it also can be a rewarding one.

As in any business, farmers must earn a profit. Just as any other segment of our society, farmers want to provide a better life for their families and an education for their children.

But more than the profit motive and material comforts are involved in farming. It takes heart, dedication, and deep love of the land.

These are the characteristics that typify the traditional family farmer in this country.

I said at the beginning that you and I share a common goal of preserving and strengthening the family farm because it is the backbone of the American agriculture system.

But it is even more than that. The family farm is an essential part of America . . . and of our national heritage.

The standard of living that we as Americans enjoy—the envy of the world—is due in no small part to the productivity and efficiency of the family farmer.

The miracle of American agriculture is that we are feeding an ever increasing number of the world's people with an ever decreasing number of producers.

We have another goal, you and I. And that is to provide the right conditions and the right programs so that our farmers—large and small—can continue their production miracle.

That is the challenge to all of us who believe in the future of American agriculture . . . and in the future of America.●

FREE TRADE OR FAIR TRADE

● Mr. HEINZ. Mr. President, as we are all well aware, the administration is presently participating in multilateral trade negotiations in Geneva. The objective of those talks is to liberalize and rationalize the rules governing international trade. I am sure that every Senator shares the hope that these negotiations will succeed, since international trade is so important to world economic health. But I am just as sure that they will not succeed unless our negotiators are successful in insuring that the United States is not the dumping ground for other nations' economic problems.

What I am referring to are the economic policies of some nations which have the effect of placing U.S. firms at an unfair disadvantage in their own domestic markets. Policies which favor domestic firms and encourage exports have led to such practices as dumping, unfair government subsidization of exports, and outright discrimination against foreign suppliers. These unfair trade practices have resulted in U.S. unemployment, plant closings, and the loss of productive capacity which may be needed in times of national emergency.

These issues are discussed at greater length in an article I wrote entitled, "Free Trade or Fair Trade, What's Really Happening in the International Marketplace," which will be published in the September issue of Appliance Manufacturer, a Cahner's publication. Mr. President, I ask that the text of that article be printed in the RECORD.

The article follows:

FREE TRADE OR FAIR TRADE

Ever since the economic devastation of the Great Depression, the major market-economy nations of the world have recognized the importance of international trade to world economic health. Trade is the absolute lifeblood of some countries and there is not a major non-communist economy today which would not come close to collapse without it. The rationalization of international trade rules is therefore essential to the economic well-being of all of us.

However over the last few years, a number of events have conspired to radically alter the conditions of international trade. These include the OPEC oil cartel and its pricing strategy, the world-wide recession and subsequent slow recovery coupled with high inflation, and collapse of the Bretton-Woods international payments system. In response to these events, many industrial and less developed nations have sought solutions to domestic problems through exported growth, at any cost. The result is increased competition for a larger share of the export market.

With increasing frequency, such competition has also meant either the circumvention of international trade laws or the use of methods (particularly non-tariff trade barriers) not adequately covered by existing international trade agreements. The United States, as the foremost advocate of free trade and the largest consumer market in the world, has been particularly susceptible to the adverse effects of these subtle but potent attempts of other nations to export their economic problems.

The list of U.S. domestic industries that have fallen prey to unfair trading practices in the past two years alone is indicative of their swift effects. These include the steel, color television, shoe, zinc mining and smelting, textile, apparel, and fastener industries among others. By being the most open nation to fair or unfair trade, the U.S. has had to experience unemployment, plant closings, the loss of productive capacity which may be needed in times of national emergency. In addition, it has caused a severe depreciation of the dollar abroad and unleased massive inflationary pressure.

What are these practices and what is your government doing to prevent them? This article will discuss three examples of how foreign imports disrupt American industry; and how the Administration has made our policy insensitive to the plight of the American worker.

DUMPING

Simply put, dumping is the practice of pricing exports lower than either (1) the prevailing selling price in the manufacturing country, or (2) the cost of production in that country. Such practices have a great impact in the U.S. due to our large consumer market.

There are laws against dumping, and the U.S. color television industry has been struggling for the past decade to have them enforced. In March of 1971, the Treasury Department and the U.S. Tariff Commission (now the International Trade Commission) found that Japanese television manufacturers had been dumping their product in the United States, and had caused injury to U.S. manufacturers. However, it was not until last year that the Special Trade Representative negotiated an orderly marketing agreement with the Japanese to limit television imports. This was after the President rejected the ITC's recommendation for stronger relief. Finally, it was only this past March that the Treasury Department assessed partial anti-dumping duties against Japanese manufacturers. During this seven year interval, the U.S. color television industry has been forced to close or move dozens of plants and lay off over 60,000 employees.

SUBSIDIES

A second common unfair trade practice is the use of subsidies. With increasing frequency, governments nationalize private industries or provide tax and non-tax subsidies to achieve certain economic objectives (e.g., maintain employment, increase export earnings) regardless of the ultimate cost to their taxpayers.

The Armco Steel Corporation's petition against the Italian steel producer, TERNI, illustrates such a practice. TERNI, a producer of silicon steel (a type of electrical wire), began to export even larger amounts of this product to the U.S.A. a few years ago. The parent company of TERNI is owned by an authority of the Italian government. Armco has alleged that the Italian government, in order to ease its domestic economic problems, has unfairly subsidized TERNI through its link to the company, enabling it to export cheaper steel to the U.S.

Clearly, we cannot dictate business practices in other countries; but we should not and need not subject our domestic industries to such unfair competition. The TERNI complaint, originally rejected by the Treasury Department, is now being reconsidered under our countervailing duty statutes.

DISCRIMINATION

A third and particularly frustrating unfair trade practice is discriminatory "by-national" government procurement policies. The United States has the Buy America Act, but this legislation is modest compared to the extensive array of restrictive and hidden practices used by other governments.

A good example is that of the U.S. rail transit car manufacturers. Virtually all purchases of rail transit cars for public transportation facilities are made by local governments with the Federal Government footing as much as 89% of the bill. In 1976, while foreign producers captured 67% of this market, U.S. manufacturers were unable to export any rail transit cars to foreign governments due to their highly restrictive, unwritten, policies. In some instances, the same country that exports to the U.S. will not let U.S. producers export to it. Allowing such practices to continue makes a mockery of free and fair trade principles. What is needed is a code for government procurement practices.

WHAT IS THE ADMINISTRATION DOING?

Since the Carter Administration took office it has rejected or altered every recommendation of the ITC for import relief except one. In lieu of the recommended relief, the Administration has frequently attempted to negotiate bilateral voluntary agreements or orderly marketing agreements. In doing so the Administration's goal has apparently been to appease our trading partners and prevent the outbreak of a protectionist trade war.

But with what result is such action taken? If the agreements reached were effective, perhaps these weak initiatives would be enough. But frequently the promises or agreements to limit exports to the U.S. are all too inadequate. Current mushroom imports, for example, have been significantly higher than the negotiated voluntary restraint levels due to such loopholes as simple overshipping and diverting mushrooms through third countries.

It appears that while the ITC is fulfilling its obligation to protect U.S. industry from unfair trading practices, the State and Treasury Departments and the Office of the Special Trade Representative are more concerned with not tramping on the diplomatic toes of our trading partners.

MULTILATERAL TRADE NEGOTIATIONS

The Administration continues to believe that the MTN in Geneva is dealing with these problems. However, the rhetoric from our negotiations and the actions of the Administration often seem inconsistent.

A prime example is the "'under the table" discriminatory agreement on steel between the European Community and Japan which restricted steel trade between the EEC and Japan and resulted in the diversion of Japanese steel to the United States. As the world's most lucrative market, the United States is too often the victim when our trading partners decide to gang up and play rough.

Ending such practices is an important objective of our MTN negotiations; yet the Administration has, in its own words "buried" the section 301 trade discrimination complaint brought by the steel industry against this deal. How can the Special Trade Representative expect other nations to abandon such practices if they know the U.S. laws against them will not be enforced?

It further appears that although negotiations at the MTN are going well with respect to some areas, it is possible that agreements may not be reached on some issues of great importance before the agreed-upon July deadline. This raises the possibility that the Administration will agree to put off the unresolved issues, thus making major concessions without gaining anything in the areas where we are at the most severe disadvantage (e.g. subsidies).

WHAT IS CONGRESS DOING?

Congress, however, is not sitting idly by, but is taking the initiative to show that unfair trade practices will not be tolerated. One example is the Trade Procedures Reform Act, which I introduced last November, and is currently pending before the Senate Finance Committee. This Act, by making changes in the Trade Act of 1974, the Tariff Act of 1930 and the Anti-Dumping Act of 1921, will speed up the process of adjudicating complaints and provide more effective remedies to present unfair trade practices by foreign competitors.

A second initiative concerns the Buy American Act of 1933. The unfair trading practices that exist in the private economy are also felt in federal procurement. But the antidumping and countervailing duty statutes are no protection against federal funds being used to purchase dumped or heavily subsidized foreign products. Therefore, I have prepared a bill which will provide the federal government the mechanisms to protect itself. Moreover, by reinforcing our existing trade laws, this bill will put pressure on foreign governments to respect the concept of fair trade.

If this bill had been law last year, the Metropolitan Atlanta Rapid Transit Authority (MARTA) would not have been allowed to spend $56 million (80% federally funded) to buy French rail transit cars rather than cars made by the four American manufacturers. Under this bill, MARTA would have been allowed to purchase French rail transit cars only if France did not unfairly prohibit the American manufacturers from competing for French rail transit car requirements.

These are just two of a number of proposals pending in Congress to ensure that free trade means fair trade as well.

CONCLUSION

World economic conditions and other nations' responses to them are causing severe strains between the U.S. and our trading partners. These strains are manifesting themselves through severe economic dislocations in many U.S. industries. But we cannot afford to become the dumping ground for the world's exports. The American worker and American industry can compete with anyone and any country if given the opportunity to do so on a fair and equal basis. Congress is working to ensure that such an atmosphere of mutuality and fairness with our trading partners will exist. That is not protectionism; it is equity and common sense.●

MFN AND ROMANIA

● Mr. JACKSON. Mr. President, I submit for the RECORD the statement on MFN and Romania which I made today before the Subcommittee on International Trade of the Senate Finance Committee.

The statement follows:

STATEMENT OF SENATOR HENRY M. JACKSON

Mr. Chairman: I appreciate this opportunity to give this committee my views on extension of our present trading relationship with Romania.

First of all, let me say that our country has a significant stake in the continued existence of a Romania capable of an independent role in important foreign policy matters.

I have had candid talks with President Ceaucescu and other Romanian officials. I found that they respect frank discussion of matters whether we agree on them or not.

Clearly, it is in the interest of both the United States and Romania that sources of tension between us, such as disputes over the disposition of emigration cases, be resolved as amicably as possible. We for our part have shown considerable patience in the years since Romania first became eligible for MFN as the Romanians have endeavored to resolve many outstanding cases.

In a spirit of cooperation much can be done to advance the cause of personal liberty for those wishing to leave Romania—usually to be reunited with loved ones—and to advance the economic progress of the Romanian people. Moreover, the United States wishes to encourage the countries of Eastern Europe effectively to assert their legitimate claim to greater autonomy in the face of Soviet demands and overwhelming Soviet power.

The further extension of MFN and economic credits for Romania—an exercise of accommodation on both sides—is a realistic reflection of our mutual interests.

Needless to say, this will continue to be the case only so long as Romania sincerely lives up to its pledge of the humanitarian treatment of emigration cases. I hope and trust that we will continue to work together to resolve those cases still outstanding, and that in so doing we will place U.S.-Romanian relations on an increasingly sound and stable basis.

I've always believed that among the internationally recognized human rights none is more fundamental than the right to emigrate. Freedom to emigrate can be accomplished without causing fundamental changes in the internal structure of many states which today deny their citizens the right to leave. It need not be considered, and indeed is not, interference in another state's internal affairs to insist that the right to free emigration, which has been enshrined in international law, be honored.

That, I believe, is why the Congress has attached special importance to the right to emigrate, and why that right is a central feature of so many international agreements.

The experience with Romania illustrates the value to all parties of a constructive approach to existing United States law conditioning MFN and credits to non-market countries on the relaxation of restrictions on emigration. While some countries have chosen confrontation, others, like Romania, have preferred cooperation—a result that has served the interests of both our countries and the cause of international human rights.

Holding these views, and after thorough consideration of the record, I urge this committee to recommend to the Senate extension of the waiver as requested by President Carter.●

THE TYRANNY OF THE BUREAUCRAT

● Mr. McCLURE. Mr. President, this year the rocket's red glare illuminated a pleasant surprise. On July 4, Jack Anderson treated us to an enlightened, if discouraging, recitation of the forms, schedules, memos, redtape, exceptions, reports, and regulations which inhibit life in the land of the free.

Mr. Anderson ties together the spirit of 1776 and the spirit of proposition 13. This perspective is, I believe, not only correct, but heartening. Unlike some prominent authors and politicos, I do not believe that the American body politic has lost its will. Americans are beginning to express in unmistakable ways their frustrations with the bureaucracy.

On this bicentennial-plus-two, they are telling us that the one thing worse than enduring bureaucratic tyranny is paying for it. Mr. President, I ask that Jack Anderson's article "The Tyranny of the Bureaucrat" be printed in the RECORD.

The article follows:

[From Washington Post, July 4, 1978]

THE TYRANNY OF THE BUREAUCRAT

(By Jack Anderson)

Another tax rebellion, not unlike the insurrection that brought down the British tyranny 202 years ago, is sweeping America. But the tyrant under attack is no King George III conspicuously ensconced on his

throne; it is the anonymous government clerk seated in his cubicle.

In his pettifogging way, the buraucrat has gained control over our destiny so unobtrusively that we didn't realize we were oppressed. So gently, prosaically, gradually and invisibly did he tighten the bonds that we never appreciated the extent to which we were caught in his grip, and we protested only the inconveniences—the late letter, the length of the food-stamp line.

This finesse, this capacity to narcotize, made possible feats of domination unimaginable to Charlemagne. Prior to the bureaucratic age, when a government was short of funds, it had to lay hands forcibly on estates or invade and loot other countries. Now the Treasury experts peaceably and effortlessly perpetrate the same atrocities by manufacturing paper money or devaluing the currency.

Thus the bureaucrat has quietly become a tyrant. He demands the rigid observance of set rules and procedures, the interminable seeking of permission for divergence. He embraces secrecy and discourages dissent, because the democratic processes disrupt the smooth implementation of his plans. He abhors democratic politics, with the emotions and harangues and oversimplifications.

The bureaucrat was supposed to deliver us from the feudal rigidity of the baron and the simplistic ferocity of the king. In their place was established a body of magistrates and clerks, detached, methodical, guided by uniform regulations which were followed to the letter. This made possible what we grandly hail as "government of laws and not of men."

But the laws have multiplied, each ensnarled in red tape and regulations, until the bureaucrat can find a legality to support any decision he chooses to make. This is bringing back the horror of whimsical rules, albeit by a clerk rather than a king.

It is estimated that last year legislative bodies at all levels—federal, state and local—enacted 150,000 laws, and that each of these laws will require the issuance of 10 regulations on the average. The result of all this is growth beyond control or even comprehension.

The cost to private citizens and private businesses for merely filling out federal forms is more than $60 billion a year, including an estimated $21 billion worth of man-hours spent on preparing individual income tax returns. The cost of paying, housing, equipping and pensioning off the federal bureaucracy is more than $100 billion a year. One hundred tons of waste paper are collected each day from federal offices.

Every private enterprise of any consequence is now entangled in government red tape to the extent that last year businesses had to prepare 114 million forms—15,000 different types of them—for the federal government. The paperwork in licensing a single nuclear power plant frequently exceeds 15,000 pages and may cost $15 million. Nitpicking over the most minor point may drag on for years.

According to an unpublished study by James Bennett and Manuel Johnson, a pair of economics professors at George Mason University in Virginia, the number of regulatory reports required by the federal government multiplied during a recent period by more than 30 percent. Worse, the forms became increasingly complex; the time it took to complete them increased 63 percent.

Justly do we groan under the complexity, the myriad exceptions and alternatives, encountered in the 6,000 pages of our income tax code. The Internal Revenue Service has on its shelves no fewer than 13,200 separate forms; each of these may have many individual "schedules" attached to it. No fewer than 41 different forms are "commonly used" with the 1977 federal income tax returns.

The Office of Management and Budget, which has been called upon by President Carter to remove the snarls from the federal operation, has become caught in a swirl of forms, schedules and memoirs, says the professors' study. This is the office which approves new governmental forms; the record shows it almost never turns one down.

It may take another rebellion to throw off the bureaucratic shackles. Perhaps the revolution has already started over excise taxes in California.●

CAPITAL GAINS TAX CUT

● Mr. CRANSTON. Mr. President, recently, I testified before the Subcommittee on Taxation and Debt Management of the Committee on Finance in support of S. 3065, the Investment Incentive Tax Act of 1978. This bill, as my colleagues know, will restore capital gains tax rates to their pre-1969 level.

I cosponsored S. 3065 in good part because I am convinced of the critical need for the additional jobs that can be created through more risk capital investment.

Now more than ever, our private economy is being asked to provide millions of jobs for American workers. There are different ways to provide jobs. But in the past decade, a major source of those jobs—risk capital investment—has virtually disappeared from the economy.

California companies were able to raise more than $360 million in risk capital to finance new ventures and businesses in 1969. That was under the old capital gains tax rate. Last year, under the current higher rates, which approach 50 percent, California companies were able to raise only $6 million in risk capital.

Last year was a very good year for the California economy. The State outperformed the economies of the other 15 leading industrial States. Nevertheless, only $6 million was raised in venture capital for new small businesses.

The money was there. But the rewards for the risks taken were not. Investors instead turned to less venturesome, more secure investments. Others were attracted to fast, secure turnovers at low profitability. Others went into tax shelter.

Risk venture investments are not quickie, fast-buck tax shelter gimmicks based on funny-money or schemes to evade taxation.

The venture capitalist decides to risk all—there is little or no real security for his investment other than a share of ownership or preferred debentures—with individual entrepreneurs who look as if they have innovative ideas and the ability to turn their ideas into reality. The venture capitalist provides the money; the entrepreneur provides the know-how and the desire to succeed in business. The risks are great, and if the venture captalist is patient and can wait 5 or 7 years and, if the venture turns out to be successful, the venture capitalist may—and I repeat may—obtain great rewards by selling his interest in the business. But the time it takes to start up a new business, to make it successful, and attractive to others, costs money. Money will erode through inflation during the development period. So when the venture capitalist's ship finally comes in, what reward is there if the gain realized is taken away by taxes?

Very little. The facts speak for themselves.

That is why there is a scarcity of venture capital for new enterprises and why venture capitalists have become less venturesome and have chosen to place their money in second and third stage companies seeking expansion.

In my view, the greatest danger from the loss of risk capital investment is that it is chilling the adventurous, inventive spirit which has been the genius of our economic system for so many years.

People with creative ideas are constantly coming into my office seeking Government financing of inventions and projects that private sources should be able to finance—and have in the past. Other entrepreneurs find that the only way they can develop their ideas is to sign everything over to huge corporations. Others say, "Oh, forget it."

That is a loss to our country and to our economy.

Clearly, changing capital gains tax rates will not solve all of our problems in producing jobs for people. It is only one piece in the total economic picture, but it is a critically important piece.

What has been ignored in discussions of capital formation has been the need for so-called outside capital, raised by a business from investors who seek their reward at the end of the line—not from a phony tax write-off or other gimmicks, but from their share of the success of the enterprise. As a member of the Banking Committee with responsibility for small business and minority business loan programs, I know first-hand that loans are not the answer for the brightest and most creative of our business men and women. They desperately need risk venture capital. They need an investor who is willing to lose his investment. The bank is not willing to lose its loan. And the Federal Government is not willing to give grants to businesses simply on the basis that the entrepreneur has a good idea. These small business people must look to the private sector. When they do, they find few investors venturesome enough to risk capital in new businesses.

Our economy needs a healthy mix of investment and capital formation. S. 3065 will restore a more favorable balance of investment in our national economy.

S. 3065 is not tax relief for the rich. Its purpose is to stimulate investment in the capital requirements of our economy. This is a constant and major concern of Congress and the administration. Tax relief for individuals should not be tied with the need for investment in the capital sector of the economy. I support the President's request for personal income tax cuts and, in fact, I voted for a more substantial tax cut in the Budget Committee. I felt then and I continue to think that our economy requires a lessening in the amount of resources which Government takes from the people.

S. 3065 will not be a drain on the Treasury. I am confident that the spur

given to a long-neglected sector of our economy will generate sufficient economic activity to pay for the capital gains tax cut. I have argued on other occasions that increased spending for public jobs would produce savings and revenues to Government to offset our outlays. This continues to be a valid argument. But if it is valid in the public sector, it must be even more so in the private sector.

Insufficient investment fuels inflation by causing substandard productivity, unfavorable trade balances, and continued budget deficits. The way to increase productivity and exports is through research and development of new technology and by improving plants and equipment. All of that requires incentives for risk capital along with the other capital formation incentives now in the tax code.

The shortage of home-grown risk capital has forced many American companies to turn to foreign capital sources.

How much better to encourage American investment in our economy.

S. 3065 will do that. It is time we gave our own investor the benefits many foreign investors have. Not many realize, Mr. Chairman, that our tax law has the effect of taxing at low rates foreign investors—where treaties so provide. That is one reason why so many American businesses with high technology are being purchased by foreigners.

Placing American capital on an even footing in the United States with foreign capital most certainly is in the interests of all. S. 3065 will do just this. I support the bill, Mr. Chairman, and I urge prompt favorable action by the Committee.●

HOW AMERICA WORKS

● Mr. GRIFFIN. Mr. President, in May, Northwood Institute at Midland, Mich., awarded honorary degrees to our former colleague, Margaret Chase Smith of Maine, and to Robert D. Lund, General Motors vice president.

On that occasion, Mr. Lund delivered a commencement address entitled "How America Works." His message merits the attention of many beyond the audience that was privileged to hear him.

I ask that Mr. Lund's remarks be printed in the RECORD.

The remarks follow:

HOW AMERICA WORKS

Graduates of the class of 1978—members of the faculty—families and friends of the graduates—ladies and gentlemen—thank you for your warm and cordial welcome. It's always a great pleasure to be here with you.

I genuinely enjoy my visits to Northwood—your spirit is contagious.

I've always been an optimist about the business system in general and the automobile business in particular. And our computer printouts and other raw data give solid confirmation to the optimism . . . to the growth that's ahead for our industry. But as great as those numbers read, they're just that. Numbers. No indicator gives me as much enthusiasm and confidence as seeing a group of young people of the character and competence we see represented here today.

I congratulate you, the graduates, and your parents, friends and family. There is nothing more satisfying in life than to see people grow and develop to their potential. There really is a "Northwood Idea"—the idea of self reliance. You can see it. And today, I feel very honored to be part of it.

When you're surrounded by the kind of optimism and friendship that you feel here today, you realize how far we can go and how much we can do if we work at it. If we have confidence in how America works, how the economic system functions and how we become what we want to become.

America works by the free enterprise system making its adjustments—responding to what the consumer wants—and then delivering in a way to get people excited. To give you an example—as a total fleet, all General Motors cars get 58% better gas mileage than five years ago. We're moving from a current fleet average of 19 miles per gallon up to 27.5 miles per gallon by 1985. We're right on target to accomplish these national goals as expressed by the law of the land.

But these kinds of improvements don't "just happen." They take massive investment. We estimate that to get one mile per gallon improvement in General Motors' total fleet average, takes a capital investment of $2 billion. We're committed to that kind of investment.

In the year just completed, G. M. invested $3.6 billion in capital improvements. By 1985, G. M. expects that annual capital investment to be at the rate of $5 billion a year. That's almost a $100 million a week. That kind of investment doesn't just create better products with higher mileage. It creates more jobs.

But, my point here is not General Motors or jobs or capital spending or gas mileage per se. My point is the process of free enterprise response. Somebody once asked the great financier Bernard Baruch his prediction of what the stock market will do in the months ahead. His answer—"It will fluctuate."

And I believe you graduates need to prepare yourself for a world of continual fluctuation and turbulence. You who are graduating today need to be able to transport the effectiveness and the success you've enjoyed here—in these beautiful surroundings—into environments that are not as tranquil or supportive. Because America works when Americans work to their full potential—to the limits of their ability—and because the graduates today are going to enter an arena of challenge and, at times, discouragement.

I'd like to make a contribution today by being realistic in my message rather than ceremonial. I'd like to visit with you about being effective in a turbulent world.

Life these days is a mixmaster. Consider the events of recent years.

A president resigns. A vice president resigns. Foreign adventures blow up in our face and we start to see the limitations to the imposition of our national will. This country—with six percent of the world's population—finds itself consuming over a third of the world's energy, and so we start to see the limitations of our resources. In the process, small and obscure nations discover the wealth and power of oil and the interdependence of the world community. Aggressive nations mobilize their resources to do global battle via world trade. The role of government escalates. As a nation, we restlessly explore new directions. Genetic research and computerized medicine . . . the cashless society . . . better control of our environment . . . an explosion in tele-communications—these are the kinds of movements that ricochet around us.

It's this kind of world—vibrant and seemingly chaotic sometimes—with which you need to cope. It's the difference between shooting baskets in a driveway—and playing in a game when everybody's trying to block your shots and get the ball away. This kind of life can be very stimulating—very exciting. Henry Brooks Adams put it this way—"Chaos often breeds life, when order breeds habit."

The famous humorist Will Rogers used to give speeches suggesting that somebody "heat the waters of the Atlantic Ocean." He put together a lot of benefits, like "longer swimming seasons" and "a better environment for the fish," and so forth. Somebody usually asked, "How do you propose to accomplish that?" His answer invariably was—"I don't know, I just get the ideas. Somebody else has to work out the details." These days, there's a lot of that kind of promissory rhetoric floating around—but at least Will Rogers was a humorist.

But today, some of the proposers aren't kidding. In the automobile industry, we see that kind of world all the time. An industry upon which one out of six Americans is dependent for their livelihood, naturally attracts all the competing pressures of our society. The views of government, labor, business, consumers and stockholders converge upon us in a continuing staccato as we work to make major changes in our product offerings. For example, I was involved in bringing both the Cadillac Seville and the Chevrolet Chevette to market, and they were both highly accelerated responses to changing American needs. But my point here is not the response mechanisms of the automobile industry. But rather your preparation for a world in which those kinds of crosscurrents are going to be with us continually.

And so, I have some very specific recommendations—some practical ways to not just "cope" with events, but to be effective—to lead the kind of life that I know you want for yourself. Because this is a very full day, I'll aim to be brief and to the point in my recommendations to you.

First—be realistic about yourself. Know what you know—and very importantly—what you don't know. And most importantly—understand the difference. Because that way, you can correct or supplement your shortages.

Two—Define yourself by performance. That's really the most important criteria. There's a story they tell about a yacht sinking off the Florida coast and radioing for help. The coast guard urgently requested, "Tell us your position." The man on the sinking yacht replied, "I'm a vice president of General Motors." In this world, too many people define themselves by their job titles—or their scholastic credentials—or their professions—or their posessions—or their intentions." Sometimes when you interview a person who has had a number of jobs, they emphasize the high-sounding titles. You have to bore in to find out what they actually do—what they contribute. And sometimes, they don't know—they've lost sight of what their contribution really is. Which leads to point three.

Stay focused on what's really important. Keep your eye on the target. This world has a lot of detours; stay rooted in the essentials. You're on a good track if your career path is connected to what you do best—what you like to do—and what contributes to the good of other people.

Four—Prepare for continuing change. There's one thing wrong with Alvin Toffler's phrase "Future Shock." It's simply that time has run out. It's "Present Shock." And it's going to stay with us, so prepare yourself for it. Don't fall for simplistic solutions that promise to make all the discomfort go away. There isn't any "free lunch." Society is getting more complex—more interdependent. You're going to have to cope with frustration—you're going to have to work with people—you're going to have to learn how to manage and to sell. And that's true not just for those of you who want to become professional managers and professional salesmen. Those qualities have got to be the lubricant

of success for just about any effective role from a chemist to an accountant to a retailer to a physician to an engineer.

Five—Continue to learn. Never stop the process. A young man had a classic comment about his first year in college. He put it this way, "I learned some things I didn't understand. And then I learned to understand them." That's got to go on. All your life. Continue to have your own commencement—your own beginnings.

Six—Show you care! Be concerned! Being "cool" is a retreat. Being "bored" in this world of excitement is a very serious illness. There are a lot of ways to "blow the mind," but I don't know a better one than being part of what's really happening.

Seven—Have strength at the center. There's a word the Scotch use—"innerliness." It's an inner direction—your own gyrocompass. That's valuable anytime, but essential these days when counting on others for approval can give you garbled, confused and intermittent messages.

Eight—Be a whole person. Invest liberally in people relationships. Be a friend. As Raymond Beran defines it—"someone with whom you dare to be yourself. You don't have to be on your guard, you can say what you think so long as it's genuinely you." Work to achieve this kind of relationship not just with your close friends—but to more of those you pass by casually—and espeically to your own family. Recognize that time passes by quickly. You've probably not thought about it—but strangely enough, the exact group that's gathered here today will never ever be together again. And I can say that without fear of contradiction—this exact group will never be together again. Understand the transitional nature of life.

Which leads me to my ninth and final point—MAKE A DIFFERENCE! A monumental achievement if you're capable of it and are fortunate enough to be in the right place at the right time. Or at least carve your initials in a tree. Or better yet, plant a tree. Make things a little bit better because you were here. Make this world a better place because of your presence.

Nine points. High sounding? Maybe. But I'll tell you this, from somebody who works in the world every day and is fortunate enough to come in contact with a lot of other people trying to get a job done. These points are not just "nice things to keep in mind." They are essential for your survival—and your fulfillment—in the kind of world we're heading into.

To be who you are—and to become what you're capable of becoming—this is what life is all about. You fine young graduates of the Northwood Institute class of 1978. I wish you well far more earnestly than you might believe. Not just for yourself or for your families. But because there are a lot of other people also counting on you.

America works—our economic system functions—because our strength is continually replenished by fresh minds and fresh energies—such as those departing from this fine institution today. Again I wish you well. And thank you for allowing me to be a part of this important day.

Robert D. Lund is vice president of General Motors Corporation and general manager of the Chevrolet Motor Division. He received the honorary Doctor of Laws degree during Northwood Institute commencement exercises.

Sen. Margaret Chase Smith received the honorary Doctor of Humanities degree.

And Charles A. DuBois received the honorary Doctor of Laws degree.●

IMPORTANCE OF FOREIGN ASSISTANCE

● Mr. KENNEDY. Mr. President, we are passing through a period of critical choices in our Nation's foreign assistance program. In this, as in many other areas of U.S. foreign policy, we are faced with the need to reassess our approach and policy toward overseas assistance. The increasing limitation on funds demands that we carefully review our foreign aid expenditures to assure that they support our legitimate foreign policy objectives as well as satisfy the humanitarian and developmental needs of people in developing countries around the world over the coming decade.

But in this continuing review of our foreign assistance program, we must not lose sight of its crucial role in U.S. foreign policy, nor the urgent need today to respond fully to existing programs of humanitarian and developmental assistance. For we know today what we have known for many years—that threats to the peace and to our own national security can come from more than just arms races or military confrontations. We know that famine can be a threat to peace and stability. We know that refugee movements can unbalance the peace, and that natural disasters can create upheavals worse than war.

Indeed, we know as fact, that foreign assistance programs are key components of both our Nation's foreign policy as well as humanitarian tradition.

Mr. President, these issues were thoughtfully explored yesterday by the Honorable John Gilligan, Administrator of the Agency for International Development, in a speech and question-and-answer session at the National Press Club. I commend to the attention of all Senator his thoughtful comments, and his strong articulation of the need to fully fund the administration's proposed program for developmental and humanitarian assistance in the coming year.

In adopting last month S. 3074—the pending developmental assistance bill—the Senate has gone on record once again in support of the "new directions" that continue to guide our foreign assistance program.

Mr. President, the basic issues of human rights and human welfare have once again become a focus of our Nation's attention and concern—thanks to the leadership of Congress, and to the support of the administration. But in the proper recognition of human rights—of individual and constitutional rights—we must never lose sight of the larger issue of human needs. For there is no more basic human right than the right to the essentials of life: The right to a future of hope, rather than despair—the right to food and to health and to well-being—these are the birthrights of all people. Yet, for two-thirds of mankind these rights are daily lost in the battle for mere survival.

For me, this was the crucial message of Governor Gilligan's address to the National Press Club, and I ask that the text of his remarks be printed in the RECORD.

The material follows:

TRANSCRIPT OF A SPEECH AND QUESTION-AND-ANSWER SESSION BY JOHN J. GILLIGAN

Mr. GILLIGAN. President Aukofer, Chairman Zablocki, Congressman McHugh, members of the National Press Club, and distinguished guests. I was warned by Chairman Zablocki recently before going up to the Hill that following the passage of Proposition 13 in California that selling foreign assistance programs in Congress these days is about as successful an enterprise as selling ice cream freezers in the North Pole or fur lined parkas in Africa, but nothing daunted, the effort goes forward.

I would suppose that an observer from another country watching the agonized efforts to win the Congressional approval for next year's appropriations for economic assistance might be tempted to wonder if whether or not Solzhenitsyn was on target in his critical commentary at Harvard on American society. Could it be true that we as a people entering upon the Third Century of our national existence have somehow lost the vision of who we are and what we are, that we have lost our passion for justice and decency, have lost our courage?

If the grand inquisitor of Russian literature is mistaken in his diagnosis of what ails our American society, how would we go about explaining our evident difficulties in deciding whether or not the wealthiest and most powerful organized society on the face of the earth should devote 1.2 percent of next year's Federal expenditures to dealing with problems pertaining to those vast regions of the world with two-thirds of the globe's population to whom we declare we are ready to offer assistance and leadership in building a new kind of world order.

A generation ago following World War II the United States undertook the initiative in a totally unprecedented and breathtakingly bold effort to devote to the task of rebuilding the war-torn economy of Western Europe and Japan the equivalent of 3 percent of our GNP over the span of five years. There were at that time, of course, people who said there was no connection whatever between the economic and social and political well-being of Europe and that of the United States, but the Congress and the President went forward in the adoption of the Marshall Plan and I think if we were to look at all of the legislation adopted by the Congress of the United States in the last generation, it would be difficult to identify a single act of Congress that has more to do to shape the world that we live in today than did the adoption of the Marshall Plan.

Fifteen years ago, this nation launched in the Kennedy era the Agency for International Development, the Alliance for Progress, and the Peace Corps, and we were at that time devoting to that effort about one-half of 1 percent of GNP. President Kennedy established the goal of doubling that effort and it might have been done had he lived.

Today with an economy and a standard of living infinitely greater than it was fifteen or thirty years ago, we hesitate to appropriate the equivalent of one-quarter of 1 percent of GNP to the effort of assisting in the economic, social and political development of more than 100 nations. The question, of course, occurs, why should we do anything? Why should we contribute the proverbial dime to such efforts to help others in far off lands in whom we have no real interest, especially when we continue to have nagging and unresolved problems within our own society? The answer is, of course, that we are not proposing simply to give money to others to run some kind of worldwide welfare program, or a global soup kitchen. We are talking about investing very prudently some minor part of our resources in the effort to solve a number of global problems which impact very directly upon the present and future security and well being of the American people.

The term interdependence is bandied about quite freely in the press these days, and while it has become part of the American journalist jargon, it is doubtful that the American people or some of their representa-

tives in the Congress fully understand or appreciate its significance. We have been made quite abruptly aware of our dangerously accepted dependence upon the importation of crude oil from Third World countries, amounting now to almost 50 percent of our total consumption. But not many Americans realize that we import as well from Third World countries 56 percent of the bauxite we use, 82 percent of our tin, 45 percent of our cobalt, 100 percent of the natural rubber upon which our industrial economy is dependent, as well as a very large share of a dozen or more strategically important raw materials.

If the supply of these materials were to be abruptly curtailed, the impact upon our American industries and economy would be catastrophic. That's one dimension of the meaning of the term interdependence.

Americans who worry a great deal these days about competition of foreign products in our domestic market may be unaware that since the beginning of this decade our exports to non-oil producing Third World countries have grown at a rate of 15 percent a year and now constitute a full quarter of our total export trade. And if one considers that we export more to these countries than to all of Europe, plus the Soviet Union, plus the Peoples Republic of China, and three times as much as we do to Japan, and if one begins to consider the future of American production and investments, it becomes quite evident that these potential markets for American products strongly commend themselves to our attention.

But setting aside the obvious narrow economic concerns, if we consider any of the great global problems which threaten the future security and well-being of the people of the United States, that the single possible exception of the possibility of the nuclear holocaust; if we consider, for instance, the worldwide race between population and food production, the depletion of world reserves of natural resources, the accelerating degradation of the national environment or the natural environment of the globe; the badly skewed pattern of international trade and commerce which tenders excruciating pressures upon the whole structure of international banking and commerce, it becomes evident that all of these problems are focused, in what we refer to as the Third World, and they must be dealt with there.

How important are these problems to the well-being of the people of the United States, and what portion of our resources, technological and financial, should we prudently apply to their solutions?

We turn in another direction and consider the problem of political stability in an increasingly turbulent and violent world, it quickly becomes evident that it is no longer the perpetual quarrels and conflicts between the European nations states that constitutes a major threat to our security, nor the wars to maintain Western colonial domination over the regions and peoples of the Southern hemisphere—that era in world history has finally happily ended. While the bilateral East-West tensions between the United States and the Soviet Union, with an increasingly important third-party role being played by the Peoples Republic of China, will continue to occupy our attention and command from very substantial portion of our national resources for years to come, the political turbulence in the Southern hemisphere in Latin America, in Asia, the Middle East, throughout Africa, represents the greatest threat to international stability and peace.

These vast regions which contain so great a portion of the world's population, 85 percent of the total by the year 2000, will develop and will grow economically and politically. There is no force on earth that can impede that development or contain and control from some remote point of vantage those primal forces and energies. We cannot stop the world and get off. The leading power in the Western industrialized world, we cannot pretend that we have no concern or no responsibility in these matters.

We tried for 20 years to ignore the very existence of the People's Republic of China, which contains almost a quarter of the world's population, and now finally, we are forced to deal with that reality. But what in terms of the real world do we expect to happen in the next several decades?

Does it matter to us what happens in India, which is not only the largest society of poor people on the face of the earth, but also the most populous practicing democracy in the world? Have we any interest at all in what occurs in Argentina, or in Brazil, or in Mexico, or other nations of Latin America? Have we any interest whatever in future events throughout Africa, and whether or not it will be possible to achieve a peaceful transition to Black majority rule throughout that continent? Is the Middle East, with its petroleum resources and strategic position, the only region on earth that has any importance or significance to the United States?

It should be noted at this point in order to put these matters in some perspective, that the United States is devoting during the current fiscal year fully one-half of our total bilaterial assistance program to four nations in the Mid-East, and fully 90 percent of that allocation is going to two nations, Egypt and Israel.

We are, therefore, investing more money in the economic development of those two nations than all the rest of the Third World put together. If that investment materially assists in the stabilization of the Middle Eastern situation, and if it supports the effort to attain a permanent peace settlement in the area, it is probably a very good investment indeed. But what do these numbers suggest about our concern for the problem in other regions of the world, and especially to the people living in those regions?

Obviously the Congress clearly perceives the critical importance of developments in the Mid-East to this nation's security and well-being, but it must become equally evident that vast and fundamental changes are going to take place in the social and economic and political structures of the rest of the world during the next 20 years, and the question really is—what role does the United States propose to play in that process of change? Do we intend to play an affirmative and constructive role, or are we going to attempt to pretend to ourselves and to others that we can safely ignore what is happening in those other regions?

President Carter has been quite positive and candid about his own appraisal of the situation and of the role that he conceives for the United States. In his recent speech at Annapolis, he said "Our principal goal is to help shape a world that is more responsive to the desires of people everywhere for economic well-being, for social justice, for political self-determination and basic human rights." I firmly believe that the majority of the Congress, that the vast majority of the American people, share that goal.

The President went on to make it very clear that he is not deluded by any notion that the United States is now, or ever will be, in the position of dictating to other sovereign nations how they shall conduct their own internal affairs or their relations with others. But he was equally clear on the point that we have no intention of withdrawing from the real world, or leaving to others, including our ideological adversaries, the responsibility for determining the course of world affairs.

The question is, how are we to go about exercising leadership in the world arena? By speaking out on human rights? Certainly, The people in the United States expect no less from their government, and the people of every region of the world who are longing and struggling for some increased measure of political freedom and human dignity also expect this nation to be in the forefront of that continuing struggle. But they know as well as we do that talk is cheap, that it accomplishes as little as it costs, unless it's backed up by action, by commitment, by sacrifice. In short, people and nations around the world, our friends as well as our adversaries and those who harbor doubts about us, not unreasonably expect us to put our money where our mouth is.

These other peoples and governments around the world are fully aware of how much of our resources we expend upon our own perceived needs and wants of the fact that we will be spending during the current year something in excess of $800 billion on government services at all levels for the well-being of the 220 million citizens of the United States.

And they know how much we expend on armaments and defense, as well as other national programs. And they wonder about an order of priorities which is suggested by the fact that our Congress finds it so difficult to commit less than 1 percent of our governmental budgets, our total governmental budgets, to the purposes of economic and political development through the Third World, less than 6 percent of what we are ready to commit in a single year for military defense.

However it be phrased, that is the real question facing the Congress and the American people, as represented by the forthcoming vote on the foreign assistance appropriations for fiscal year 1979 and beyond. It is a question which will not go away, and which cannot be shrugged off as of no importance. It needs to be dealt with very seriously and very thoughtfully, and I am confident that when seen in those terms the response of the Congress and of the American people will be a strongly affirmative one.

QUESTIONS AND ANSWERS

Q. You mentioned that our foreign aid spending is much less than one percent of the gross national product. The questioner would like to know how that compares with other wealthy Western nations and with Eastern countries, and would like to know what your assessment is of how that makes us appear.

A. At the present time, among the member nations of the DAC community—the Development Assistance Community—of OECD, the Western industrialized nations plus Australia, New Zealand and Japan, the United States' on that basis percentage of gross national product devoted to official aid ranks thirteenth among the seventeen nations. We slipped from twelfth where we were a year ago.

The OPEC nations, interestingly enough, who are newcomers to this game, are spending between three and five-and-a-half percent of their gross national product, as compared to our one-quarter of one percent development pattern.

The Soviet bloc nations and the Peoples Republic of China offer the explanation that all the problems in the world are due to colonialism, and since they have no colonial possessions, they have no obligation to sweep up the crockery. If you want to have a revolution to throw off the last vestiges of colonialism, they will supply the hardware, but they don't do very much beyond that.

But among the OPEC nations and the Western industrialized nations, the United States ranks lamentably low. And I cannot believe that that enhances greatly our ability to influence the direction of world affairs.

Q. The questioner would like to know what

your problem is about the charge that (USD) may become the first step in involving us in a war.

A. Any time we become involved with another nation, I suppose it could be said that it is the first step which may get us into a war. I think and hope that we have learned enough about becoming involved or entangled in other nations' affairs to be able to avoid war in the future, and I certainly cannot accept the proposition that the path to peace to avoid giving any economic assistance to anybody on the grounds that it may lead to war. I think quite the contrary is really the case.

If they are left to their own resources and devices, without any assistance from the United States or nations of the Western world, we can only conjecture about the level of turbulence that would exist in other regions of the world today.

Q. The questioner would like to know if you really think that a Taxpayers' Revolt, a genuine one, can affect the foreign assistance programs in Congress.

A. Well, I think so only to the degree that if the members of Congress who are quite properly responsive to what they interpret to be the public will decide that there is a Taxpayers' Revolt on and that programs need to be cut as a demonstration of economy in government or whatever other title one would give to it, to cut the foreign assistance program becomes almost irresistible because it is the one cut that can be made when one is pretty well assured there will be no torrent of mail coming from the district protesting the cut—

Whereas any Congressman who places rude hands on almost any domestic program of any size is guaranteed in advance of outraging some portion of his constituency. So that is the meaning of the old term that foreign assstance has no constituency.

I can't resist, however, adding a word about Proposition 13 and the interpretations placed upon it in the press and elsewhere that this represents a nationwide revolt of the American taxpayer. Nothing, in my view, could be further from the truth.

A few years ago in Ohio, we had a referendum on the recently adopted state income tax. The people of Ohio, by a 69 percent vote in every single one of the 88 counties in Ohio, ratified the adoption of the statewide personal and corporate income tax. Was that a nationwide demand by American taxpayers for more income taxation and higher levels of spending? No one so interpreted that vote at that time.

So I think to take this very narrow issue of Proposition 13 and convert that into some kind of a nationwide taxpayers' revolt is something approaching nonsense.

Q. The questioner says that the Federal budget is one thing, the national budget of total private and public spending is another thing.

Does AID spending increase the income of the United States enough through trade to make a plus in the national budget

A. I think we would have to ask the question: over what period of time do we look for the return of these investments that are through the private sector and so forth?

Obviously today, investment in the Third World is a very attractive proposition to a large part of American industry and the American banking community. Walter (Riskin), the Chairman of Citibank, announced recently that his bank has made more profits on their loans to Brazil last year than on all the domestic loans made within the corporate boundaries of the United States, to give one example.

Others are that one-third of all of the profits made by American industry on direct investment overseas were made in the non-oil-producing Third World countries last year. That is a quarter of the total investment that we have abroad and it yielded a third of the profits.

So the argument, I think, can be advanced in any number of ways in purely economic terms that the investment opportunities in those areas are very great indeed. But it has to be said at the same time that we cannot approach the problem as simply one of looking for that bottom line. We are engaged in an enterprise that is a good deal more serious than just attempting to identify some profit-making possibilities for some areas of American business. That is part of the picture, but only a part of it.

We are primarily concerned about the economic and social and political advancement of these tens of millions of people living all over the face of the earth. That is our primary concern.

Q. The questioner asks: What would be the impact on U.S. foreign policy if the cuts pending in Congress could come off?

A. I don't know. The only answer I can offer—I must say this and I have said it to some of the freshmen and sophomore members of the House who were gathered recently to discuss the problem of the appropriations bill that was coming before them.

These were the Democratic members of the freshmen and sophomore (class) and I said to them, "You are the ones that are asking the President to exert leadership in the international community to stand up for human rights and for the other things that Americans believe in so profoundly. The Conservatives are busy taking away from the President the economic programs, and the Liberals are taking away the military programs, and both are complaining that the President uses nothing but rhetoric in the international community.

"If you expect the United States and our President to play some role appropriate to our wealth and power and our principles for Heaven's sakes, give him at least the tools that he needs to be effective in the international community."

And I think that is one of the basic issues that the Congress has to face in these forthcoming votes.

Q. A follow-up on that question: If Congress adopts the aid cuts that you fear, will you recommend a veto to President Carter.

A. No. First of all, I must say that I am optimistic about the outcome of the votes in the House. And I think that in no small part the improved atmosphere is due, not just to some of the Congressional leaders—such as those who are here today—Chairman Zablocki and Mr. McHugh and others who have done such yeoman work among their colleagues—but as well to many other groups who are represented in this room today—private voluntary organizations and others who have been engaged for many years in efforts overseas and elsewhere in the pursuit of the social and economic betterment of people who understand and who press very strongly upon the members of Congress the importance of these programs.

So I feel very optimistic about the outcome.

Q. This questioner would like to know very simply how you are getting along these days with Congressman Clarence Long.

A. Congressman Long, as I think all of you know, is the Chairman of the Subcommittee on Appropriations of the House Appropriations Committee, the Subcommittee on Appropriations for Foreign Activities. He is therefore the master of my life and our relationship is warm and cordial, and he is very supportive of our overall objectives—within limits.

Q. Well, on that lighter note, then, I suppose I ought to ask you this one.

The questioner would like to know what elective office do you plan to run for next.

A. I've tried them all, save one and no one has asked me to try for that one. I am not likely to—especially after this experience—to go looking for any more trouble than I've got. I think I'll hang on to what I have and do my best right here.

Q. This is a much broader question. It is said sometimes that foreign aid is probably the easiest issue for members of Congress or any other elected official to demagogue. Elected officials represent people.

The questioner asks: Are you saying that Americans live too well and the rest of the world too poorly? Are Americans too selfish to support proper foreign aid?

A. No, I don't think Americans are too selfish at all. I think the record stands for itself. As I mentioned a moment ago, the United States—in an action fully unprecedented in history—undertook the Marshall Plan thirty years ago. And at that time we were alone in offering foreign economic assistance.

No nation had ever set out not only to assist its allies in recovering from a war, but its recent adversaries. It shouldn't be forgotten that our assistance went to Japan and Germany as well as to our former allies during that period.

And it was a very substantial part of our national economy. It represented ten percent of our total Federal budget during those early years of the Marshall Plan, and that effort continued on to the present time.

Now there are, of course, many other nations involved in it that weren't involved back in those early years. But I don't think there is any way that the American people can be accused of being selfish.

I do think that what happens from time to time is that the problem is not presented to them in a fashion with which they can deal with it. If you are asked the question, as I have seen it phrased in some Congressional questionnaires sent home to their constituents: Do you want to continue to pour your hard-earned tax dollars down the rat-hole of foreign aid? Answer yes or no. Well, you know—and then they brandish the results of that poll as an expression of the will of the people. Obviously, whoever asks the question is predetermining the answer.

But, as I attempted to say earlier in my prepared remarks, if we think for a moment that the world that our children are going to live in, within 20 years—a very brief span of time, will have 50 percent more people in it than it has today. The population of the world has doubled since I was born. It will increase by another 50 percent by the year 2000. Should I live that long, and I hope to, that will mean that the world population will have tripled in my lifetime. And the great bulk of that growth is going to take place in these Third World countries.

What that represents in terms of problems, as I said before, the depletion of natural resources, enormous strain on the trade and financial structures that bind the nations of the world together, on the political structures which are erected to stabilize various regions of the world, we can't even begin to calculate the pressures that are going to develop.

We have a choice. We can either get in the game and attempt to help to solve these problems, or withdraw to the sideline and attempt to play Marie Antoinette and hope that somehow or other these problems will solve themselves. Well, I think the American people confronted with that choice are mature enough and prudent enough to decide that we will play an affirmative and positive role in these proceedings.

Q. In that connection, what plans does AID have to help Rhodesia when it becomes Zimbabwe? Are we prepared to aid the present (set-up) if it gains a majority rule, or will we withhold aid until the Mugabe-Nkomo front is included?

A. That is an enormously complex question which involves a whole lot of different kinds of answers. In the first place, Rhodesia,

as it exists today, is not an underdeveloped nation, as we would normally describe it, using the normal criteria. It is two nations within one set of boundaries—one a relatively highly sophisticated, highly developed, industrialized economy; and the other, for the Black people, a very ill-developed world.

How these two worlds will be brought together to form one nation, of course, is the question that perplexes all of us. If, hopefully, that can be accomplished peacefully, and if one nation can emerge which has some needs to which the United States government can respond, I am sure we will respond supportively.

As a matter of fact, the Congress has clearly and emphatically indicated their interest in doing it. Should there, God forbid, be a racial holocaust that would level the country, we would be confronted with a totally different kind of situation, the dimensions of which we can't even conceive at the moment. So there is no use in trying to speculate on what those needs might be then or what our response would be.

But I think we are deeply concerned about fostering and supporting in any way we can the transition to—the peaceful transition to majority rule throughout Africa, including Zimbabwe, Namibia and all the rest.

Q. Along those same lines, the questioner asks: Why do you think we were able to sell aid to Japan after World War II and yet there is so much opposition to giving help to Viet Nam? Is it because we lost the war there?

A. Well, that has been suggested in the past. I think there are a number of problems. There is no question about the fact that the people of the United States underwent an enormously traumatic experience throughout that tragic conflict in Southeast Asia. We did lose 55,000 of our sons. We spent $150 billion in that effort. And what do we have to show for it?

The effort to resume what might be called normal relations with the countries of Southeast Asia, including Viet Nam—I don't think anybody is proposing that for Cambodia at the moment, any more than for Uganda—but to take Viet Nam and Laos for a moment.

The efforts to resume some normal relations with them are not greatly assisted by their insistence upon demanding war reparations from those countries, and by being in other ways something less than cordial in the conversations that have existed between us, although within the last day or two there has been some expression on the part of their diplomatic officials that they would welcome a resumption of normal relations.

I think it is going to be some period of time before the Congress will be ready to approve that. I am hopeful that one day we can readmit the nations of Southeast Asia into the world community.

Q. It is sometimes alleged that the Carter Administration human rights program supports right-wing governments but does not support left-wing governments.

The questioner asks: How do our AID programs fit in with President Carter's human rights program? Does it dictate our AID programs?

A. Well, I want to make it clear from the outset that even before President Carter took office, the Congress of the United States had written into the Foreign Assistance Act, what is now known as the Harken Amendment, which required that the United States government shut off all military and economic aid to any nation that is guilty of a persistent pattern of gross violation of the human rights of its citizens, except if it could be demonstrated that that assistance went directly to the benefit of the poorest people living within that country.

President Carter picked up that theme as part of his first approach to the international community and has been emphasizing it ever since. And I think it struck a very responsive chord among the American people.

What is really involves is a two-step judgment. First is the nation guilty of violation of the human rights of its citizens? Well, if one begins with the observation that of the 180-odd nations that exist in the world today that perhaps 30 of them would have a democratic system of government with full constitutional safeguards for the rights of its people and so forth that we would recognize to be fully qualified for first-class status, then you are left with the proposition that 150 nations of the world are something less than that. Of course, those are the nations we deal with.

So immediately, all these judgments become somewhat relative. How well is this nation doing compared to what? To its former record? To what the nations around it are doing? And so forth and so on.

There is an inter-agency committee in the State Department chaired by the Deputy Secretary of State, Warren Christopher, who makes that judgment. If the judgment is made that a given nation is guilty of a gross violation of human rights, then we are asked the question in AID whether our programs do, in fact, serve not the needs of that tyrannical or despotic government, but the needs of the people that live under it. If we cannot satisfy the State Department committee on that ground, then we cut the program off.

Now I will simply say that this is going to be a sometimes thing. There are going to be a series of relative judgments that will be made and changed over the years ahead. But I think the impact of the program in general terms has been quite positive, quite good.

Q. The questioner quotes Robert McNamara, President of the World Bank—and I don't vouch for the accuracy of the quote, that population growth, short of thermonuclear war itself, is the greatest issue the world faces over the decades immediately ahead.

Yet you have been quoted in the Miami Herald as wanting to give a lower profile to the population programs and in the Post last week, said you were dismantling the Office of Population.

What is your level of support for population programs and your commitment to pursuing a vigorous population policy?

A. Well, let me say the paraphrase Mr. McNamara's remarks represents quite closely my own belief about the threat to world stability and security that comes with an unchecked growth of population, population growth that outstrips economic development.

William Colby, former Director of the CIA, said recently that the population growth rates of Latin America are a greater threat to the security of this country than anything that is going on within the Soviet Union at the present time.

I think anybody that takes a look at these problems comes to the realization that in terms of the World Bank figures that between 2030 and 2050—which isn't all that far off—the world population will stabilize at either eight billion—double what it is today—or eleven to twelve billion, which is close to triple. Obviously, that is a difference of enormous significance to everyone that will be existing at that time.

The decisions as to whether those figures are going to be around eight billion or whether they are going to be eleven billion will not be made the night before that New Year's Day. Those decisions are largely being made within the next few decades. That is when these growth patterns are going to be set.

I was in the Philippines in January, to give you one example. The population of the Philippine Islands was four million in the year 1900. At the end of World War II, it was estimated to be about 26 million. Today, it is 47 million. By the year 2000, it's estimated that the population of those islands will be between 75 and 80 million. That means a twenty-fold increase in population of those islands in the space of a single century.

Fifty percent of the population of the Philippine Islands today—and this is true of many of the Third World countries—fifty percent of the population is under fifteen years old, compared to our own median age.

So obviously, this is a problem that must be dealt with and obviously, it can't be dealt with except by the governments and by the peoples most affected. And it involves literally hundreds of millions of individual decisions by couples living all over the world. It has been said many times, what is necessary for couples to decide to limit the size of their families is the knowledge that they don't have to have twelve children in order to see three survive to maturity. And there is no way of taking the question of population or family ties out of the context of the full social and economic and educational, if you will, development of the people. If that advance begins to take place, then fertility rates begin to drop off. And the two inextricably related.

Let no one think that the problem of world population can be dealt with in any region of this world without dealing with all of the other problems associated therewith.

Q. As a follow-up, the questioner asks: What are your views on contraception and the distribution of contraceptive devices through AID around the world?

A. I think that AID, together with private voluntary organizations, with host governments, with voluntary organizations in other lands, must make available as widely as possible the knowledge and the techniques and the supplies of family planning to as many people as possible. I believe that very strongly.

I think it goes without saying the choice is that of the individual couple to do with their lives what they will. Congress has clearly indicated to us, and I think quite properly, that no methods of coercion or enticement shall be used to influence people's own decisions about their own families. But that we should assist in every way that we can, I think, is evident, proper, wise, prudent, and good.

Q. I think I can almost guarantee that this question didn't come from any of the World Bank officials here.

How do you justify providing funds for the World Bank when it pays its top officials much higher salaries than U.S. government officials receive, and far higher salaries than they would receive if they were working for their own governments, at home or in Washington?

A. Well, I think one of the problems with that—and again it is a very easy target to shoot at—one of the problems is the facile comparison that is made between the salaries of some of the international banks, the officers of the international banks, and government salaries, in our nation or in other nations.

You get a different kind of a picture, of course, if you start comparing the salaries to the private banking world, whence a lot of these people came. And if you understood the kind of competition that they are involved in.

But I am not going to launch any extensive defense of the salary schedules and purposes of the officers of these banks. I think it is basically irrelevant to the whole proposition. What we are talking about is an international banking structure which the United States has worked for 25 years to help to develop, which today is moving about $10 billion a year in resources into desperately need Third World countries.

Now I will take any kind of criticism that anybody wants to offer of those banks, and even the proposition that be dismantled and that the United States shut off all further assistance, if the proponent of that line of thought will tell me what he proposed to do to replace that $10 billion in resource flow which he is effectively cutting off thereby.

Now if he has another way of doing the job and doing it as well as it is being done today, I will be happy to listen. But if he is just whacking away at it, then I take with a grain of salt the sanctimonious outrage about salary levels and so forth as just so much sanctimonious outrage.

Mr. KENNEDY. Mr. President, I also ask that two relevant articles from the Christian Science Monitor be printed at this point in the RECORD.

The articles follow:

[From the Christian Science Monitor, June 21, 1978]

WHY FOREIGN AID?

Rash moves are afoot in the U.S. Congress to cut President Carter's foreign aid bill. Bolstered in the wake of Proposition 13, some lawmakers want to chip away at an aid appropriation of $7.3 billion that already is lower than it should be. Here is a case where the politicians could seriously damage America's national interest for the sake of looking good back home. They—and the American public—ought to think twice about the negative impact which a still greater slash in foreign aid would have

With communities in California and elsewhere groping for ways to cut government spending, it may be logical for many Americans to ask, "Why spend money for foreigners?" Why indeed? We can quickly think of many reasons:

The United States and other affluent nations have a humanitarian obligation to help lift the world's poor and hungry out of poverty. One billion people—one-fourth of the world's population—do not have adequate food, shelter or health care. Can the rich ignore such human misery without impugning their moral or spiritual values?

The economic well-being of the Western nations is closely tied with the economic growth of the developing world. The faster the poor countries progress the more the rich also benefit. Thus, American exports to the poorer regions now surpass those to Europe and Japan. One out of every eight manufacturing jobs in the U.S. and one out of every three acres of farmland produce for foreign markets.

At a time when inflation is being fueled by a growing imbalance of trade due to heavy imports of oil, American industry ought to be doing everything it can to expand exports. It can only do that if the economies of the poor continue to grow.

Failure to help the poorer countries boost their food production could have grave consequences worldwide. By the turn of the century there will be two billion more people to feed and where will the food come from? Inasmuch as per-acre yields are declining on the North American continent, the world's present breadbasket, it cannot be relied upon to meet the shortfall abroad without astronomically driving up production costs and food prices at home.

The security of the United States and its democratic partners also is linked with the economic health and political stability of the developing world. It should not be lost on Americans that they are increasingly reliant on outside sources for the minerals needed to keep their factories and farms going. The U.S. already imports 50 percent of its oil. By 1985 it will depend on imports for more than one-half of its supplies of nine out of 13 crucial minerals, including tin, copper, bauxite and lead.

If the suppliers of these critical resources are frustrated in their efforts to progress—to grow more food, develop new energy sources, diversify their economies—they may turn to political and economic systems that are inimical to democratic values and that might deny the resources the industrial democracies need to sustain themselves.

This is not to argue that there is not a great deal of inefficiency and waste in the foreign aid bureaucracy, or that aid programs themselves should not come under constant scrutiny and be held to high standards of effectiveness. Clearly much needs to be done in this area. But the downward trend in aid giving—and the United States has dropped to 12th on the list of 17 industrial democracies—cannot go on without harm. To trim $2.6 billion from the appropriation for world banks, as some legislators want to do, would be shortsighted in the extreme

Americans must ask themselves: can they afford—morally, economically, politically—not to go on giving?

[From the Christian Science Monitor, June 15, 1978]

ARAB NATIONS OUTSTRIP WEST IN AID GIVING

(By Harry B. Ellis)

WASHINGTON.—By far the most generous donors of foreign aid are Arab states of the Persian Gulf, whose largess outstrips that of the United States and European powers.

Three Arab lands—Saudi Arabia, Kuwait, and the United Arab Emirates (UAE)—give more than 5 percent of their gross national product (GNP) in aid to poor countries, compared with 0.25 percent for the United States.

On average, reports the Organization for Economic Cooperation and Development (OECD), industrialized nations give 0.39 percent of their GNP in foreign aid—better than the U.S. performance, but far below that of rich Arab states. Arab foreign aid, some authorities say, actually may benefit Western industrial nations by generating orders for American, European, or Japanese technology, which developing countries could not buy without Arab-loaned money.

Arab donors rarely "tie" their assistance—that is, demand that aid recipients use the money to buy Arab goods, since Arab countries do not produce the technology that projects in developing countries require.

"Whenever we lend money at concessional terms for use in projects of developing countries around the world," an Arab aid official is quoted in a new study published by the Chase World Information Corporation, "we are creating a market for your goods—not ours."

Roger F. Azar, a leading Arab investment banker, put it another way before a recent conference sponsored by the Financial Times of London:

"It could be argued," he said, "that the indirect benefit to industrialized countries of Arab aid to LDCs (less developed countries) exceeds the industrialized countries' (own) aid contributions to LDCs."

Arab donors, says the Chase World Information study, channel their aid in a variety of ways—bilaterally, through multilateral organizations established by Arab states, and through such international institutions as the World Bank and International Monetary Fund (IMF).

Saudi Arabia, for example, has pledged $2.5 billion to a planned $10 billion IMF facility to help poor nations pay their oil bills. The Saudi pledge, largest among the 14 prospective donors, outranks the $1.7 billion offered by the U.S.

"In 1973," says John Law, author of the Chase study, "nearly 97 percent of Arab concessionary aid money went to Arab countries compared with 74 percent in 1976."

Put another way, in 1973 two-thirds of all nations receiving Arab aid were Arab; in 1976, less than a quarter were.

Though the bulk of Arab aid still goes to Arab lands—Egypt, Syria, and Jordan being the major recipients—loans have been made for projects in 78 countries of Asia, Africa, Latin America, the Caribbean, and southern Europe.

COMPARISONS DIFFICULT

In one way, direct comparisons between aid efforts by oil-producing states and by the industrialized powers of OECD—Canada, the U.S., Japan, and most European nations—are hard to make.

Major Arab donors collect much more income from oil than their scanty populations can absorb, whereas complex industrial societies, most with growing social welfare programs, consume the bulk of their national income.

However, notes Assistant U.S. Treasury Secretary C. Fred Bergsten, the combined payments surplus this year of four industrial lands—Japan, West Germany, Switzerland, and the Netherlands—may be larger than the total surplus of the 13-member Organization of Petroleum Exporting Countries.

Although Saudi Arabia, Kuwait, and the UAE are the giants among Arab aid donors, others with significant programs include Libya, Algeria, Iraq, and Qatar.●

DEFENSE PROCUREMENT AUTHORIZATIONS, 1979

Mr. STENNIS. Mr. President, for the purpose of requesting a conference and appointment of conferees, I should like to call up H.R. 10929, which we passed yesterday.

The PRESIDING OFFICER. The clerk will state it by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 10929) to authorize appropriations during the fiscal year 1979 for the procurement of aircraft, missiles, naval vessels, and so forth, and for other purposes.

Mr. STENNIS. Mr. President, due to the lateness of the hour when the Senate completed action on the military procurement authorization bill last night, I announced that I would save until today my remarks about all the fine work that was put in on this bill.

I want to express my special appreciation for the cooperation and assistance which was extended to me by all concerned on the authorization bill, from the beginning of the Senate hearings until passage last night. I especially want to thank the ranking minority member, Senator JOHN TOWER, for his splendid work. Indeed, it is a pleasure to me to work with him.

As we all know, Senator CANNON, chairman of the Tactical Air Subcommittee, Senator MCINTYRE, chairman of the Research and Development Subcommittee, Senator NUNN, chairman of the Manpower and Personnel Subcommittee, and Senator CULVER, chairman of the General Legislation Subcommittee, have also carried heavy responsibilities on this bill in its preparation and presentation. Also, Senator CULVER and Senator BARTLETT devoted a great amount of time to tank programs and Senator HART looked into the shipbuilding portion of this bill. These Members and other Members did a fine job in presenting the results to the committee.

I should like to extend the personal appreciation of myself, as well as the members of the committee, for the con-

sistent hard and fine work performed by our able committee staff. Floor action is only a small portion of the time consumed in the preparation of this legislation. Again this year, the committee received from witnesses testimony totaling thousands of pages and the staff in their usual capable and professional manner analyzed all the facts in order to assist our members in making the decisions. The entire staff was involved in this to some degree, and I should like to specifically mention their names:

Mr. Francis J. Sullivan, our staff director, and our other professional staff members: John C. Roberts, James C. Smith, George F. Travers, John T. Ticer, Donald R. Cotter, Edward B. Kenney, Phyllis A. Bacon, Larry K. Smith, Rhett Dawson, James R. Locher, Louise R. Hoppe, Don Lynch, E. George Riedel, Charles J. Conneely, Kenneth W. Fish, George H. Foster, Charles H. Cromwell, and Robert Q. Old.

I also want to pay special tribute to the clerical staff, since each of them participated in getting this bill passed. They are Doris Connor, Chris Cowart, Marie F. Dickinson, Frances B. Frazier, Kaylene Green, Helen Kalbaugh, Jeanie Killgore, Judy Landesman, Betty Mayo, and Sue Ann Spatz.

Finally, Mr. President, I want to acknowledge the printing work performed in connection with this bill. As the Senate well knows, the annual military authorization bill is a very complex piece of legislation involving thousands of pages of testimony. On behalf of the entire committee and staff I would like to specifically thank Messrs. G. D. Strickler, Nathan Segal, and Richard Caswell, as well as the Government Printing Office for their hard work and expert handling of this massive amount of material.

Mr. President, I move that the Senate insist upon its amendment to H.R. 10929, request a conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. STENNIS, Mr. JACKSON, Mr. CANNON, Mr. MCINTYRE, Mr. HARRY F. BYRD, JR., Mr. NUNN, Mr. CULVER, Mr. HART, Mr. TOWER, Mr. THURMOND, Mr. GOLDWATER, Mr. SCOTT, and Mr. BARTLETT conferees on the part of the Senate.

AMBASSADOR ANDREW YOUNG

Mr. BARTLETT. Mr. President, on Tuesday, the Senate agreed to Senate Concurrent Resolution 95, stating that it is the sense of the Congress that current trials of Soviet dissidents are of deep concern to the American people and may impose obstacles to the building of future cooperation between the United States and the Soviet Union.

This resolution reflects the sentiment of the Congress, the administration, and surely the virtually unanimous sentiment of the American public that the Soviet Union stands in blatant violation of the spirit of the Helsinki agreement, and it must be held accountable for its flagrant disregard of this important agreement.

Certainly it was the intent of the Senate in approving this resolution, as it is the intent of President Carter in denouncing Soviet human rights violations, that the pressure of world opinion might compel the Soviet Union to acknowledge and comply with its obligations as a signatory of the Helsinki agreement. Regrettably, however, this effort has been fully undermined, not by any action or statement of the Soviet Union, but by the public statements of our own Ambassador to the United States, Mr. Andrew Young.

Speaking in Geneva, Switzerland, Mr. Young has attempted to discredit the importance of Soviet human rights violations, stating that "there are hundreds, perhaps thousands, of political prisoners in the United States" and that he too had been a "political prisoner" when he was once arrested during a civil rights demonstration.

Mr. President, these and other comments made initially by Mr. Young in an interview with a socialist newspaper, and now being prominently reported worldwide, have not only undermined the attempts of the United States to dramatize Soviet human rights violations, but have subverted the very cause of human rights worldwide.

I believe it is now incumbent upon the President of the United States to reaffirm, as clearly and forcefully as possible, his commitment to human rights. First, however, the President should recognize that such an action will be rendered futile and meaningless as long as Mr. Young remains in a position to subvert this effort.

President Carter should request Mr. Young's resignation from the position of United States Ambassador to the United Nations, and if the resignation is not immediately forthcoming, the President should fire Mr. Young.

Mr. ROBERT C. BYRD. Mr. President, I believe the Senator from Virginia (Mr. HARRY F. BYRD, JR.) was asking if the Senator from Oklahoma would yield, and then I will proceed.

Mr. BARTLETT. I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I am appalled at the statement made by the American Ambassador to the United Nations, Mr. Andrew Young.

I cannot conceive of an American official stating that there are hundreds and perhaps thousands of political prisoners in the United States.

What this high American official has done is to equate the American system with the system existing in Communist Russia.

I have been concerned for some time with the activities and statements made by the American Ambassador to the United Nations, Mr. Young. I supported his confirmation for that position. I thought he made a good Congressman when he was a Member of the House of Representatives from the State of Georgia.

But when I recollect that he is the same Mr. Young who made the statement that the use of Cuban troops in Angola was a stabilizing influence, and many other statements that he has made, it appears to me to have been out of character for one representing, in the capacity that he does, the United States of America.

Then, coming today, with this statement that there are hundreds and perhaps thousands of political prisoners in the United States, it seems to me that is going much too far.

I, for one, resent very strongly any such statement on the part of the Ambassador to the United Nations.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. BARTLETT. Mr. President, I ask for 2 more minutes.

Mr. ROBERT C. BYRD. Mr. President, I object.

Mr. President, may I say to the distinguished Senator, I always object to that kind of request.

Does the Chair recognize me?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. I yield 2 minutes to the Senator.

Mr. BARTLETT. And I yield to the Senator from Virginia. I thank the distinguished majority leader very much.

Mr. HARRY F. BYRD, JR. I have finished.

Mr. BARTLETT. Mr. President, I yield to the distinguished Senator from Utah for 1 minute.

Mr. HATCH. I thank the distinguished Senator from Oklahoma.

Mr. President, I rise to join in this public outcry against what has been I think, a very unfortunate set of statements made by Andrew Young.

I am sure he meant in his statements that there are some injustices in this country that he has observed through civil rights. But it is a very unfortunate choice of language he used, if it has been reported correctly, I think particularly coming in the days when the Shcharansky, Ginzburg, and Orlov trials make news, discussed in the field of human rights all over the world.

I think it puts our President at a tremendous disadvantage as he contemplates going to Bonn.

I would just like to say that I think it is an abomination and I concur with the distinguished Senators from Oklahoma and Virginia.

Mr. BARTLETT. I yield to the distinguished Senator from Illinois the remainder of time.

Mr. CASE. Will the Senator yield for 1 moment?

Mr. ROBERT C. BYRD. Yes.

Mr. President, I just have two or three housekeeping items, but I yield the floor and after Mr. CASE is recognized I would like the floor back.

Mr. CASE. Mr. President, I join my colleagues in expressing unhappiness at the statement made by our Ambassador to the United Nations.

It presents to the world an utterly false and unfair picture of the United States to equated individual cases of injustice and even of racism in our country with the systematic governmental persecutions by the Soviet state which this Senate has so strongly condemned.

The distinction is clear and Ambassador Young ought not to confuse it by loosely using the term "political prisoners" and suggesting that it applies equally in over two countries. I hope he will quickly and firmly correct the unfortunate impression he has created.

Mr. HANSEN. Mr. President, it is not necessary, I am certain, to speak again about the outrageous statement made by the United States Ambassador to the United Nations, Mr. Andrew Young. But I want simply to go on record in agreeing with my colleagues that to equate any failure on the part of the U.S. Government to treat all citizens fairly and equally and to try to suggest that there are injustices in this country with the actions that presently characterize the Soviet Union and have made worldwide headlines, I think does great disservice to the Government that Mr. Young attempts to serve.

It seems to me that there can be no justification at all in trying to make the sort of comparison that he so inappropriately made this afternoon.

Certainly, we all know that conditions in this country are not perfect. But there is no similarity at all with which I am familiar, and I challenge him to point to a single instance wherein there is a fair comparison between the actions that characterize those of the Soviet Union now with the so-called political prisoners to which he referred earlier today.

I resent it. I think it does a disservice to the Government of the United States. It certainly gives the wrong impression to people worldwide, when a person high in the executive branch of Government, for the United States of America, makes such an outlandish statement as he made this afternoon.

I hope the President will lose no time at all in roundly condemning him for his ineptitude and his thoughtlessness in saying what he has said. I hope that action will occur very shortly.

Mr. SCOTT. Mr. President, I associate myself with the concern that has been expressed by a number of other Senators with regard to the statement made by Ambassador Young.

As our children were growing up and they would leave the house for some purpose, we would admonish them to remember that they were ambassadors for our family. In other words, we expected the best type of behavior of them because they were representing the family when they were away from home.

In my judgment, an ambassador in the true sense represents his country, and he should represent his country in the best possible light. I believe that Ambassador Young, Ambassador to the United Nations, has not represented his country in the proper or the true light. I think he has done a disservice to his country by the statement he has made, and he should be admonished by the President for that statement.

Mr. METZENBAUM. Mr. President, I commend those who have spoken previously in connection with the remarks of Andrew Young, which were made in such an intemperate manner today, or at least reported on today.

For any person to associate the trials presently taking place in the Soviet Union and attempt to make a comparison of those trials and say that there are hundreds of thousands of political prisoners in this country is to deny the facts.

As the distinguished Senator from New Jersey (Mr. CASE) pointed out, there is a big difference. In the Soviet Union, it is the government processes that are being brought to bear with respect to a few dissidents who have the temerity to speak out and to indicate in some instances that they wish to leave the country, a right that is theirs under the Helsinki accords. How anyone could make a comparison of those who are on trial in the Soviet Union at the present time with any prisoners in this country is difficult for me to understand.

Any time there has been a political prisoner in this country, if he or she be that, the courts and the other arms of Government were prepared to step in and provide legal protection of constitutional rights. That is not the case in the Soviet Union.

Although I have been a great admirer of the Ambassador for many years, I find that in this instance his remarks are literally distasteful, intemperate, and certainly made without good judgment. It disturbs me.

Mr. MATSUNAGA. Mr. President, Ambassador Andrew Young has taken a severe tongue lasing on the floor of the Senate today; and if he did in fact make the statements attributed to him, he well deserves it. And I would join his critics.

However, in fairness to Ambassador Young, I will say that I did serve with him when I was a Member of the House. As a matter of fact, we served together on the same committee, the House Rules Committee.

And I cannot make myself to believe that he did in fact make those statements attributed to him. He certainly could have been misquoted. Again in fairness to the good Ambassador, let me quote a few things he said, according to press reports, which were not quoted here on the floor today. Although he is quoted as having said "There are hundreds, perhaps thousands of political prisoners in the United States," he also qualified the term "political prisoner" as he used it.

When he was asked what kind of American political prisoners he was talking about, he said, "There are all varieties of political prisoners."

I do think there are some people who are in prison much more because they are poor than because they are bad. But that's a problem we are working on and on which we are making great progress.

To his credit, Ambassador Young also said:

There is nobody in prison in the United States for criticizing the government.

And I continue to quote him:

There is no one in prison for writing a style of literature or for having a monitoring system of our human rights.

It appears to me, therefore, that the reaction here may have been an overly severe one. Knowing Ambassador Young as I do, and having been a rather close friend of his while serving with him in the House of Representatives, I think he will be the first to admit that he stuck his big foot in his mouth. That is the kind of a man he is.

To demand his resignation at this point or demand that the President remove him immediately without having the full story before us, would be tantamount to finding an accused guilty before granting him a trial. Certainly Members of this body, who themselves have often been misquoted by the press, I am sure, will not make a final judgment on the sole basis of press reports. Even the severest critics are Members of this body because of the judgment that they have exercised in the past in matters which have won the confidence of the people of the United States.

While I am sure Ambassador Young is fully capable of defending himself, and I am not now defending him, I would at least like to say: let us get the full story first.

Thank you, Mr. President.

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

Mr. MATSUNAGA. I am happy to yield to the Senator from New Jersey.

Mr. CASE. Mr. President, the statement that the Senator from Hawaii has just made is another instance of why he is such a useful, wonderful Member of this body. I join him in what he said altogether.

I do not think that there is anything basically wrong with Andy Young. He is a nice guy. I was for him strongly and I defend his right to hold his current job or any other job. But he ought not in this instance to have used the term "political prisoners." This, is a codeword. Our conduct in this country, our individual acts of injustice, are in no way comparable to the official state persecution of critics of the administration in the U.S.S.R.

Mr. MATSUNAGA. I thank the Senator from New Jersey for his generous remarks about me, and I would fully concur with him if Ambassador Young does not retract the derogatory words he used against his own Government or fully explain them away. I would then join the Senator from New Jersey and others who have previously spoken in condemning our Ambassador to the United Nations. But I repeat, let us in all fairness listen to the full story first.

The PRESIDING OFFICER. The time for morning business has expired.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that morning business be continued for another 5 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period be extended an additional 5 minutes.

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

JOHN D. ROCKEFELLER III

Mr. DOLE. Mr. President, the finest comment that can be made about a man

is that he did the best he could with what he had. John D. Rockefeller III had a lot. But the size of his personal fortune is literally dwarfed by the generosity he bestowed on others. A dedicated philanthropist, he did a lot of good with what he had.

Few men, especially in this day, make an economic splash the size of his father's or grandfather's. Likewise, few men are elevated to high positions in public life—although three of his immediate relatives, including the former Vice President, chose that field and found great success. By choice, John D. Rockefeller was neither a financial baron or a public figure. Instead, his interests focused mainly on philanthropic pursuits and the advancement of mankind.

A rather shy man, modest in appearance, quiet by nature; John D. Rockefeller—who thought the use of his famous middle initial rather ostentatious—chose to work largely behind the scenes and was probably less in the limelight than any of his brothers. A 1964 Look magazine feature noted that he usually walked to work, and that he had never been stopped on the street by a stranger who recognized him. Outdone in flamboyance by his brothers, his entire life is a monument to the style which became him—the style of a modest monarch, a steward of mankind. He was a man who could have exerted more control over his fellow men, but chose to work toward their betterment instead. This quiet role was not forced upon him by circumstance, but was his choice—a conscious humanitarian choice made all the more impressive by its circumstance.

In the realm of philanthropy, he was not a one-man fountainhead distributing money according to his own fancy. By the time he came on the scene, his grandfather and father had already pioneered in the rather difficult business of giving money away wisely. Already, experts in various fields had been brought in, and numerous safeguards had been taken against dispensing money in a capricious manner without careful study. Rather, when John Rockefeller came on the scene, he first assumed his place in the family organization, offering advice on their philanthropic endeavors and serving on various boards which had been entrusted with the task of distributing Rockefeller money wisely. Of course, the most notable of these was the Rockefeller Foundation, of which he was a board member and long-time chairman. Throughout his career, he was as careful giving away money as he was generous—making sure that the money went to worthy causes and was used wisely.

Early on, he clearly established his leadership in the family's various philanthropic endeavors. But his own altruism was not an entirely corporate affair. In numerous instances, he would strike out on his own with various projects or causes which came to be closely identified with his own individual interests. For instance, after encountering some difficulty in interesting the Rockefeller Foundation in the general problem of population control, he went ahead and established the population council which resulted in awakening public awareness of this issue, while attracting considerable scientific talent to the cause. In keeping with his personality, he did not do this by placing himself in the limelight. Rather, he worked quietly, bringing the problem to the attention of various world leaders, and other important opinion makers in this country and in others. He amassed a large staff to provide technical assistance to countries interested in their own population control problems.

No doubt, his interest in population control was directly related to his interest in Asia—and the problems of overpopulation there. His love for the Orient, demonstrated by his leadership in both the Asia Society and the Japan Society, has done much in bringing our country closer to that part of the world. No doubt, his passing will be recognized as a great loss in those nations as well as in our own.

Lovers of the performing arts, and citizens of New York, will remember his labor on behalf of the Lincoln Center for the Performing Arts. As usual, John Rockefeller was more than just a contributor. He headed the fundraising drive that brought in over $160 million and made the center a mortgage-free reality for New York. It was always this area—fundraising—in which he applied his shrewed acumen and business sense to its greatest advantage.

Besides these three major areas, his other activities extended to the United Negro College Fund, the Rockefeller General Education Board, Colonial Williamsburg, Inc., the Rockefeller Brothers Fund, the JDR Third Fund, and a variety of other philanthropic pursuits. As founder of the Rockefeller Public Service Awards, he sought to recognize outstanding civil servants, who might otherwise go without recognition. As author of the Second American Revolution and as a supporter of various initiatives to improve this country on the occasion of the Bicentennial—he demonstrated a foresight and vision of America which commends itself to all American opinion makers.

John Rockefeller liked to quote De Tocqueville's "Democracy in America" to emphasize Americans' peculiar tendency to try and solve their own problems, instead of turning to the Government. Certainly, if more people were like John Rockefeller—if more people were willing to give so unselfishly of themselves for the betterment of mankind, there would be less need for the burgeoning Government which plagues us today.

Perhaps the finest summary of John Rockefeller's life comes from a New York Times editorial published on March 10, 1966. The editorial addresses his efforts on behalf of the Lincoln Center for the Performing Arts, but applies equally well to all of his activities. The Times said "no man better deserves the thanks of the community than the man who least asks to stand in the spotlight of recognition—John D. Rockefeller III."

Since he so seldom sought recognition during his lifetime, Mr. President, it is important that we recognize him now. His death is a great loss to his family—and I express my condolences to his wife, Blanchette, his children, and his brothers. It is also a great loss to the country which benefited so much from his good works.

TRIBUTE TO JOHN D. ROCKEFELLER III

Mr. PERCY. Mr. President, the Rockefeller family, the citizens of our Nation, and the people of the world have suffered a great loss in the tragic death of John D. Rockefeller III.

The number of people who have benefited from his generosity and unselfishness is in the millions—worldwide. He truly dedicated his life to helping others and making this world a better place in which to live and work.

He spent most of his life as a philanthropist—supporting the arts and humanities, actively concerned about population control, and bringing about closer relations between nations and people, particularly in Asia.

His broad interest in the arts, perhaps triggered by his mother, was carefully nurtured. In conjunction with his philanthropic desires, instilled by his father, John D. Rockefeller III became the chief steward in maintaining the Rockefeller heritage as patronage of the arts. He always believed that art should be available to everyone and it has the potential to bring all kinds of people closer together to understand and work with each other.

After a trip around the world as a college graduate, John D. Rockefeller III realized the importance of travel in relation to understanding a country's problems. He took a keen interest in Asia after that trip and created the Asia Society many years later to cultivate better American-Asian relations.

Also as one of the most prominent people and a true pioneer concerned about our world's rapidly growing population, his 40 years of devoted work resulted in being named Chairman of the National Commission on Population Growth and the American Future. This Rockefeller commission produced three major reports and raised the consciousness level of all nations about the population growth crisis.

His patient but unyielding work in this vital area is indicative of his commitment to making this world better for future generations and to insure that our Nation continues to prosper and enrich the lives of its citizenry.

Of all the famous Rockefeller brothers, he did more to understand, assist and associate himself with the younger generations of his own family and America. His book, "The Second American Revolution: Some Personal Observations," was a labor of love in which he educated himself so that he might better understand young people's goals and aspirations after the tumultuous times of the late sixties. He shared this knowledge with others and urged business leaders to reform present systems to more effectively meet the needs and goals of our young people.

After knowing John D. Rockefeller III for several decades and working with him on many projects such as population

control and closer Asian-United States relations, I have seen first hand the impact he has had on so many aspects of American life.

I have also been privileged to see John Rockefeller and his wife, Blanchette, through the eyes of our own daughter, Sharon. No mother- or father-in-law could have been more considerate, thoughtful, and have given more deeply of their love and affection.

Unlike some other public figures who occasionally seem closer to the public than to their own family, in the case of John D. Rockefeller III, his priorities were right and his own family will cherish the memories they have of his modesty, his unassuming nature, his gentleness, and yet his nobility. They, and all of us who were privileged to know him, shall always have these memories as an inspiration for the future.

John D. Rockefeller III asked so little of life, yet gave so generously that this tragic end, somehow, seems unfair. That is when we must remember the words of Jonathan Swift: "May you live all the days of your life." John D. Rockefeller III did just that, and his accomplishments and contributions to our society far exceed his 72 years.

We shall all sorely miss him, but at the same time shall be eternally grateful to him.

TIME TO RATIFY THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, ratification of the Genocide Treaty would serve our national interest by adding to our status in the community of nations and restoring our moral leadership. The agreement places us strongly on record as a supporter of human rights without limiting the freedom or sacrificing the rights of a single American.

Does the public support this treaty? Overwhelmingly, the answer is yes. Nearly every major interest group has come out in favor of this international agreement. Most recently, the American Bar Association has joined the list of religious organizations, ethnic groups, major newspapers, and seven consecutive United States Presidents urging ratification.

Finally, does the Genocide Treaty serve the interests of humanity? Can an American, in all good conscience, support this agreement? Again, the answer is resoundingly affirmative. The moral statement which this treaty makes affirms the basic tenets of every major organized religion and legal code.

In fact, the only moral step we can take is to ratify this convention. The Genocide Treaty protects the most crucial right of all—the right to live. It expresses moral outrage at the most abominable violation of a national, ethnic, racial, or religious group—the genocide of its people. In my view, there is no action which is more justified than declaring mass murder an international crime and taking steps to wipe this crime from the face of the Earth.

I call on this body, the U.S. Senate, to ratify the articles of the Genocide Convention.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask that the period for the transaction of routine morning business be extended for an additional 3 minutes.

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

MULTILATERAL ACTION ON INTERNATIONAL ECONOMIC ISSUES

Mr. ROBERT C. BYRD. Mr. President, I call up a resolution and ask for its immediate consideration. It has been cleared all the way around.

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

The legislative clerk read as follows:

A resolution (S. Res. 440) expressing the sense of the Senate that the President undertake discussion with the industrialized countries with a view toward developing a common approach to the grave problems facing today's international monetary system.

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

There being no objection, the Senate proceeded to consider the resolution which had been reported from the Committee on Foreign Relations with amendments as follows:

On page 4, line 7, after the semicolon, insert "and";

On page 4, line 8, strike "culminating in" and insert "at";

On page 4, line 13, strike the semicolon and the word "and" and insert a period;

On page 4, beginning with line 14, strike through and including line 19.

Mr. ROBERT C. BYRD. Mr. President, I move that the amendments be considered and adopted en bloc.

The amendments were agreed to en bloc.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I wish to be heard for a few moments on this resolution.

On July 16 President Carter will be meeting with the heads of state of the other major industrialized countries at the Economic Summit in Bonn. In anticipation of the meeting, the newspapers are full of speculation about the possible results of this crucial meeting.

I am especially troubled by the reports that President Carter will be entering these critical discussions, which may have far-reaching consequences for the health of the international economy for many years to come, allegedly in a weakened bargaining position due to our vote on an oil import full funding. Accordingly I asked that Senate Resolution 440, which was favorably reported today by the Foreign Relations Committee, be acted upon immediately. The resolution seeks to strengthen the President's hand in these negotiations at the Economic Summit by signaling the recognition by the Congress of the interdependence of the nations participating in the Economic Summit and the support of the Congress for the President's negotiating efforts for multilateral solutions to solve the major international economic problems facing us.

Mr. President, the purpose of this resolution is to put something in the hands of President Carter at the Bonn economic summit, in order to enable him to express, with the support of the Senate, a policy which essentially says to his colleagues in the industrialized countries that the economic summit is a collegial body, that we in the United States recognize our complete interdependence with our allies and that what we are about to do with respect to this particular exercise in summitry must be done multilaterally.

Senate Resolution 440 is sponsored by me and Senators CHAFEE, DANFORTH, MATHIAS, PERCY, SPARKMAN, STAFFORD, STEVENS, STEVENSON, and HATFIELD of Oregon. When I submitted this resolution on April 26, 1978, I urged the President to "insure that the individual policies of his administration were not counterproductive to achieving the needed economic objectives."

We will not know the summit's actual results until the end of the summit next Monday. All indications point to a very modest summit. As one economic analyst has described the situation, the summit appears to becoming a "bazaar at which the participants haggle for commitments in exchange for concessions." I have heard the prospective "deal" depicted as a triangle in which the United States would pledge action to deal with our inflation and energy problems, while the Germans and Japanese would pledge action on stimulating economic growth in their countries. The third element of the triangle would be a renewed commitment from all the participants to a free and open trading system and possibly some announcement of the agreed upon elements of the multilateral trade negotiations package.

With respect to the North-South issues, I understand that some participants, most notably the Japanese, will announce an increased commitment on foreign aid to the developing countries. While more foreign aid is critical, it is far from the whole problem. A high-level commitment must be made at the summit to consider bolder moves.

One approach which I have personally raised with President Carter, British Prime Minister Callaghan, German Chancellor Schmidt, Japanese Prime Minister Fukuda, and French President Giscard d'Estaing, would be the creation of a growth development fund for the oil-importing developing countries. Such a fund would provide them with capital for productive investments in order to cover their oil import deficits and to complement the aid and investment of the developed countries in stimulating the noninflationary growth and the expansion of broader markets for the goods and services which the international economy requires so urgently to deal with stagnation and inflation. Such targeted investments would stimulate economic growth in these countries and, most importantly, would expand demand for the exports of the industrialized countries. Such new markets would lead to higher levels

of employment and domestic economic activity in the industrialized countries and would effectively counter the escalating demands of protectionist forces in the industrialized countries with respect to imports as well as investment abroad.

Discussion of a multilateral plan for targeted investments in the developing countries should set the tone for the rest of the summit. Rather than undertaking a negotiating session characterized by "tough bargaining," the summit should be a cooperative exercise in managing interdependence. Our leaders should participate in an exchange of views with a view toward working out a unified approach to developing the remedies to meet the dislocation facing the international monetary system. These dislocations can only be overcome if the industrialized countries establish an overall plan to share the responsibilities resulting from the pivotal nature of their economic performance for the well-being of the whole international economic system. Senate Resolution 440 provides guidance to the President by calling on the participants in the economic summit to establish a framework for multilateral action to cope with such international economic issues as inflation and structural unemployment.

Since the introduction of my resolution last April, I have discussed these mounting problems with Prime Minister Callaghan, President Giscard d'Estaing, Chancellor Schmidt, Prime Minister Fukuda as well as President Carter, who share my belief that a concerted multilateral approach to solving these problems is imperative. To underline the cooperative element of this summit, I urge the President and his counterparts to consider the Bonn economic summit as the first half of a two-part meeting, which would be followed by a second meeting in less than a year's time. At the Bonn economic summit, there should be a preliminary harmonization of policy on the issues with the constitution of a task force to undertake the necessary coordination and follow up to these policy decisions. The second economic summit would meet to approve the details of such multilateral action.

I wish to express my thanks to my colleagues who in recognizing the problems as I did, joined me in sponsoring this resolution: Senators CHAFEE, DANFORTH, MATHIAS, PERCY, SPARKMAN, STAFFORD, STEVENS, STEVENSON, and HATFIELD, of Oregon.

Mr. President, finally, may I say this: I have suggested and others have suggested methods by which the world could be steered in a better path. We need to find a plan to arouse the interest of mankind in undertaking such a degree of economic improvement as will provide the world the necessary work and the necessary spirit to work for decades to come.

Mr. President, in conclusion, I am very grateful to Senator ROBERT C. BYRD for calling this resolution up as reported unanimously by the Foreign Relations Committee yesterday. I hope, Mr. President, that President Carter will treat this summit with importance and that it will result in a first step toward developing a plan by which the nations of the world can really redeem the international economy. Many plans have been suggested, some even under the rubric of a global Marshall Plan. I wish to emphasize that such a plan would not be a foreign aid. Rather, we are talking about large scale investment that will stimulate the world's activity so that the markets of the world may be big enough to help those billion people who go to bed every night hungry, and to serve as an adequate outlet for the industrial and agricultural productivity of the whole world.

Mr. President, it is time for concerted action by the President and the Congress. The other participants at the economic summit must understand that the President speaks for the American people. I urge my colleagues to support the President as he enters a most difficult series of discussions with his counterparts in the industrialized countries by swiftly adopting this resolution.

Mr. President, at this time, I ask unanimous consent that the letter of the State Department dealing with this resolution may be printed in the RECORD.

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

DEPARTMENT OF STATE,
Washington, D.C., June 21, 1978.

Hon. JOHN SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: This is in reply to your letter of May 2, 1978 to Secretary Vance requesting Executive Branch comments on S. Res. 440, submitted April 29 by Senator Javits. A central tenet of this resolution is that the growing interdependence of national economies necessitates cooperative approaches among all countries to solve the long-term structural problems facing the international economy. The Administration fully endorses this concept, and such cooperation is a primary principle of our international economic and monetary policy.

The international community, with strong U.S. leadership has responded rapidly, flexibly, and cooperatively to the radical changes in the international economic environment since 1973. IMF facilities have been expanded to provide additional balance of payments financing to deficit countries, in the context of gradual adjustment to new economic realities, allowing these countries to undertake adjustment without recourse to restrictive trade measures or more stringent deflation. The OECD Trade Pledge has committed industrial-country governments to avoid adopting restrictive trade policies for balance of payments reasons. Admittedly such cooperative efforts are directed primarily to short-term problems. But in most cases, they also have long-term implications in providing the incentive and the support necessary for countries to take the necessary and difficult steps to adjust to long-term trends. The U.S. has also taken a lead role in cooperative efforts to address long-term problems in energy development, commodity price stabilization, and resource transfer that confront developing countries in the new economic environment.

We share the view expressed in the resolution that the recent disorderly conditions in the exchange markets reflect concern about inflation and unemployment. Cooperation is essential in both the short and long-term to address the underlying problems that have caused this concern. As noted in the resolution, the U.S. has cooperated with other industrial countries to counter disorderly exchange market conditions. This effort is an immediate response to specific instances of speculation and disorder in the exchange market. We agree that a healthy international monetary system requires resolution of fundamental economic problems rather than measures, including controls and restrictions, which attempt to deal with their symptoms by preventing exchange rates from playing their appropriate role in adjustment.

We are working vigorously toward a context in which the economic summit in July can produce cooperative action on the part of the major industrial countries to attack fundamental economic problems. In this regard, the U.S. Government as a whole bears responsibility for establishing some of the necessary conditions. For example, one important aspect will be the extent to which the U.S. takes effective action to reduce its dependence on imported oil. As you know, a major first step in this will be a U.S. energy program with teeth, which we hope the Congress will enact as soon as possible. A second important aspect will be effective policies in the U.S., as in all countries, to avoid a further acceleration of inflationary forces, particularly coming from increased costs of production. In that regard, the Administration has expanded its efforts to moderate inflationary tendencies; the support of Congress will be a key to the success of these efforts.

If the necessary conditions prevail, we believe that the other major industrial countries will join us to formulate a concerted action program which would address the major problems currently facing the world economy slow growth in Europe and Japan, major payments imbalances among the industrial countries, rising protectionism, continuing inflation, the need to continue adjusting to high energy prices, and those in the monetary area. One element of such growth strategy must be methods of increasing productive investment in most countries.

We do not believe, however, that the problems facing the international economy stem from "exclusive reliance on the dollar as the key international monetary asset" as stated in this resolution, or that our approach at the summit or in other cooperative forums should focus on long-term actions to reduce the role of the dollar. It is, in fact, inadequate investment, incomplete adjustment, undue reliance on imported energy, and inflationary pressures deriving from increased oil prices and other cost pressures that are the root cause of current problems, and which must be addressed. Moreover, the widespread use of the dollar in international transactions, the size and importance of our economy, and the lack of broad and deep capital and money markets in other countries all make it very unlikely that other currencies could quickly assume a large part of the dollar's reserve role.

The office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

Mr. JAVITS. Mr. President, I strongly suggest that Members interest themselves in this particular problem because to my mind the number one danger facing the world today is in the economic realm. If we should fail to deal effectively with these grave economic problems there will be enormous social upheavals in the world and the whole system of free institutions in which we believe will be in grave danger of geing swept away, all because we do not know how to run an

international economy under today's conditions.

● Mr. STEVENSON. Mr. President, I commend the Senator from New York. By calling attention to the need for international cooperation to solve economic problems he is performing an important public service.

Economic interdependence among nations is a reality. Coordinated international action is the only means to cope with international inflation, debt, slow growth and unemployment. But still we hear the siren calls to go it alone, to take unilateral, protectionist and isolationist measures. The adoption of this resolution will demonstrate that we recognize and accept the necessity for shared responsibility and cooperative action by the nations of the world to meet pressing economic problems.

The resolution calls attention to the critical need for the United States to adopt a meaningful energy policy and take measures to foster the competitiveness of U.S. exports. The Subcommittee on International Finance, which I chair, has held extensive hearings on declining U.S. export competitiveness and the need for a comprehensive U.S. export policy.

I know there are those who believe that the best way to solve our trade deficit is through acquiescence in a continuing depreciation of the dollar. This resolution recognizes that we need an active policy to strengthen our export performance. Exchange rate movements benefit only a small proportion of U.S. exports. Structural factors, including declining productivity, are the underlying cause of our trade deficit. An export policy which emphasizes industrial innovation and more aggressive export promotion is sorely needed.

A national export policy should include improved Government policies relating to the promotion, facilitation, and financing of commercial and agricultural exports, Government policies to reduce foreign barriers to U.S. exports, Federal support for research, development, and diffusion of new technologies to promote innovation, the elimination or modification of Government rules and regulations that disadvantage U.S. exports and the competitiveness of agriculture, business, and industry, and the reexamination of antitrust laws and policies when necessary to enable U.S. producers to meet foreign competition.

I regret that the resolution is not equally explicit on the need to strengthen the International Monetary Fund as an international monetary reserve center and as a mechanism for surveillance over exchange rate policies and practices. I know the original resolution which was more explicit was modified at the behest of the administration, and I fear that consequently our counsel to the President is excessively timid.

The dollar is no longer the sole strong currency in the international monetary system. As other currencies acquire strength and stability they should be incorporated into the reserve system and bear a fair share of the burden which the U.S. dollar has carried alone since the British pound sterling went into eclipse. Surplus countries should be encouraged to permit foreign persons and foreign governments to hold their currencies.

A sound international monetary order is essential to a stable world economy. The developed countries bear a special responsibility for the soundness of the international monetary system. They alone can stimulate the economic growth needed to reduce unemployment, and exercise the restraint needed to reduce inflation. They alone can provide the resources to ease the pressures of indebtedness which are tempting countries to increase their trade barriers and reduce their growth.

In this morning's New York Times Dr. Witteveen, the former Managing Director of the International Monetary Fund is reported to give some imminently sound advice for the summit conference in Bonn. He urged better coordination of economic policies with respect to growth; specifically he called for Germany and Japan to take further action to stimulate their economies. He called upon the United States to act on an energy policy and bring down inflation. He urged further action to stabilize exchange rates, noting that coordinated action on economic policy was necessary in order for exchange rates to be stabilized. He urged common action to increase development assistance to the developing countries, which would assist those countries in financing their payments deficits and increase imports from developed countries, thereby boosting economic growth all around. Finally, he stressed the importance of avoiding protectionism and bringing the trade talks to a successful agreement. Mr. President, I ask unanimous consent that the interview from the New York Times be printed in the RECORD at the end of the remarks.

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

EXHIBIT 1

[From the New York Times, July 12, 1978]

WITTEVEEN ON OUTLOOK FOR MONETARY STABILITY

The heads of government of the world's most powerful industrial nations gather next weekend in Bonn for a summit meeting on economic growth. But there are serious doubts about what can be accomplished at the meeting, given the different policy goals of each country.

The problems involved in hammering out a common guide for the economic activities of the world's major trading nations are legion, and some believe the task may defy solution.

A close observer of the success—and failure—of attempts to formulate a global economic policy in recent years is H. Johannes Witteveen, former managing director of the International Monetary Fund. Mr. Witteveen, who headed the I.M.F. during the Arab oil embargo and the subsequent balance-of-payment problems, gave his views of the upcoming summit in a discussion with Business Day.

Question: President Carter meets other Western leaders in Bonn next weekend to discuss plans for ending the recession, which is almost four years old and resisting every remedy prescribed. What results do you want to see?

First, I hope there will be some agreement to bring about better coordination of economic policies with respect to economic growth. That means the countries with big balance-of-payments surpluses—West Germany and Japan—taking some further action to stimulate their economies.

The second element would be action by the main country in balance-of-payments deficit, the United States, to reduce this deficit. In this connection, I would hope to see action on the energy front and action to bring down inflation.

In third place would be further action to stabilize exchange rates, which would become possible if these other actions on economic fundamentals were taken. A fourth element would be some common action to provide more development assistance to the developing countries. It would help the world financial situation by assisting these countries finance their payment deficits in a stable way. And it would enable these countries to import more and so help recovery in our own countries.

Finally, of course, there is the need to avoid protectionism. The GATT trade-freeing talks are making progress in Geneva and I hope an agreement will be reached quite soon.

Question: That is a recovery program that the Western world has been striving to put in place for several years without much success. Why are you more optimistic now?

Four years ago, the oil crisis had just started and the situation was quite different. The world situation has changed remarkably since then.

Question: So these changes make you more optimistic?

I think we can say the problem of the oil crisis has been overcome in large part and rather better than we thought possible at the time. So that makes the situation now less gloomy.

Question: If we don't get the kind of agreement in Bonn that you outline, is there danger of a new world depression's setting in now that even the U.S. economy is slowing down?

I do think it's a very real risk, but I think the risk of depression is also closely related to the exchange-market situation. My worry is that, if there is insufficient growth of demand in the surplus countries, their surpluses will continue and their currencies will go on appreciating. This, in turn, makes it more difficult for these countries to ever get growth going, because it makes their export industries less competitive and businessmen won't invest.

There's a kind of vicious circle here. At the same time, the depreciation of the dollar makes it more difficult to bring inflation in the U.S. under control, and that leads to a more restrictive monetary policy in the U.S., which also depresses recovery.

Question: You've spoken a lot about the need for more stable exchange rates as part of a Western recovery strategy. Does this mean the present floating exchange-rate system has not lived up to expectations?

I never expected it to be a completely ideal system. When I took over the I.M.F. nearly five years ago, I took the position that we could have flexible rates but that quite a lot of managing of those rates would be desirable. And I still say that is the case. I don't think exchange-rate movements cause Germany's low economic growth. I see them as a link. They are a consequence of slow growth and they make it more difficult to break out.

Question: What immediate action should the U.S. take to stabilize the dollar other than dealing with the fundamentals you mentioned?

The U.S. should be prepared, I think, to intervene on a larger scale than it has been doing. And the U.S. should borrow foreign exchange abroad to be able to intervene more effectively. This is not to replace action on fundamentals. But, once such action

has been taken, it will help make these policies more effective.

Question: Will the I.M.F. be able to get more monetary stability when the cause of the unrest is the persistence of large imbalances in the richest and politically most powerful countries, such as the U.S., Germany and the Arab oil producers?

It's a very tough problem. On the other hand, you could say the pressure is building up on them constantly to do something about it. If this new additional pressure is brought to bear at a certain time, it could be effective.

Question: But all the time we are talking, more dollars are pouring out into the world. Do you think we've reached the point where these large amounts of foot-loose dollars, slopping about from country to country, make a stable monetary order impossible because there are just too many of them?

Of course, the amount of dollars in the world is increasing all the time. Doubts about the dollar have been created and I can certainly see problems with an extreme dollar standard. That is why just before I left the I.M.F. I suggested there might be advantages to replacing some of these dollars with I.M.F. special drawing rights.●

Mr. STEVENSON. Dr. Witteveen did not mention another vital step, no doubt out of modesty—approval by the United States of the Witteveen facility, the supplementary facility to increase the resources of the International Monetary Fund.

That facility is needed to provide a temporary, but much needed increase in the fund's resources which will enable it to help countries faced with severe balance-of-payments disequilibria achieve economic stability. I know the Senator from New York shares my view that early action is needed to institute that facility. I hope the bill to permit U.S. participation in the facility can be taken up within a few days.

The PRESIDING OFFICER. Without objection, the resolution, as amended, is agreed to.

Without objection, the amendments to the preamble are agreed to en bloc; and without objection, the preamble, as amended, is agreed to.

The resolution (S. Res. 440), as amended, together with the preamble, as amended, is as follows:

Whereas leadership in today's international economy must evolve from a close cooperation between the United States and the other industrialized nations which is based on a sense of interdependence and acceptance of the pivotal nature of their economic performance for the well-being of the whole international economic system;

Whereas the recent disorders in the foreign exchange markets and decline of the value of the United States dollar reflect the concern of the international money markets about uncertainty regarding the actions of and decisions to be taken by the political leaders of the industrialized countries in addressing the major economic issues, particularly the dangers of inflation and structural unemployment;

Whereas the critical need exists for the United States to adopt a meaningful energy policy, measures to foster the international competitive position of United States exports in the international marketplace as well as appropriate monetary and fiscal policies;

Whereas measures such as the joint program adopted by the United States and the Federal Republic of Germany to counter mounting speculation against the dollar in foreign exchange markets are but short-term measures yet are designed to meet essentially long-term underlying structural problems facing the international monetary system;

Whereas such dislocations to the international monetary system could be overcome if the industrialized countries had an overall plan to share the responsibilities resulting from the present interdependence of the industrialized countries;

Whereas unilateral actions, including capital controls and protectionist trade barriers, taken by individual governments, including the United States, to protect their currencies and insulate their economies from the negative effects of changes in currency relationships could force more and more countries to adopt similar restrictions with serious implications for continued international trade and economic growth;

Whereas these monetary issues are no longer amenable to solutions developed on a consultative ad hoc basis but rather require long-term solutions reflecting the interdependence of countries today;

Whereas it is essential that confidence be rebuilt in the multilateral approach to solutions to our international economic problems; and

Whereas the forthcoming Economic Summit to be held in July in Bonn provides the immediate opportunity for the development of such a concerted, multilateral approach;

Now, therefore, be it

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

(1) the President recognize the severity of the international monetary crisis, which, if unchecked, has the potential of disrupting the domestic as well as international economy through a loss of confidence in the ability of governments to deal with the major economic issues of our time; and

(2) the President undertake discussions at the Economic Summit in July with the other industrialized countries with a view toward developing a closely coordinated approach to the grace international economic issues based on a sense of interdependence and mutual cooperation,

ORDER FOR RECESS TO 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 o'clock tomorrow morning.

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

SPECIAL ORDERS AND ORDER FOR CONSIDERATION OF H.R. 2777 ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders are recognized, Mr. HARRY F. BYRD, JR., be recognized for not to exceed 15 minutes, and that Mr. HEINZ be recognized for not to exceed 15 minutes, after which the Senate then proceed to the consideration of Calendar Order 726, H.R. 2777, the National Consumer Cooperative Bank Act, bill which will be managed by Mr. TOWER and Mr. MCINTYRE.

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

ORDER THAT NO ROLLCALL VOTES OCCUR PRIOR TO THE HOUR OF 2:30 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, for the convenience of Senators who will be attending funerals on tomorrow, I ask unanimous consent that any rollcall votes that are ordered prior to the hour of 2:30 p.m. not occur prior to the hour of 2:30 p.m. tomorrow.

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

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 6:50 p.m., the Senate recessed until Thursday, July 13, 1978, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 12, 1978:

IN THE FOREIGN SERVICE

Talcott W. Seelye, of Maryland, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Syrian Arab Republic.

IN THE ARMY

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3305:

CHAPLAIN CORPS

To be colonel

Blom, John O., [redacted].

The following-named officers for promotion in the Army of the United States, under the provisions of title 10, United States Code, section 3442 and 3447:

ARMY PROMOTION LIST

To be colonel

Dixon, Charles L., [redacted].
Rider, Archie A., [redacted].

MEDICAL SERVICE CORPS

To be colonel

Smith, Creed D., [redacted].
Spencer, William R., [redacted].

ARMY NURSE CORPS

To be colonel

Grace, Mary C., [redacted].

MEDICAL SERVICE CORPS

To be lieutenant colonel

Bush, Benny H., [redacted].
Gipson, Shirley L., [redacted].
Hunt, Dan W., [redacted].

VETERINARY CORPS

To be lieutenant colonel

Byrd, Roscoe W., [redacted].

DENTAL CORPS

To be lieutenant colonel

Bodner, John J., [redacted].
Ficara, Anthony J., [redacted].

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, section 3284 and 3299:

ARMY PROMOTION LIST

To be lieutenant colonel

Crowl, Gilbert, W., [redacted].
Plagianis, Gus, S., [redacted].

ARMY PROMOTION LIST

To be captain

Arron, Ralph, P., [redacted].
Adamczyk, Joseph W., [redacted].
Adams, Scott C., [redacted].
Adams, William B., [redacted].
Adank, Daniel C., [redacted].
Adcock, Gordon G., [redacted].
Ader, Ernest C., [redacted].

Adkins, Paul F., xxx-xx-xxxx.
Adkins, Ronald A., xxx-xx-xxxx.
Ahyo, Gerald P., xxx-xx-xxxx.
Aker, Stephen K., xxx-xx-xxxx.
Akers, Robert W., xxx-xx-xxxx.
Albers, Lester H., xxx-xx-xxxx.
Alcott, Henry S., xxx-xx-xxxx.
Alex, William N., xxx-xx-xxxx.
Alexander, Joe A., xxx-xx-xxxx.
Alexander, Kenneth, xxx-xx-xxxx.
Algner, Jonn A. xxx-xx-xxxx.
Allen, Kenneth E., xxx-xx-xxxx.
Allen, Robert C., xxx-xx-xxxx.
Allen, Thomas J., xxx-xx-xxxx.
Alvarado, Hector H., xxx-xx-xxxx.
Amoroso, August J., xxx-xx-xxxx.
Anchondo, Robert L., xxx-xx-xxxx.
Anderson, George W., xxx-xx-xxxx.
Anderson, John C., xxx-xx-xxxx.
Anderson, Paul B., xxx-xx-xxxx.
Anglin, Roger I., xxx-xx-xxxx.
Anthony, Patrick J., xxx-xx-xxxx.
Apo, Douglas K., xxx-xx-xxxx.
Applewhite, Michael, xxx-xx-xxxx.
Archer, James E., xxx-xx-xxxx.
Armstrong, Michael, xxx-xx-xxxx.
Arnold, Edwin J., xxx-xx-xxxx.
Arnold James G., xxx-xx-xxxx.
Arntz, Stephen J., xxx-xx-xxxx.
Ash, Robert W., xxx-xx-xxxx.
Ashe, Michael H., xxx-xx-xxxx.
Atkins, Robert M., xxx-xx-xxxx.
Atkinson, Curtis F., xxx-xx-xxxx.
Auer, Joseph A., xxx-xx-xxxx.
Austin, Brian J., xxx-xx-xxxx.
Azama, Rodney S., xxx-xx-xxxx.
Babington, James D., xxx-xx-xxxx.
Bacak, Stanley C., xxx-xx-xxxx.
Bailer, Richard O., xxx-xx-xxxx.
Bailey, Daniel D., xxx-xx-xxxx.
Bailey, Gene W., xxx-xx-xxxx.
Bailey, Robert M., xxx-xx-xxxx.
Baker, Edward I., xxx-xx-xxxx.
Baker, John E., xxx-xx-xxxx.
Bako, Victor B., xxx-xx-xxxx.
Balderman, Michael, xxx-xx-xxxx.
Ball, Ronnie E., xxx-xx-xxxx.
Baltezore, Lawrence, xxx-xx-xxxx.
Baranzyk, Stephen T., xxx-xx-xxxx.
Barb, Paul F., xxx-xx-xxxx.
Barbee, John P., xxx-xx-xxxx.
Barlotta, Samuel J., xxx-xx-xxxx.
Barlow, Bruce H., xxx-xx-xxxx.
Barlow, Charles A., xxx-xx-xxxx.
Barlow, Ingram P., xxx-xx-xxxx.
Barnes, James T., xxx-xx-xxxx.
Barnes, Lee R., xxx-xx-xxxx.
Barnum, Thomas I., xxx-xx-xxxx.
Barrett, Raymond D., xxx-xx-xxxx.
Barron, Michael J., xxx-xx-xxxx.
Barton, Gene C., xxx-xx-xxxx.
Basquill, Timothy M., xxx-xx-xxxx.
Batchelder, Arthur, xxx-xx-xxxx.
Battles, Gary D., xxx-xx-xxxx.
Batty, Thomas G., xxx-xx-xxxx.
Baur, Daniel J., xxx-xx-xxxx.
Baylor, Curtis A., xxx-xx-xxxx.
Beasley, Robert J., xxx-xx-xxxx.
Beck, Ronald G., xxx-xx-xxxx.
Beck, Stephen W., xxx-xx-xxxx.
Bedford, James Z., xxx-xx-xxxx.
Bell, Donald C., xxx-xx-xxxx.
Bell, Stephen N., xxx-xx-xxxx.
Bellino, Michael D., xxx-xx-xxxx.
Benedict, Jonathan, xxx-xx-xxxx.
Benjamin, David J., xxx-xx-xxxx.
Benko, James R., xxx-xx-xxxx.
Benner, James H., xxx-xx-xxxx.
Benson, Robert A., xxx-xx-xxxx.
Bernat, Charles A., xxx-xx-xxxx.
Berry, Jeffrey C., xxx-xx-xxxx.
Berry, Robert W., xxx-xx-xxxx.
Bethea, Thomas M., xxx-xx-xxxx.
Beumer, Robert S., xxx-xx-xxxx.
Bevers, Bill, xxx-xx-xxxx.
Bielefeld, William, xxx-xx-xxxx.
Bielert, George J., xxx-xx-xxxx.
Bierman, Gary R., xxx-xx-xxxx.
Biersack, Carl W., xxx-xx-xxxx.
Bilodeau, Mark B., xxx-xx-xxxx.
Bish, William C., xxx-xx-xxxx.
Bishop, Edward D., xxx-xx-xxxx.
Bitner, Teddy D., xxx-xx-xxxx.
Bixby, William G., xxx-xx-xxxx.
Black, Christopher, xxx-xx-xxxx.
Black, Clifford P., xxx-xx-xxxx.
Black, William M., xxx-xx-xxxx.
Blake, Douglas B., xxx-xx-xxxx.
Blakley, Charles E., xxx-xx-xxxx.
Blakney, Robert R., xxx-xx-xxxx.
Blatti, Michael A., xxx-xx-xxxx.
Blomstrom, John J., xxx-xx-xxxx.
Blount, Benroe W., xxx-xx-xxxx.
Blount, Buford C., xxx-xx-xxxx.
Boden, John E., xxx-xx-xxxx.
Boesch, Gene W., xxx-xx-xxxx.
Boettcher, Dwayne R., xxx-xx-xxxx.
Bohn, William H., xxx-xx-xxxx.
Boles, Larry D., xxx-xx-xxxx.
Boman, Truman R., xxx-xx-xxxx.
Boner, William M., xxx-xx-xxxx.
Bonin, John A., xxx-xx-xxxx.
Bookout, Randall D., xxx-xx-xxxx.
Bortner, Thomas D., xxx-xx-xxxx.
Bossie, Stephen M., xxx-xx-xxxx.
Boulse, Gerald L., xxx-xx-xxxx.
Bowden, James A., xxx-xx-xxxx.
Bowden, Thomas G., xxx-xx-xxxx.
Bowe, Thomas G., xxx-xx-xxxx.
Bowen, James R., xxx-xx-xxxx.
Boxberger, John I., xxx-xx-xxxx.
Boy, Wayne W., xxx-xx-xxxx.
Boyd, Corbett W., xxx-xx-xxxx.
Boyd, Robert P., xxx-xx-xxxx.
Boykin, William G., xxx-xx-xxxx.
Boynton, John G., xxx-xx-xxxx.
Braddy, William L., xxx-xx-xxxx.
Bradford, David T., xxx-xx-xxxx.
Bradford, Robert A., xxx-xx-xxxx.
Bradley, Larry R., xxx-xx-xxxx.
Brady, Thomas M., xxx-xx-xxxx.
Brake, Jonathan W., xxx-xx-xxxx.
Brand, Joseph J., xxx-xx-xxxx.
Brandt, Kevin L., xxx-xx-xxxx.
Brannen, Mark A., xxx-xx-xxxx.
Bratcher, Jack D., xxx-xx-xxxx.
Bratton, Edwin H., xxx-xx-xxxx.
Brauer, Albert G. xxx-xx-xxxx.
Braun, Mark E., xxx-xx-xxxx.
Brawley, Richard D., xxx-xx-xxxx.
Brazeale, James L., xxx-xx-xxxx.
Breier, John A., xxx-xx-xxxx.
Breitenbach, Daniel, xxx-xx-xxxx.
Brennan, Alan H., xxx-xx-xxxx.
Brennan, James M., xxx-xx-xxxx.
Bressler, Stephen A., xxx-xx-xxxx.
Brice, David L., xxx-xx-xxxx.
Brieske, Carl W., xxx-xx-xxxx.
Brinkley, Charles L., xxx-xx-xxxx.
Brinkley, Phillip L., xxx-xx-xxxx.
Broadhurst, Walker, xxx-xx-xxxx.
Broadwater, Colby M., xxx-xx-xxxx.
Brockman, Kenneth E., xxx-xx-xxxx.
Brooks, Johnny T., xxx-xx-xxxx.
Brooks, Robert L., xxx-xx-xxxx.
Brooks, Waldo W., xxx-xx-xxxx.
Brosseau, Howard W., xxx-xx-xxxx.
Broster, Michael R., xxx-xx-xxxx.
Broussard, Stephen, xxx-xx-xxxx.
Brown, Chris E., xxx-xx-xxxx.
Brown, Harry D., xxx-xx-xxxx.
Brown, Robert M., xxx-xx-xxxx.
Brown, Roger B., xxx-xx-xxxx.
Brown, Walter A., xxx-xx-xxxx.
Brown, William C., xxx-xx-xxxx.
Browning, Frankie C., xxx-xx-xxxx.
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Stephenson, John A., xxx-xx-xxxx.
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Stetler, Milton A., xxx-xx-xxxx.
Stevens, Billy W., xxx-xx-xxxx.
Stevenson, Gradie E., xxx-xx-xxxx.
Stevenson, William, xxx-xx-xxxx.
Stewart, Michael R., xxx-xx-xxxx.
Stewart, Phillip R., xxx-xx-xxxx.
Stewart, Thomas F., xxx-xx-xxxx.
Stewart, William T., xxx-xx-xxxx.
Sticco, Nicholas F., xxx-xx-xxxx.
Stine, Daniel R., xxx-xx-xxxx.
Stonecipher, Philip, xxx-xx-xxxx.
Stordahl, James R., xxx-xx-xxxx.
Stouder, Richard L., xxx-xx-xxxx.
Stout, Thomas E., xxx-xx-xxxx.
Stowe, Garnett R., xxx-xx-xxxx.
Strauss, John C., xxx-xx-xxxx.
Strebel, Paul J., xxx-xx-xxxx.
Strickland, Herman, xxx-xx-xxxx.
Stringham, Shand H., xxx-xx-xxxx.
Strock, Carl A., xxx-xx-xxxx.
Strother, Donald K., xxx-xx-xxxx.
Stuart, Paul A., xxx-xx-xxxx.
Stuebner, William A., xxx-xx-xxxx.
Stumpf, Harry D., xxx-xx-xxxx.
Sullivan, Denis R., xxx-xx-xxxx.
Sullivan, John S., xxx-xx-xxxx.
Summers, George E., xxx-xx-xxxx.
Swanner, Stephen O., xxx-xx-xxxx.
Sweeney, Thomas O., xxx-xx-xxxx.
Takeshita, Lloyd S., xxx-xx-xxxx.
Talafuse, David W., xxx-xx-xxxx.
Tallman, Gerald G., xxx-xx-xxxx.
Tallman, Stephen B., xxx-xx-xxxx.
Tatum, Darcey T., xxx-xx-xxxx.
Tatum, James P., xxx-xx-xxxx.
Taylor, Jimmy G., xxx-xx-xxxx.
Taylor, Joseph R., xxx-xx-xxxx.
Taylor, Robert A., xxx-xx-xxxx.
Taylor, Ronald E., xxx-xx-xxxx.
Taylor, Troy N., xxx-xx-xxxx.
Tengan, Wendell T., xxx-xx-xxxx.
Tenney, Leon W., xxx-xx-xxxx.
Terrell, Forrest A., xxx-xx-xxxx.
Teston, Harvey A., xxx-xx-xxxx.
Tharpe, Johnnie H., xxx-xx-xxxx.
Thieme, Robert B., xxx-xx-xxxx.
Thomas, Dwight P., xxx-xx-xxxx.
Thomas, Harold G., xxx-xx-xxxx.
Thomas, Isaac, xxx-xx-xxxx.
Thomas, Jerry, xxx-xx-xxxx.
Thomas, Ronald D., xxx-xx-xxxx.
Thompson, Johnny R., xxx-xx-xxxx.
Thompson, Michael A., xxx-xx-xxxx.
Thompson, Thomas A., xxx-xx-xxxx.
Thornton, Gordon L., xxx-xx-xxxx.
Thrasher, Alan W., xxx-xx-xxxx.
Thurman, Edward E., xxx-xx-xxxx.
Tice, Edward M., xxx-xx-xxxx.
Tichenor, Arthur H., xxx-xx-xxxx.
Tierney, William V., xxx-xx-xxxx.
Tieszen, Randal M., xxx-xx-xxxx.
Tillman, Christopher, xxx-xx-xxxx.
Tillman, Richard E., xxx-xx-xxxx.
Tilton, Don D., xxx-xx-xxxx.
Timmerberg, Paul D., xxx-xx-xxxx.
Tindall, Donald R., xxx-xx-xxxx.
Titus, Keith R., xxx-xx-xxxx.
Todt, Thomas A., xxx-xx-xxxx.
Tom, Melvin G., xxx-xx-xxxx.
Toney, Frank J., xxx-xx-xxxx.
Toops, David H., xxx-xx-xxxx.
Topalian, Paul C., xxx-xx-xxxx.
Topp, Peter A., xxx-xx-xxxx.
Topper, George L., xxx-xx-xxxx.
Torres, Adam L., xxx-xx-xxxx.
Transom, George E., xxx-xx-xxxx.
Traynham, Jerry W., xxx-xx-xxxx.
Trees, Paul M., xxx-xx-xxxx.
Treharne, Richard J., xxx-xx-xxxx.
Treyz, Fred A., xxx-xx-xxxx.
Troy, William J., xxx-xx-xxxx.
Tucker, Jeffrey T., xxx-xx-xxxx.
Tucker, Terry L., xxx-xx-xxxx.
Tuckey, Thom E., xxx-xx-xxxx.
Tulkki, Burton W., xxx-xx-xxxx.
Tullbane, Joseph D., xxx-xx-xxxx.
Tupa, David A., xxx-xx-xxxx.
Turner, Gregg E., xxx-xx-xxxx.
Turner, Lawrence K., xxx-xx-xxxx.
Turpin, Terry S., xxx-xx-xxxx.
Tystad, Douglas L., xxx-xx-xxxx.
Udovich, Norman J., xxx-xx-xxxx.
Ueda, Roger M., xxx-xx-xxxx.
Umstaedter, William, xxx-xx-xxxx.
Urban, Mark S., xxx-xx-xxxx.
Vanantwerp, Robert, xxx-xx-xxxx.
Vanderbeek, Walter, xxx-xx-xxxx.
Vanover, James L., xxx-xx-xxxx.
Vanpatten, William, xxx-xx-xxxx.
Varhol, Charles S., xxx-xx-xxxx.
Varnado, Talmadge R., xxx-xx-xxxx.
Veasey, Michael J., xxx-xx-xxxx.
Velarde, Barry L., xxx-xx-xxxx.
Velky, Lawrence J., xxx-xx-xxxx.
Vetting, Frank H., xxx-xx-xxxx.
Victorson, Mark E., xxx-xx-xxxx.
Vigen, Edward M., xxx-xx-xxxx.
Vikstrom, Carl E., xxx-xx-xxxx.
Vinson, William N., xxx-xx-xxxx.
Vogel, Gregory C., xxx-xx-xxxx.
Voland, Howard M., xxx-xx-xxxx.
Volzer, Harvey J., xxx-xx-xxxx.
Vona, Lonnie D., xxx-xx-xxxx.
Vonkamecke, Thomas, xxx-xx-xxxx.
Voss, James S., xxx-xx-xxxx.
Vreeland, Kenneth R., xxx-xx-xxxx.
Wade, Kenneth R., xxx-xx-xxxx.
Wagner, Dennis A., xxx-xx-xxxx.
Wagner, Frank H., xxx-xx-xxxx.
Wagnon, Russell C., xxx-xx-xxxx.
Waitschies, Gary E., xxx-xx-xxxx.
Walborn, Gary S., xxx-xx-xxxx.
Waldbueser, William, xxx-xx-xxxx.
Walker, Charley H., xxx-xx-xxxx.
Walker, Jerry L., xxx-xx-xxxx.
Walker, Kenneth T., xxx-xx-xxxx.
Walker, Paul C., xxx-xx-xxxx.
Wallace, Michael C., xxx-xx-xxxx.
Wallace, Thomas R., xxx-xx-xxxx.
Wallenbrock, Gleyn, xxx-xx-xxxx.
Waller, Thomas G., xxx-xx-xxxx.
Wash, Walter V., xxx-xx-xxxx.
Walsh, William E., xxx-xx-xxxx.
Walter, George R., xxx-xx-xxxx.
Walton, Thomas K., xxx-xx-xxxx.
Wampler, Richard L., xxx-xx-xxxx.
Wank, Robert H., xxx-xx-xxxx.
Ware, Charles C., xxx-xx-xxxx.
Warren, John D., xxx-xx-xxxx.
Warren, Michael D., xxx-xx-xxxx.
Washburn, Thomas C., xxx-xx-xxxx.
Waterman, Lloyd T., xxx-xx-xxxx.
Waters, Benjamin B., xxx-xx-xxxx.
Watson, Nolan, xxx-xx-xxxx.
Watson, Robert E., xxx-xx-xxxx.
Wayt, Timothy P., xxx-xx-xxxx.
Webb, George S., xxx-xx-xxxx.
Webb, William L., xxx-xx-xxxx.
Weimer, Michael B., xxx-xx-xxxx.
Weir, Donald G., xxx-xx-xxxx.
Weiss, James R., xxx-xx-xxxx.
Welch, John C., xxx-xx-xxxx.
Welch, Leslie R., xxx-xx-xxxx.
Welch, William G., xxx-xx-xxxx.
Wellman, Gerald T., xxx-xx-xxxx.
Wentient, Mark S., xxx-xx-xxxx.
Wesley, Bartley D., xxx-xx-xxxx.
Wessel, Jerry S., xxx-xx-xxxx.
Westrip, Charles W., xxx-xx-xxxx.
Wheatley, David U., xxx-xx-xxxx.
Wheeler, Courtney B., xxx-xx-xxxx.
Wheelock, John G., xxx-xx-xxxx.
Whitaker, Michael J., xxx-xx-xxxx.
White, Clifton F., xxx-xx-xxxx.
White, Glen R., xxx-xx-xxxx.
White, Paul E., xxx-xx-xxxx.
White, Terrence J., xxx-xx-xxxx.
Whitley, Samuel H., xxx-xx-xxxx.
Whitley, Ted D., xxx-xx-xxxx.
Whitley, Terry F., xxx-xx-xxxx.
Whitney, Floyd G., xxx-xx-xxxx.
Whitworth, Stephen, xxx-xx-xxxx.
Wightman, William E., xxx-xx-xxxx.
Wigner, Charles G., xxx-xx-xxxx.
Wilcox, Scott R., xxx-xx-xxxx.
Wilderman, David J., xxx-xx-xxxx.
Wildes, David G., xxx-xx-xxxx.
Wilhelmy, Geoffrey, xxx-xx-xxxx.
Wilkerson, Philip L., xxx-xx-xxxx.
Willey, Barry E., xxx-xx-xxxx.
Willey, James M., xxx-xx-xxxx.
Willey, James P., xxx-xx-xxxx.
Williams, Allen J., xxx-xx-xxxx.
Williams, Bennie E., xxx-xx-xxxx.
Williams, Charles A., xxx-xx-xxxx.
Williams, Edward W., xxx-xx-xxxx.
Williams, Garry A., xxx-xx-xxxx.
Williams, Thomas A., xxx-xx-xxxx.
Willie, Douglas D., xxx-xx-xxxx.
Willis, Clifford K., xxx-xx-xxxx.
Wilson, Albert R., xxx-xx-xxxx.
Wilson, Fred R., xxx-xx-xxxx.
Wilson, Frederick G., xxx-xx-xxxx.
Wilson, James R., xxx-xx-xxxx.
Wilson, Robert, xxx-xx-xxxx.
Wilson, Tod J., xxx-xx-xxxx.
Wimberly, Russell J., xxx-xx-xxxx.
Wines, Robert C., xxx-xx-xxxx.
Wingate, Thomas P., xxx-xx-xxxx.
Wise, Douglas H., xxx-xx-xxxx.
Wismann, Joseph B., xxx-xx-xxxx.
Witham, Stephen R., xxx-xx-xxxx.
Wittman, Robert J., xxx-xx-xxxx.
Wholeen, David B., xxx-xx-xxxx.
Wojdakowski, Walter, xxx-xx-xxxx.
Wold, James R., xxx-xx-xxxx.
Wolf, William E., xxx-xx-xxxx.
Wolfe, Jack L., xxx-xx-xxxx.
Wolfe, Shuey E., xxx-xx-xxxx.
Wolford, Stephen W., xxx-xx-xxxx.

Wong, Gregory K., xxx-xx-xxxx.
Wood, James E., xxx-xx-xxxx.
Wood, John R., xxx-xx-xxxx.
Wood, Samuel A., xxx-xx-xxxx.
Wood, Timothy L., xxx-xx-xxxx.
Wood, William J., xxx-xx-xxxx.
Woodbridge, Alfred, xxx-xx-xxxx.
Woolfolk, Donald D., xxx-xx-xxxx.
Woythal, Jeffrey P., xxx-xx-xxxx.
Wray, John D., xxx-xx-xxxx.
Wright, Eugene J., xxx-xx-xxxx.
Wright, Ralph F., xxx-xx-xxxx.
Wright, Robert L., xxx-xx-xxxx.
Wyatt, Robert L., xxx-xx-xxxx.
Wyman, Richard H., xxx-xx-xxxx.
Wyman, William N., xxx-xx-xxxx.
Yamamoto, Clifford, xxx-xx-xxxx.
Yarzumbeck, Arthur, xxx-xx-xxxx.
Yellen, Howard W., xxx-xx-xxxx.
Yolda, James J., xxx-xx-xxxx.
Young, Julius M., xxx-xx-xxxx.
Youngman, Gregory B., xxx-xx-xxxx.
Yuhas, Steven L., xxx-xx-xxxx.
Yuill, Robert G., xxx-xx-xxxx.
Yuknis, Christopher, xxx-xx-xxxx.
Zahaczewsky, George, xxx-xx-xxxx.
Zaremski, Walter F., xxx-xx-xxxx.
Zedonek, Phillip L., xxx-xx-xxxx.
Zerkow, Paul F., xxx-xx-xxxx.
Ziegler, Richard J., xxx-xx-xxxx.
Zilka, David J., xxx-xx-xxxx.
Zimmerman, Charles, xxx-xx-xxxx.
Zimmers, Walter H., xxx-xx-xxxx.
Zittel, Randy C., xxx-xx-xxxx.
Zmolek, Gerry R., xxx-xx-xxxx.
Zodrow, John G., xxx-xx-xxxx.
Zolner, Eric C., xxx-xx-xxxx.
Zoubek, Charles E., xxx-xx-xxxx.

WOMEN'S ARMY CORPS

To be captain

Andre, Nell N., xxx-xx-xxxx.
Antoskow, Zina L., xxx-xx-xxxx.
Ashley, Christine E., xxx-xx-xxxx.
Cassity, Marilyn J., xxx-xx-xxxx.
Cheney, Susan P., xxx-xx-xxxx.
Kent, Barbara A., xxx-xx-xxxx.
Kruger, Mary C., xxx-xx-xxxx.
Mazur, Blanche E., xxx-xx-xxxx.
Molner, Paula M., xxx-xx-xxxx.
Nunes, Mary R., xxx-xx-xxxx.
Pieck, Roslyn M., xxx-xx-xxxx.
Frasil, Colleen F., xxx-xx-xxxx.
Roberts, Karen, xxx-xx-xxxx.
Trupiano, Bridget, xxx-xx-xxxx.

DENTAL CORPS

To be captain

Burchett, Paul J., xxx-xx-xxxx.
Cheek, Dalmer D., xxx-xx-xxxx.
Downs, Roger H., xxx-xx-xxxx.
Guinn, John W., xxx-xx-xxxx.
Hcoks, Thomas W., xxx-xx-xxxx.
Howell, Phillip C., xxx-xx-xxxx.
Portell, Frank R., xxx-xx-xxxx.
Quinones, Edgardo E., xxx-xx-xxxx.
Russell, Marilyn A., xxx-xx-xxxx.
Sherman, Frank R., xxx-xx-xxxx.
Skvorak, David A., xxx-xx-xxxx.
Slominski, Martin W., xxx-xx-xxxx.
Townsend, Larry W., xxx-xx-xxxx.
Wintle, Bruce D., xxx-xx-xxxx.

MEDICAL CORPS

To be captain

Bantz, Eric W., xxx-xx-xxxx.
Barnhill, Danny R., xxx-xx-xxxx.
Bowman, Greg A., xxx-xx-xxxx.
Capen, Charles V., xxx-xx-xxxx.
Foulks, Charles J., xxx-xx-xxxx.
Gatrell, Cloyd B., xxx-xx-xxxx.
Heard, David L., xxx-xx-xxxx.
Hollis, Harris W., xxx-xx-xxxx.
James, William D., xxx-xx-xxxx.
Jones, Robert E., xxx-xx-xxxx.
Key, Thomas S., xxx-xx-xxxx.
McCarty, Joseph P. xxx-xx-xxxx.
McMurdo, Strathmore, xxx-xx-xxxx.
Moore, Jack, xxx-xx-xxxx.
Mueller, Edward J., xxx-xx-xxxx.
Posey, David M., xxx-xx-xxxx.
Ramirez, Hector, xxx-xx-xxxx.
Reyna, Louis, xxx-xx-xxxx.
Richardson, Michael, xxx-xx-xxxx.
Ridenour, Robert V., xxx-xx-xxxx.
Skoog, Steven J., xxx-xx-xxxx.
Thomassen, Thom S., xxx-xx-xxxx.
Vandam, Bruce E., xxx-xx-xxxx.
Wells, James R., xxx-xx-xxxx.
West, Sterling G., xxx-xx-xxxx.

MEDICAL SERVICE CORPS

To be captain

Allen, Mary A., xxx-xx-xxxx.
Bailey, Stephen M., xxx-xx-xxxx.
Bock, Frederick M., xxx-xx-xxxx.
Bozo, William A., xxx-xx-xxxx.
Brueland, Ray G., xxx-xx-xxxx.
Burroughs, Michael, xxx-xx-xxxx.
Canella, James J., xxx-xx-xxxx.
Christopher, Harold, xxx-xx-xxxx.
Clark, Bruce F., xxx-xx-xxxx.
Coakley, John M., xxx-xx-xxxx.
Dalton, Brian W., xxx-xx-xxxx.
Daniel, Ronnie M., xxx-xx-xxxx.
Dobler, Michael T., xxx-xx-xxxx.
Driggers, Donald P., xxx-xx-xxxx.
Ellis, Larry D., xxx-xx-xxxx.
Evans, Eddie D., xxx-xx-xxxx.
Evenden, James J., xxx-xx-xxxx.
Fay, Cornelius R., xxx-xx-xxxx.
Fine, Darwin E., xxx-xx-xxxx.
Fisher, Martin J., xxx-xx-xxxx.
Flanery, Colbert L., xxx-xx-xxxx.
Floyd, Charles R., xxx-xx-xxxx.
Garner, John G., xxx-xx-xxxx.
Gresham, Obediah C., xxx-xx-xxxx.
Heinemann, Warren F., xxx-xx-xxxx.
Hepler, Ernest L., xxx-xx-xxxx.
Hinkle, David A., xxx-xx-xxxx.
Horak, Bernard J., xxx-xx-xxxx.
Howard, Richard S., xxx-xx-xxxx.
Huebner, Michael F., xxx-xx-xxxx.
Jackson, Jerome L., xxx-xx-xxxx.
Kim, Myung H., xxx-xx-xxxx.
Kindred, Gary R., xxx-xx-xxxx.
Lakso, Charles D., xxx-xx-xxxx.
Longobardi, Paul G., xxx-xx-xxxx.
Lyday, Richard L., xxx-xx-xxxx.
Mayes, Tommy W., xxx-xx-xxxx.
Miller, Douglas W., xxx-xx-xxxx.
Novier, Frank H., xxx-xx-xxxx.
O'Brien, Michael J., xxx-xx-xxxx.
Penrod, James R., xxx-xx-xxxx.
Perkins, Peter V., xxx-xx-xxxx.
Phillips, Gary S., xxx-xx-xxxx.
Prather, Carl B., xxx-xx-xxxx.
Randol, Doyle E., xxx-xx-xxxx.
Roach, Thomas W., xxx-xx-xxxx.
Satterwhite, Michael, xxx-xx-xxxx.
Schroeder, David L., xxx-xx-xxxx.
Sebastian, Henry A., xxx-xx-xxxx.
Sexton, Rodger R., xxx-xx-xxxx.
Sly, Leonard J., xxx-xx-xxxx.
Smith, John H., xxx-xx-xxxx.
Smith, Rodney R., xxx-xx-xxxx.
Snide, William H., xxx-xx-xxxx.
Stone, Larry Z., xxx-xx-xxxx.
Stone, Steven J., xxx-xx-xxxx.
Struve, Donald W., xxx-xx-xxxx.
Sutton, James E., xxx-xx-xxxx.
Timmons, Mitchell J., xxx-xx-xxxx.
Troutman, Carrick T., xxx-xx-xxxx.
Truett, Walter K., xxx-xx-xxxx.
Vervack, Larry P., xxx-xx-xxxx.
Watson, Charles V., xxx-xx-xxxx.
Weimer, Kirby V., xxx-xx-xxxx.
Welter, Richard F., xxx-xx-xxxx.

ARMY MEDICAL SPECIALIST CORPS

To be captain

Brady, John E., xxx-xx-xxxx.
Hendricks, Thomas F., xxx-xx-xxxx.
Watson, Monte R., xxx-xx-xxxx.
Wood, Lawrence L., xxx-xx-xxxx.

VETERINARY CORPS

To be captain

Donovan, John C., xxx-xx-xxxx.
Keenan, Kevin P., xxx-xx-xxxx.

ARMY NURSE CORPS

To be captain

Alexander, Linda L., xxx-xx-xxxx.
Alley, Jean B., xxx-xx-xxxx.
Arceneaux, Edgar J., xxx-xx-xxxx.
Boyle, Kim A., xxx-xx-xxxx.
Buczynski, Ronald J., xxx-xx-xxxx.
Burgess, Molly C., xxx-xx-xxxx.
Caldwell, Terrence J., xxx-xx-xxxx.
Cannon, Cheryl A., xxx-xx-xxxx.
Cheney, Virginia R., xxx-xx-xxxx.
Cox, Archie R., xxx-xx-xxxx.
Doherty, Thomas E., xxx-xx-xxxx.
Duncan, Katherine N., xxx-xx-xxxx.
Farrell, Natalie A., xxx-xx-xxxx.
Faupel, Mary F., xxx-xx-xxxx.
Faust, Elizabeth W., xxx-xx-xxxx.
Ferrell, James C., xxx-xx-xxxx.
Foerster, Kristin S., xxx-xx-xxxx.
Fortune, Richard N., xxx-xx-xxxx.
Frank, Robert L., xxx-xx-xxxx.
Fuller, Patricia S., xxx-xx-xxxx.
Funk, Margaret A., xxx-xx-xxxx.
Galante, Christine, xxx-xx-xxxx.
Garefino, Margaret, xxx-xx-xxxx.
Graham, Janet V., xxx-xx-xxxx.
Grodzicki, Barbara, xxx-xx-xxxx.
Hahn, Timothy H., xxx-xx-xxxx.
Harrison, John M., xxx-xx-xxxx.
Hentges, George P., xxx-xx-xxxx.
Hicks, Linda S., xxx-xx-xxxx.
Hilgenhold, Rita L., xxx-xx-xxxx.
Hilliard, James R., xxx-xx-xxxx.
Hoffman, Christine, xxx-xx-xxxx.
Howell, John L., xxx-xx-xxxx.
Humphrey, Janet E., xxx-xx-xxxx.
Isaac, Carol A., xxx-xx-xxxx.
Jung, Walter J., xxx-xx-xxxx.
Kading, Steven E., xxx-xx-xxxx.
Kelly, Barbara A., xxx-xx-xxxx.
Klein, Harley G., xxx-xx-xxxx.
Knight, Carolyn C., xxx-xx-xxxx.
Lashlee, Jo L., xxx-xx-xxxx.
Markiewicz, Lynnda W., xxx-xx-xxxx.
McClenney, Lucretia, xxx-xx-xxxx.
McDonald, Richard E., xxx-xx-xxxx.
Meadows, Richard F., xxx-xx-xxxx.
Melcher, Maureen, xxx-xx-xxxx.
Mosher, Elizabeth M., xxx-xx-xxxx.
Mucha, Joy Anne M., xxx-xx-xxxx.
Norton, Anna T., xxx-xx-xxxx.
O'Neill, Mary K., xxx-xx-xxxx.
Pauley, John M., xxx-xx-xxxx.
Plummer, Margaret A., xxx-xx-xxxx.
Rea, Ruth E., xxx-xx-xxxx.
Reams, Robert R., xxx-xx-xxxx.
Risher, Billie L., xxx-xx-xxxx.
Rixon, Susanne S, xxx-xx-xxxx.
Robertshaw, Linda A., xxx-xx-xxxx.
Robinson, Darlene S., xxx-xx-xxxx.
Robison, Gary D., xxx-xx-xxxx.
Sadler, Freida J., xxx-xx-xxxx.
Sandberg, Julie K., xxx-xx-xxxx.
Schlesinger, Frances, xxx-xx-xxxx.
Schommer, Patricia, xxx-xx-xxxx.
Shandera, Thomas J., xxx-xx-xxxx.
Shehi, Maria W., xxx-xx-xxxx.
Sparks, Glenn E., xxx-xx-xxxx.
Srsicstoehr, Kathleen, xxx-xx-xxxx.
Tijerina, Maria D., xxx-xx-xxxx.
Torgerson, Kimron R., xxx-xx-xxxx.
Turner, Barbara S., xxx-xx-xxxx.
Ward, Mary H., xxx-xx-xxxx.
Warther, Carol J., xxx-xx-xxxx.
Whitehead, David E., xxx-xx-xxxx.
Wojtecki, Karen M., xxx-xx-xxxx.

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, section 3284 and 3298:

ARMY PROMOTION LIST

To be first lieutenant

Bland, Arthur J., xxx-xx-xxxx.
Bowerman, Ran D., xxx-xx-xxxx.
Buckon, Neal J., xxx-xx-xxxx.
Burgland, Andrew W., xxx-xx-xxxx.
Eubanks, Kenneth L., xxx-xx-xxxx.
Hutchings, Marsha F., xxx-xx-xxxx.

Newell, Lawrence, [redacted].
Osby, Reginald L., [redacted].
Riggs, William H., [redacted].
Skelly, Dennis M., [redacted].
Squires, Stewart G., [redacted].
Weir, Donald S., [redacted].
Williamson, David R., [redacted].

WOMENS'S ARMY CORPS

To be first lieutenant

Millar, Ann M., [redacted].

IN THE NAVY

The following-named midshipman (Naval Academy) to be a permanent ensign in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law:

Virgil V. Moore, IV.

The following-named Air Force cadets to be permanent ensigns in the line of the U.S. Navy, subject to the qualifications therefor as provided by law:

Ronnie A. Barton	William Nevius
Stanley M. Crisp	Ralph S. Penney, Jr.
Gary Hackbarth	James J. Ramos
Allen G. Myers	Donald L. Roy

The following-named (Naval Reserve Officers Training Corps candidate) to be a permanent ensign in the line of the U.S. Navy, subject to the qualifications therefor as provided by law:

Michael E. Maxfield.

The following-named Navy enlisted scientific education program candidate to be a permanent ensign in the line of the U.S. Navy, subject to the qualifications therefor as provided by law:

Ronald E. Kline.

The following-named temporary U.S. Navy officer to be appointed a permanent Chief Warrant Officer, W–2, in the U.S. Navy, subject to the qualifications therefor as provided by law:

LTJG Earther L. Hudgen, USN.

The following-named (U.S. Navy officer (ret.)) to be reappointed from the temporary disability retired list as a permanent commander in the staff corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

Cdr. Norman J. Stanhope, CHC, USN (Ret.)

The following-named (U.S. Navy officer) to be appointed a permanent captain in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Alfonso A. Mannarelli.

The following-named (U.S. Navy officer) to be appointed a permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Bruce M. McDonald.

The following-named (U.S. Navy officer) to be appointed a permanent commander in the Dental Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Ernest C. Fletcher.

The following-named (U.S. Navy officers) to be appointed temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Robert P. Cronin.

Frank S. Kohl.

The following-named (U.S. Navy officer) to be appointed a temporary commander in the line in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Richmond B. Stoakes.

IN THE NAVY

The following-named ensigns of the U.S. Navy for temporary promotion to the grade of lieutenant (junior grade) in the line and staff corps, as indicated, pursuant to title 10, United States Code, section 5784, subject to qualification therefor as provided by law:

LINE

Abbott, Philip M.
Abbott, Thomas M.
Achorn, Ted G.
Ackerson, David S.
Adams, Allan W.
Adams, Gregory D.
Adams, James R.
Adams, William R.
Affolter, Ronald D.
Agor, Michael P.
Aidikoff, Brant
Alberg, Chris L.
Alderman, Robert B.
Alexander, George M.
Allen, Craig L.
Allen, Michael H.
Altobelli, Robert A.
Amabile, Thomas
Amacker, Keith F.
Ambrose, Gayla J.
Ambrosetti, Anthony A.
Ames, Christopher
Amundson, Steven M.
Anawalt, William K.
Anders, Richard L.
Andersen, Michael D.
Anderson, Charles
Anderson, James D.
Anderson, John D., Jr.
Anderson, Keith R.
Anderson, Kristian W.
Anderson, Richard T.
Anderson, Thomas R.
Andres, Eric R.
Andrist, Daniel A.
Andrus, Randy D.
Andrus, Walter
Andrusisian, Stephen G.
Aniba, Robert W.
Anners, Jeffrey M.
Anthony, Mark H.
Appelgate, David J.
Aragon, Salvador A., Jr.
Arms, David H.
Armstrong, Peter A.
Arnberg, Bertel K. E.
Arnold, Daniel L.
Arnold, Michael W.
Arrington, Randall S.
Arthur, George R., Jr.
Aschwald, Howard B., Jr.
Ashby, Jeffrey S.
Ashley, David I.
August, Randal J.
Avery, Donald L.
Babione, John R.
Bacon, Martin E.
Baasgard, Richard
Baggot, Rick A.
Bailey, Gregory N.
Bailey, Robert W.
Baker, Clifford C.
Baker, Jeffrey W.
Baker, Michael A.
Bakke, Thomas Q.
Balaconis, Roy J.
Baldwin, Carlton M. IV
Ball, John E.
Ball, John W., Sr.
Ballard, Gregg M.
Ballard, Robert C.
Baltar, Henry E., Jr.
Bane, James S.
Barbour, James R.
Barclay, David R.
Barker, Jeffrey L.
Barker, Robert D., Jr.
Barker, William C.
Barnett, James A., Jr.
Barnette, David J., Jr.
Barngrover, Lyle L.
Barrett, John H., III.
Barrett, Ronald J.
Bart, Ronald
Bashore, Timothy C.
Bassett, Michael A.
Bates, Kenneth M., Jr.
Bath, Daniel A.
Bathel, Albert E.
Bauer, Frederick
Bauman, John F.
Baumstark, Robert P.
Beale, Gordon W.
Bealer, David E.
Beary, Daniel A.
Beaton, Scott A.
Beckett, Garth R.
Bedard, Stephen A.
Beebe, Michael K.
Beeks, Kenneth D.
Benson, Richard R.
Beeson, William II, Jr.
Behrens, Paul A.
Belcher, Charles G.
Bell, Lawrence D., Jr.
Belling, Robert D.
Bender, John P.
Benedict, Tod D.
Benn, Anthony J.
Benson, Jay H.
Benson, Mark M.
Bent, Rex A.
Bentrup, Paul E.
Benz, Leroy S.
Benzie, John F.
Berg, Blanche I.
Bernard, Franklin H.
Bernat, Joseph M.
Bernstein, Howard F.
Bersak, Craig D. J.
Besnoff, Stuart L.
Bevard, Bruce B.
Bevil, William J., Jr.
Bianchi, Donel S.
Bigham, William J.
Bird, Douglas L.
Bishop, Bryan L.
Blackford, Paul E.
Blackiston, Slator C., III
Blacky, Albert R.
Blair, Lindell G.
Blair, Michael J.
Blake, Joel C.
Blanco, Anthony L.
Bland, Herbert E.
Bland, Samuel E.
Blankenship, John D.
Blasko, John E., II
Blevins, Kenneth W.
Bloomfield, Patrick M.
Bloxom, Elliott L.
Boardman, Keith A.
Boch, David C.
Boddy, William G.
Boger, Jeffrey R.
Bogan, Willie, Jr.
Bohannan, Samuel P.
Bohli, James L.
Bohon, James G
Boisseau, Guy M.
Bolger, Ralph B., Jr.
Bolon, James J.
Bolton, John R.
Boma, James R.
Boncek, Edward B.
Bonner, Thomas J.
Bonser, Alan P.
Borden, David S.
Borris, Mark J.
Bosch, Stephen M.
Boska, John P.
Bosse, Thomas E.
Bosworth, Michael L.
Bouchard, Joseph F.
Boulden, John S., III
Bowden, Herbert H., Jr.
Bowers, Charles S., III
Bowles, Michael E.
Bowling, James B., Jr.
Boyce, Gary L.
Boyd, Patrick L.
Boykin, Jerry W.
Boyter, Henry G., III
Bozeman, Dudley M.
Bracken, William A.
Bradford Gary L.
Bradley, Cecil D.
Bradley, Robert D.
Brady, Jeffrey D.
Brady, Patrick A.
Brady, Robert E., Jr.
Bratton George A., IV
Bray, Alvis E., Jr.
Bremm, Robert D.
Brennan, Thomas J.
Brenny, Michael K.
Bresticker, Robert B.
Brewer, Richard A.
Bridgeman, John B.
Bringle, Donald G
Brink, John A.
Britnell, Richard N.
Brittingham, Martin W.
Britton, Scott G.
Broadbent, Steven W.
Broadstone, Daniel L.
Brock, Jerry L.
Brooks, Jeffrey A.
Bross, Stephen P.
Brotherton, R. J.
Brown, Carlton A.
Brown, Charles G.
Brown, Gordon R.
Brown, James D.
Brown, John M.
Brown, Paul M.
Brown, Peter G.
Brown, Ronald E.
Brown, Terence H
Brownell, John M.
Brownley, Trenholm L., Jr.
Brubaker, Malvin
Brubaker, Russell J.
Bruce, Jay D
Bruce, Richard C.
Bruder, Mark A.
Brueck, David L.
Brummitt, Richard L.
Brunngraber, Rodric F
Brunson, Ronald B.
Brunson, Steven J.
Bruso, Jeffrey A.
Bruyer, Douglas A.
Bryant, Dennis M.
Bryant, Ermond R., Jr.
Bryant, Michael J.
Bryant, Russell E.
Bryant, Gregory R.
Bryson, Henry M.
Buck, Jerome A.
Buck, Scott F.
Budnik, Steven M.
Buell, Timothy R.
Buflod, Melvin R.
Bulke, Kim S.
Bukovsky, David E.
Bullock, Dennis E.
Burchard, Steven N.
Burgell, Alywin L.
Burgess, Frederick W.
Burghgrave, Brian P.
Burke, Jeffrey D.
Burkholter, Earl F.
Burns, Douglas E.
Burns, Orris E., III.
Burns, Robert J., Jr.
Burns, William S.
Burrell, Richard B.
Burrious, James A.
Burt, David M.
Bush, Charles A.
Bush, Robert W.
Bushak, Andrij S.
Busse, George K.
Butler, Christopher T.
Butler, Hoyt C.
Butler, James C.
Butler, Richard D.
Butt, Robert A.
Byron, Robert G.
Byus, Fred
Buyske, James M.
Cackowski, Jean M.
Cahill, Thomas A.
Calahorrano, Jose
Caldwell, Thomas E.
Callander, Ronald R.
Camardella, Raymond, Jr.
Campbell, Charles, III
Campbell, Cromwell B., II
Campbell, Douglas E.
Campbell, Dugald B.
Campbell, Paul R.
Campbell, Robert M.
Candy, Gregory T.
Cantu, Joseph E.
Caples, Jon V.
Capron, Nicholas J.
Carey, John E.
Carita, Leonard S., Jr.
Carlson, David L.
Carnes, Charles B., Jr.
Carnot, Russell S.
Carper, Ricky L.
Carstens, Richard C.
Carson, Joseph P.
Carter, Brant M.
Carter, John M.
Carwile, John J.
Casey, Michael P.
Casey, William E.
Cashman, William E.
Cass, James L.
Cassani, Paul C.
Castellanos, Fidel L.
Caulk, Robert F., II
Causey, Ronald E.
Cava, George L.
Cebelius, Peter W.
Cebulski, David M.
Cech, James V.
Celano, Joseph
Cepak, Timothy J.
Cernohorsky, Richard L.
Cesarotti, Mark G.
Chadbourne, Bruce C.
Chamberlain, William T.
Chambers, Felix C.
Chambers, Keith V.
Champlin, Stephen
Chapman, Robert S.
Charis, Thomas S.
Chassot, Charles H., Jr.
Cheatham, Kevin M.
Cheesebrough, Kevin R.
Chenault, Alanson T., IV
Cheney, Daniel R.
Chenoweth, Emory L.
Cherry, David F.
Chiquelin, David B.
Chmiel, Larry A.
Christian, Wellner L., Jr.
Christianson, John M.
Christman, John M.
Chrjapin, Victor
Chronister, Robert S.
Ciarlante, Vincent
Clark, Alfred W.
Clark, Horace R., Jr.
Clark, Lanny D.
Clark, Mark A.

Clark, Michael A.
Clark, Ramsey C.
Clark, Robert L.
Clark, William W.
Clarke, Matthew S.
Clarke, Thomas W., Jr.
Claudy, Michael B.
Clausen, Paul K., Jr.
Clay, Scott D.
Clements, Mark H.
Clements, Michael M.
Clemons, Donald V., Jr.
Cleveland, Charles R.
Clifford, Nolan D.
Clinesmith, Clay T.
Clink, Robert E.
Clipp, Ronald B.
Cobble, Alex Y.
Cochenour, Thomas L.
Cochran, Donnie L.
Cochran, William L.
Cochrun, David W.
Code, Rebecca A.
Coe, Douglas H.
Coggan, David E.
Colburn, Dwight W.
Cole, Charles D.
Coleman, Richard E.
Collier, William W.
Collins, Elmo E.
Collyer, Robert O.
Colton, James W.
Colville, John E.
Combest, Phillip J.
Combs, Samuel C.
Comfort, Thomas G.
Compton, Byron P.
Concannon, Timothy J.
Connelly, Robert
Conner, John W.
Conner, Thomas L.
Conners, Donald P.
Converse, Vincent W.
Cook, Donald P.
Cook, James R.
Cook, Michael L.
Cook, Phillip L.
Cook, Robert T.
Cook, William A.
Cooper, Douglas G.
Corini, Gene J.
Corliss, Walter F., II
Cornell, Peter A.
Correll, Steve A.
Corrigan, Sean G.
Corsmo, Timothy J.
Cotton, Ian M.
Cotton, Lawrence S., Jr.
Cotton, Steven W.
Coumes, Thomas M.
Coverick, John M.
Covic, Craig A.
Covney, Edward M.
Cox, Donell
Cox, Robert E.
Coyle, Robert F.
Craft, Frederick G.
Craig, Larry D.
Craig, Travis S.
Craighill, William S.
Crain, Kenneth A.
Crapps, Clayton O.
Crawford, Lawrence L., Jr.
Cregge, Michael J.
Crime, Steven E.
Crisalli, David E.
Crochet, John M.
Crocker, Michael D.
Crone, Gary P.
Crosby, William R.
Cross, Bruce J.
Crossman, Dale G.
Crouch, William E.
Crouthamel, Harry R., IV
Cryer, John P., III
Culen, Matthew F.
Cuninghame, Craig T.
Curley, Kevin N.
Curran, John T.
Curry, Michael S.
Curry, Philip E., Jr.
Curry, Thomas W.
Curtis, Derwood C.
Curtis, Jan
Cutsforth, Thomas W.
Dachille, Francis C.
Dacosta, Gregorio A.
Dailey, Michael F.
Daily, Robert L.
Dale, William L., Jr.
Darden, Richard B.
Daspit, Petter R.
Daughety, Steven F.
Davenport, Donny T.
Davenport, Frederick, Jr.
Davey, Mark A.
Davidson, Lyal B.
Davidson, Michael F.
Davidson, Willard S.
Davis, Daniel W.
Davis, Glen B.
Davis, John A.
Davis, Kirk E.
Davis, Larry H.
Davis, Norman, Jr.
Davis, Ricky A.
Davis, Russell J.
Davis, Thomas P.
Davis, Thomas W.
Davison, William
Daze, William R.
Deal, Wiley R., Jr.
Decker, Craig M.
Decker, John C.
Deem, Douglas C.
Defibaugh, Ronald A.
Deford, David F.
Degeus, Dennis C.
Deitchman, Charles G
Delaney, Brian F.
Delaney, Charles J.
Delgado, Anibal L.
Delicata, Anthony J.
Dellavedova, Peter F.
Demaris, David G.
Dembowski, John K.
Demming, David R.
Deneale, John W.
Dennard, Edwin W.
Deppe, Paul R.
Derks, Paul S.
Desilva, David M.
Destael, James F.
Destajo, Juanito M.
Devane, Brian B.
Devereux, Francis A.
Deverill, Dirk P.
Dew, Lyndol L.
Dial, Michael S.
Dickey, Byron A., Jr.
Dillon, David M.
Dillon, David R.
Dirks, Carl E.
Dixon, Jeffrey E.
Dixon, Robert H.
Dlugos, Stephen M.
Dobbert, Dean R.
Dobson, Gary S.
Doelp, Francis X.
Doernhoefer, Mark A.
Doherty, James C., Jr.
Doherty, Martin F.
Dohse, John R.
Dolan, Bryan J.
Dolenti, John E.
Dollard, Thomas S.
Dombart, Kenneth G.
Donadio Giuseppe
Donker, Michael R.
Donnelly, John T.
Dooley, Thomas G.
Doong, Lawrence K. C.
Dorfler, Gary E.
Dorin, Paul R.
Dorsey, Gordon O.
Doud, James A.
Dougherty, James A.
Dowell, Thomas A.
Dowling, Kevin P.
Drake, Christopher B.
Drennan, Frank M.
Driscoll, William T.
Driver, Perry D.
Drucker, Carl J.
Dubois, Harlan L.
Ducom, Eugene M.
Duffala, Wayne D.
Duffield, John P.
Duffy, Michael J.
Dugan, Michael
Duggan, Thomas L.
Duke, Douglas B.
Dullea, James P.
Dumville, Frank, Jr.
Duncil, Bruce R.
Duplessis, Donald L.
Dvorak, Daniel D.
Dvorsky, Michael L.
Dwyer, Thomas J., Jr.
Dye, Mark H.
Eagle, Kevin D.
Earl, Christopher R.
Easton, Roger C., Jr.
Eberly, Robert J.
Ebersole, Kenneth A.
Eckenrode, Raymond L.
Edington, Charles
Edmonds, Michael D.
Edwards, Michael V.
Edwards, William J.
Edwins, James H.
Ehrler, Steven M.
Einarsson, Dewitt P. G.
Eisenmann, Charles R.
Elgart, Richard D.
Elgo, Candido R., Jr.
Elliott, Lawrence A.
Ellis, James P.
Ellis, Stephen L.
Ellsaesser, Charles W.
Emerson, Mark T.
Emmett, Thomas W.
Enderle, Douglas R.
Engels, James D.
Engh, Byron R.
Epps, James B.
Equels, Timothy K.
Erdman, Lee E.
Erdmann, William E.
Erickson, Todd A.
Erwin, John W.
Eschliman, Judd R.
Espeseth, Robert D., Jr.
Estabrooks, Haddon B.
Etheridge, Michael S.
Eustis, Conrad B.
Evans, Gary W.
Evans, Mark L.
Evans, Richard J.
Evans, Richard T.
Evering, Edwin L.
Ewell, Stephen A.
Fail, Robert W.
Fair, Welch C., Jr.
Fajnor, Craig R.
Fankell, Douglas S.
Farawell, William R.
Farkas, David M.
Farrell, Timothy J.
Farrer, Darell L.
Fasoli, James S., Jr.
Faust, David P.
Feckler, Richard A.
Fedele, Alan R.
Feldhaus, Fredric F.
Felte, Calvin J.
Fennell, David W.
Fenner, Ronald A.
Ferguson, Douglas A.
Ferris, Scott M.
Fetters, Laten S.
Fidrych, John M.
Fields, Gerald P.
Fields, Wayne C.
Filler, Robert J.
Fininencrandall, Veronica
Finlay, Brian G.
Finley, William B.
Fischer, David L.
Fischer, Paul K., Jr.
Flacco, Nicholas L.
Flank, Bernard L.
Fleischman, David
Flentje, Michael
Fletcher, John C.
Florow, Lloyd A.
Flowers, Donald H.
Flynn, John J.
Ford, Eugene, Jr.
Ford, Neil S.
Forkel, Daniel A.
Forsha, Michael D.
Forshay, Bruce E.
Foster, Gary W.
Foster, George T.
Foust, Charles L., Jr.
Fowler, Douglas E.
Fowles, Christopher A.
Fox, Jonath J.
Foy, Joseph A.
Frainier, Richard J.
France, Bruce E.
Francis, James L.
Franklin, Dennis W.
Frantz, Stephen G.
Frasier, Don A., Jr.
Frasier, George D.
Frederick, Theodore D.
Freeman, Gary M.
Freeman, Michael
Freeman, William H.
Freemyers, Michael C.
Frech, Robert W.
Fretz, Desmond W.
Freund, William M.
Friend, John R.
Fritch, Kevin W.
Frodesen, Fred O.
Froehlich, Carl T.
Frost, Peter F.
Frost, Robert A.
Fugate, Jeffrey E.
Fuller, Jeffrey D.
Furdon, William F., Jr
Fusselman, Milton J.
Gagnon, Maurice R.
Galatioto, David W.
Galecki, Leon V.
Galembush, John S.
Galik, Daniel
Gallagher, Maurice J.
Gallagher, Richard K.
Gallagher, Russell C.
Gallati, Paul H.
Gamble, William V. H.
Gandy, Harold W.
Gant, Larry M.
Garbow, Kurt D.
Gardiner, Jay V.
Gardner, Dennis P.
Gardner, Eric S.
Gardner, Thomas A., Jr.
Gargus, Thomas B.
Garrett, John S.
Garrett, Robert P.
Garvey, James E.
Gault, John E.
Gedeon, Stephen R.
Geddes, Paul R.
Gehl, Barry G.
Gehring, Thomas S.
Gelenter, David A.
Geoffrion, David G.
Gerhart, William C.
Gerrard, Wade J.
Gertsch, Alfred J., Jr.
Gesn, John M.
Giancatarino, Patrick
Gibbs, Neil F.
Gibson, James A.
Gilbert, David S.
Gill, Thomas G.
Gillette, John S.
Gilmore, Edward J.
Ginader, Kenneth L.
Giorgis, Steven K.
Glass, William O., Jr.
Gleason, Dennis J.
Gleason, John P.
Glenney, William
Glye, David W.
Glynn, John C., Jr.
Glynn, William J.
Goff, Randall E.
Goins, Michael L.
Golden, Michael P.
Goldsworthy, Richard J.
Golfo, Alberto D.
Gontkovic, Mark S.
Gonzales, Paul E.
Goodloe, Wallace C.
Goodman, William L.
Goodson, Scott W.
Gonzalez, Michael S.
Gordon, Graham H.
Gorsuch, Thomas E.
Goudelock, David L., Jr.
Gouldsmith, Giles G., II.
Graham, Bruce A.
Grahl, Glenn F., Jr.
Grahlman, Richard B.
Grames, Michael F.
Grant, Peter M., III.
Grant, Thomas R.
Graves, Richard H.
Gray, John R.
Gray, Michael R.
Gray, Paul C., III.
Gray, Steven A.
Gray, William E., Jr.
Graybill, David R.
Grayson, James E.
Grazel, Christopher P.
Green, James E., Jr.
Green, James S.
Green, Johnny B.
Green, Johnny W.
Greene, Thomas R.
Gregonis, Steven M.
Greig, N. Andrew.
Greinke, Henry G.
Grey, Elmer K., Jr.
Grey, Stephen M.
Griffin, David H.
Griffith, David W., Jr.
Grischy, Michael C.
Gritte, Brain R.
Grossman, Thomas W., Jr.
Groves, Allen W.
Grube, Steven P.
Grubbs, Frank L.
Guild, Robert B.
Guthe, Douglas B.
Guzy, Steven J.
Gwyn, James R.
Gygax, Gene
Haas, Bernard C., Jr.
Haben, Michael R.
Haertling, Robert A.
Hagan, Ralph K.
Hagen, Gary D.
Hagen, Timothy M.
Haggerty, Joseph
Haines, David M.
Halko, Stephen J.
Hall, Garry E.
Hall, Gary N.
Hall, Joseph A., Jr.
Hall, Marshall A.
Halloran, John J.
Halquist, Harry D.
Halsall, Archibald C.
Halsne, William L.
Halton, Ernest S.
Hamann, William F.
Hambrick, Michael J.
Hamilton, Dennis W.
Hamilton, Philip P.
Hamm, Bernard A., Jr.
Hammerer, John J., Jr.
Hancock, Herman H.
Hancock, Mark Y.
Handley, Chris M.
Haney, Ralph E.
Hann, James D.
Hansell, Michael P.
Hansen, Allen C.
Hanson, Christopher L.
Hanson, Craig I.
Hanson, Larry T.
Hanson, Mark W.
Hanson, Paul D.
Hanson, Steven L.
Hardee, Robert C.
Harden, David A.
Harding, Michael D.
Hardman, Keith E.
Harmon, James E.
Harmon, Randall G.
Harnett, James D.
Harper, Michael C.
Harper, Scott J.
Harrell, Gary D.
Harrington, Clifford M.
Harris, Gregory W.
Harris, Jack F.
Harris, Peter W.
Harris, Rodney A.
Harris, William J.
Harrison, David C.
Harrison, Michael B.
Harrison, Zal B.
Hart, Douglas W.
Hart, Julian L.
Hartmann, Thomas S.
Hartmeyer, James R.
Hartwell, Daniel N.
Harvey, Craig T.
Hast, Robert G.
Hatch, Duane B.
Hathaway, Gary W.
Hauck, Frank W.
Hauenstein, Bruce R.
Haug, Clifford M.
Hauge, Samuel A.
Hawkins, Darrell B.
Hawley, Frank M.
Hawn, William O.
Hayes, Richard D., III
Hayman, Robert S.
Hazlett, Holly
Heacock, Jerry D.
Heazlitt, Michael S.
Hegeman, John G.
Heide, John S.
Heilstedt, Martin R.
Heinicke, Robert S.
Heinz, Karl R.
Heise, Herman M.
Heise, Otto E.
Helms, Douglas F.
Helvy, Darvin S.
Henderson, Jerry
Hendrich, Gordon E.
Hendrickson, Don C.
Hennessey, Thomas J.
Hentz, Gary T.
Hepburn, Richard D.
Herb, Michael C.
Herbert, Larry E.
Herbes, Francis X., Jr.
Hernandez, Victor M.
Herriott, Richard C.
Hertig, George T.
Hertsgaard, Barry C.
Herzig, Paul M., Jr.
Hess, Dennis L.
Hess, Jon A.
Hessenauer, Gary
Hesterberg, Michael J.
Hevlow, John E.
Hibbs, David A.
Hicks, Alan B.
Hicks, George R., Jr.
Hicks, James D.
Higginbotham, Kent R.
Higgins, Richard J.
Higgins, William G.

High, Richard D.
Hilder, David S.
Hill, Alex S., Jr.
Hill, Carl C
Hill, Frederick A., IV
Hillard, Jerrold M.
Hillendahl, Jeffry A.
Hills, Stephen G. R.
Hindersinn, Kenneth R.
Hinds, Francis C., III
Hine, Roger C.
Hinkley, Bruce E.
Hinrichs, Philip W.
Hinrichs, Stuart
Hippel, John S.
Hirata, Harvey H.
Hitchcock, Jeffrey W.
Hlywiak, Michael G.
Hoch, Rita A.
Hoch, Walter T.
Hodge, Sidney T., Jr.
Hodges, John L.
Hodgins, Matthew M.
Hoefel, John S.
Hoekstra, Mark B.
Hoffert, Craig A.
Hoffman, Charles K., II
Holbrook, Larry E.
Holdcroft, Richard T.
Holibonich, Steven
Holland, Robert D.
Hollen, Dale S.
Hollinger, Frederick R.
Holloway, Richard T.
Holman, Christopher C.
Holmes, Everett I.
Holmes, Gary L.
Holmes, Kenneth R.
Honaker, Warren C.
Hooper, Rene R.
Hope, John E.
Hopkins, Charles K.
Hopper, Richard W.
Horne, Fred B.
Hougesen, Bruce A.
Houghton, Frank B., Jr.
Howard, Ronald
Hoy, Jeffrey C.
Hoy, Michael A.
Hoyser, Edward M.
Hromadka, Daniel H.
Hubbard, Mark T.
Huber, Frederick F., Jr.
Hubert, Leo H.
Hudson, Charles W.
Hudson, Richard F.
Huete, Michael C.
Hughes, Earl C.
Hughes, Frederick P.
Hughes, Roger D.
Humphrey, John D.
Hunn, James M.
Hunt, David L.
Hunt, Michael L.
Hunter, Kenneth W.
Huston, Kim A.
Hutson, Arthur W.
Immel, Dale R.
Ingebrightsen, Nils M.
Ingham, Bruce
Ingram, Charles E.
Inzirillo, Frank
Irwin, Henry C., Jr.
Iverson, Byron Q.
Jacks, James H.
Jackson, Bruce M.
Jackson, Elmo T.
Jackson, Larry S.
Jackson, Marvel T.
Jackson, Robert C.
Jacobs, David D.
Jacobs, Patrick A.
Jakubowski, Wayne M.
James, Bruce C.
James, Gary S.
Jamison, Richard L.
Janiec, Christopher A.
Janik, Charles S.
Janosek, James J.
Jarvi, Reed K.
Jefferies, Robert K., III
Jenkins, Gregory
Jenkins, Martin E., II
Jenkins, Scott M.
Jenks, Kirk H.
Jennings, Carlton R.
Jennings, Jay R., II
Jens, Jeffrey P.
Jensen, Nathan J.
Jensen, Neil O.
Jensen, Paul A.
Jensen, Richard M.
Jeremiah, Renee L.
Jewett, Carlton B.
Jezierski, William E.
Joachim, Christopher M.
Johansen, Sigurd A., Jr.
John, Michael W.
Johns, Jeffrey R.
Johnson, Bernie W.
Johnson, F. G.
Johnson, George R.
Johnson, Michael A.
Johnson, Michael W.
Johnson, Paul G.
Johnson, Robert C.
Johnson, Robert H., II
Johnson, Samuel D.
Johnson, Stuart M.
Johnson, Tandra L.
Johnson, Valdemar K.
Johnston, David H.
Johnston, George
Jolicoeur, John R.
Jones, Brian D.
Jones, Charles A.
Jones, Cleveland L.
Jones, Debra S.
Jones, Dennis W.
Jones, Kenneth W.
Jones, John P., II
Jones, John P., III
Jones, Kenneth W., Jr.
Jones, Lawrence M.
Jones, Steve V.
Jones, Steven E.
Jordal, Jacob
Jourdan, David W.
Julias, Joseph W.
Junker, Dwayne N.
Jurek, Timothy P.
Jurey, Steven N.
Justus, Randal M.
Kaczmarski, Joe M.
Kahn, Ralph E.
Kahnk, George D.
Kalili, Daniel K.
Kalkstein, J. W.
Karangelen, Nicholas E.
Kast, Georg R.
Kates, Robert L.
Katcher, Steven A.
Kauchak, Martin P.
Kauderer, Howard T.
Kaufman, David L.
Kaufman, William G.
Kaulbach, Kenneth G.
Kavanagh, Coleman A.
Kazunas, Richard L.
Keene, Donald W.
Keeton, Roy G.
Keilty, John P.
Kelleigh, Douglas L.
Keller, Gregory J.
Kelley, Alfred G., III.
Kelley, John D.
Kelley, John W.
Kelly, Steven M.
Kemmerer, Eric R.
Kendrick, Joseph L., II
Kennedy, Peter A.
Kennedy, Richard J., Jr.
Kennedy, Thomas S.
Kenny, Robert L.
Kenyon, Mark E.
Kerr, Gregory
Kersey, Jerry K.
Kershner, Paul A.
Kettering, Marvin B.
Kidd, Lee A.
Kidd, Robert S.
Kierum, Michael D.
Kilbourn, Edward
Kimball, Kevin D.
Kimball, Mark I.
Kimura, Eric Y.
King, Spencer H.
Kinsey, Douglas S.
Kirk, Lewis M.
Kirkland, William C., Jr.
Kirven, Glenn T.
Kiser, Mark S.
Kish, Gordon P.
Kitchen, Edward J.
Kitchin, Doyle R.
Klapper, Larry S.
Kleefisch, Joseph G.
Kleen, Franklin E.
Klein, Peter F., Jr.
Klein, Steven A.
Klesk, Keith
Kling, Dean F.
Klimowski, Robert R.
Kneller, William
Knight, James R.
Knight, Samuel B.
Knight, William L., Jr.
Knize, Donald J.
Knouse, Stephen T.
Koch, Theodore J.
Kochsmeier, Kent H.
Koeber, Michael A.
Kohler, John T.
Kolbeck, John B.
Kolek, Stephen J.
Koreisha, Nicholas A.
Koury, Chris R.
Kosack, Kurt O.
Kovalchik, Paul J.
Knaebel, Michael L.
Knock, Melvin R.
Kranyak, Dennis A.
Krause, Peter J.
Krauss, Craig E.
Kriel, Charles W.
Krikorian, Haig F.
Krueger, Paul F.
Kulpa, Jeffrey P.
Kulsicavage, Joseph M.
Kundrat, Steven M.
Kunz, Michael G.
Kuper, Daniel T.
Kurdziel, Edward G., Jr.
Kuriluk, David J.
Kurtz, Randall S.
Ladouceur, Kevin P.
Lafiam, Dennis J.
Lafien, Gerald W.
Laidlaw, Scott R.
Laine, Patrick C.
Lamar, Clarence L.
Lamb, Harold M., Jr.
Lambert, Jeffrey S.
Lampas, John E.
Lanahan, Joseph A.
Lancaster, Donald R.
Lane, David B.
Lane, John H., III
Langford, Calvin P.
Langness, Olaf P.
Lanier, Patrick R.
Lanier, Phillip L.
Large, Cyrus R.
Larson, Richard M.
Larson, Arvid R. G.
Larson, Keith W.
Larson, Stephen E.
Larson, William C.
Larson, William J.
Larue, Robert W.
Laser, Keith S.
Lashbrook, James E.
Laskoski, David P.
Lastinger, Roc A.
Lauder, John J.
Laughlin, Edward G.
Laws, Norman G., Jr.
Lawson, John M.
Leboeuf, Andrew W.
Leduc, Gene A.
Leen, Thomas M.
Leenhouts, Peter M.
Lees, Kevin M.
Lefever, Michael A.
Lehr, Mark C.
Leidiger, Ernest G.
Lenhart, David S.
Leonard, Bruce P.
Leonard, Kenneth E.
Lett, Russell G.
Levanduski, Stanley J.
Leveskas, Michael J.
Lewallen, Beasley K., Jr.
Lewis, Dewey T., Jr.
Lewis, Jeffrey N.
Lewis, John T., III
Lewis, Ronald A.
Leytem, Brent A.
Liguori, Joseph A.
Lincoln, Horation A.
Lindquist, Glenn M.
Lindquist, Lawrence A,. Jr.
Lisle, Homer L.
Little, Bradley J.
Little, Jimmy L.
Littleton, Edward L.
Litz, Charles H.
Lively, Kenneth A.
Livers, Allan F., Jr.
Livington, Michael E.
Lloyd, Bruce A.
Lockbaum, George J.
Locks, John T.
Loebig, Mark R.
Loeffler, William P.
Lofquist, Eric A.
Lofton, Clifton C.
Logan, Michael J.
Logar, Michael F.
Loge, Curtis A.
Logsdon, David L.
Lollar, Lawrence
Lomax, Harold L. Jr.
Lombart, Kenneth
Long, James L.
Long, Joseph F.
Long, Woodrow W. Jr.
Looman, Bruce C.
Looney, Robert W.
Lorentson, Adrian D.
Lovasz, John L.
Love, Donald S.
Love, James M.
Love, Robert A.
Lowe, Robert E.
Lowe, Robert S.
Lowenberg, Danny L.
Lowens, David C.
Lowenthal, Roy M.
Lowrey, Donald R.
Loye, John F. III
Luallin, Lloyd E.
Lucas, William T. Jr.
Lucero, Daniel R.
Luedke, August E.
Luhta, David P.
Luigart, Craig B.
Lukens, Richard W.
Lukken, Peter J.
Lund, Rodney G.
Lundquist, Edward H.
Luster, Harry C.
Lustig, Scott E.
Lyle, Dale E.
Lyon, David C.
MacAllister, Joseph W.
Mac Dougall, Robert B.
Machak, Thomas E.
Machinski, Robert R.
Maciejczyk, John M.
Macklin, Theodore O. Jr.
Mackowski, James A.
Madsen, Charles W.
Magid, Ira K.
Magill, Marvin D.
Magnusson, Everett C.
Mahon, Martin J.
Mahoney, John G.
Mahoney, Peter A.
Maitland, Steven A.
Major, Frederick J. Jr.
Makowski, Frederick G.
Makucevich, Daniel M.
Malagonfajar, Manuel A.
Males, Charles G. Jr.
Malins, Chester J.
Malley, Martin J.
Maloney, David L.
Maloney, Peter M., II
Mamzic, Charles L., Jr.
Manko, Dennis.
Manley, James E.
Mansfield, Gregory F.
Mansfield, Robert A.
Manzi, Alfred A.
Manzi, Antonio E.
Marburger, Randy V.
Marchette, Louis V.
Mark, Joseph F., Jr.
Markham, David G.
Marlow, Charles N.
Maroney, Andrew J., III
Marschilok, John
Marsh, William D.
Marshall, Joseph
Marshall, Tom S.
Marshall, William
Marske, Larry K.
Marston, Donald S.
Martin, Charles W.
Martin, David B., Jr.
Martin, David L.
Martin, Edgar D.
Martin, John C.
Martin, Kent B.
Martin, Richard W., Jr.
Martinez, Rosendo, Jr.
Martinka, Joseph J.
Martino, Nicholas W.
Martz, Paul R.
Mason, Bradley J.
Massey, Richard D.
Matherly, David C., Jr.
Mathias, Lew D.
Matkowski, Randy J.
Matoush, Lynn A.
Matzelevic, William W.
Maufroy, Robert B.
Mauk, Michael L.
Mayberry, Robert T.
Maydosz, Jeffrey
Mayers, John W., Jr.
Mays, Edward D.
Mays, Luther M.
McAliley, Joseph
McAllister, William
McAuliffe, Joseph P., II
McBride, David T.
McBride, Robert L.
McBride, William P.
McCaffrey, Thomas M.
McCarthy, John R.
McCarthy, Joseph E., Jr.
McCarthy, Robert M.
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McCarthy, William J.
McCarty, Larry J.
McClain, John K.
McClimon, Donald E.
McClure, James M., Jr.
McCue, Michael J.
McCully, Timothy V.
McCutchen, Edward L., Jr.,
McDavid, Elijah L., Jr.
McDonald, Craig O.
McDonald, Daniel W.
McDonald, Douglas D.
McDougall, Thomas D.
McEwan, John A.
McFee, Richard A.
McGee, Allen C.
McGory, Randy J.
McGowan, John R.
McGowan, Joseph C.
McGraw, Michael J.
McGregor, Daniel B.
McHarg, Richard O.
McHenry, David T.
McHugh, Richard A.
McIntyre, William C., III
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McKee, James H., III
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McKenny, Michael
McKenzie, Victoria A.
McKernan, John F.
McKim, Patrick R.
McKinley, Dennis L.
McKinley, Mark B.
McKinney, David W.
McKinney, Gary R.
McKinney, Jerome L.
McLean, Geoffrey M.
McMack, Jonathan P.
McMinn, William E.
McNally, Rand A.
McNamara, Kevin P.
McNeil, Lee C.
McWey, Robert J.
McWilliams, Johnny L.
McWilliams, Stephen D.
Mead, Eric M.
Mead Steven J.
Meadows, Thomas R., Jr.
Meanor, Denis H.
Melancon, Larry J.
Melick, Donald R.
Melnyk, Gregory P.
Memminger, Lucien D.
Menard, Robert M.
Mencke, Theodore L.
Merchlewitz, Blaise L.
Meritt, James W.
Merrick, Steven R.
Messenger, Dennis P.
Metcalf, Lee J.
Metcalf, Mark L.
Mette, Dennis W.
Metzger, Karl P.
Meyer, Dale G.
Meyer, Larry L.
Meyering, David P.
Meyo, Edward R.
Middlebrook, Curtis E.
Midgette, William K.
Mihalko, Charles A.
Miles, Christian T.
Miller, David E.
Miller, Peter G.
Miller, Posey E
Miller, Robert L.
Miller, Ronald J.
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Mills, Barry L.
Mills, Danny H.
Mills, Kenneth J.
Mills, Max E.
Milster, Percy F.
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Minar, Arthur P.
Mirabelli, John T.

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Mitchell, Rodney I.
Mitchell, Gregory D.
Mitchell, Dale C.
Mitiska, Roger A.
Mittleider, Michael R.
Mobley, Jerry M.
Moccia, Ricky W.
Modeen, David J.
Moe, Gary L.
Moen, Clayton D.
Moir, Van E.
Moll, Alan L.
Moll, Robert J.
Moman, James D., Jr.
Monroe, Robert A.
Montgomery, A. B., Jr.
Montoya, David E.
Monzon, Victorino M.
Moon, Michael J.
Moore, Clifton W., Jr.
Moore, David C.
Moore, Georgie
Moore, Gregory L.
Moore, John S.
Moore, Mark R.
Moore, Peter A.
Moore, William M.
Moore, William R.
Moran, Wayne A.
Moreland, James C., Jr.
Morgan, Benjamin W.
Morgan, Mark L.
Morgan, Robert, Jr.
Morgante, Michael J.
Morgiewicz, Janice M.
Moriarity, James L.
Morin, James R.
Moro, John J.
Morris, Carl A.
Morris, Gary W.
Morris, James R.
Morrison, James E.
Morris, Robert W.
Morrison, Comer C.
Morrissey, Richard L.
Morrow, Joel S.
Morrow, John J.
Morton, Robert E.
Mosig, Joanne M. F.
Moss, Lee O.
Mozo, Robert E., Jr.
Muczynski, Lawrence M.
Mueller, Paul E.
Mueller, Stephen F.
Mueller, William H., Jr
Muhlenberg, Barry V. K.
Muir, Jonathan P.
Mula, Mark A.
Muller, Leon A.
Mulliner, Jeffrey L.
Mundt, Mylen J., Jr.
Munn, Gary L.
Murakami, Alan K.
Murphy, Craig R.
Murphy, Curtis O.
Murphy, Daniel R., Jr.
Murphy, Edward O.
Murphy, Frank M.
Murphy, Larry J.
Murphy, Michael A.
Murray, Don F.
Murray, Scott M.
Murtagh, Michael K.
Musumeci, John E.
Muth, Liesel R.
Mysliwy, Allie R.
Nacchio, Neil N.
Nace, Harry R., Jr.
Nachtwey, Peter E.
Nagle, Samuel M.
Nakaguma, Spencer T.
Nangle, Charles E.
Napora, Casimir
Nash, Gerard R.
Nash, John A.
Nasman, Ronald E.
Nathanson, Richard F.
Naville, Timothy J.
Neboshynsky, Walter
Neidlinger, Eric
Neighbors, Charles W.
Neighbour, Hugh M., III
Neily, David C.
Nekola, David J.
Nelson, Bruce K.
Nelson, Eric E.
Nelson, Leslie S.
Nerheim, Steven W.
Nesbitt, Roger A.
Nesrsta, James J., Jr.
Nesselrode, Mark C.
Nesteroff, Joseph S.
Neumeister, John W.
Neumeyer, Michael
Nevitt, Patrick O.
Newberry, Garry D.
Newell, Thomas M.
Newman, Charles R.
Newman, Jeffrey L.
Newman, Stuart T.
Newton, Claude R.
Nicely, Kip W.
Nicholas, Samuel H.
Nichols, William J.
Nicklaw, Christopher J.
Nieder, Jeffrey L.
Nimitz, Stephen C.
Nimmich, Drury C., Jr.
Nitzel, Donald L.
Noll, Michael A.
Norcross, Richard J.
Norseen, John D.
Northness, James P.
Northridge, Bruce
Northrup, Kerry J.
Norton, Richard J.
Nunn, Finley E.
Nunn, Nick H., III
Nuss, Terry D.
Nuttelman, George D.
Oakey, Daniel B.
Oakes, Dale R.
Obriant, James E.
O'Brien, Daniel E.
Obrien, Larry M.
O'Brien, Steven M.
Obuchowski, Michael J.
O'Connell, James M.
O'Connor, Stanley
O'Donnell, Michael
Oftedal, Richard T.
O'Hanlon, Richard
O'Hara, Joseph P., III
O'Hare, Mark S.
Ohlemacher, Glen D.
Oiler, Larry L.
O'Keefe, John J., III
O'Keefe, Patrick B.
O'Leary, Isabella J.
Olenick, Michael A.
Oliphant, Lee L.
Oliver, Dennis L.
Oliver, Michael P.
Oliver, Russell T.
Oliver, William F.
Olivieri, Peter
O'Loughlin, M. C.
Olsberg, Mark A., Jr.
Olson, Peter
O'Meally, Alfred F.
O'Neil, Sean P.
Orbell, Charles A., III
Orner, Joyce L.
Ortloff, F. P.
Osborn, Johnny R.
Osborne, Harry J., Jr.
Ostendorff, William C.
Oster, Stephen B.
Ostrander, Richard J.
Ostrich, James T.
Oswald, Gary E.
Oswalt, Ronald K.
Owens, Isaiah H., Jr.
Owens, James E.
Owens, Michael J.
Pace, James D.
Pacetti, Donald N.
Paddack, Allan L.
Pagan, John R.
Pagano, Peter J.
Paley, Anton N.
Palmer, James A. T.
Palmer, Richard A.
Panik, Thomas J.
Paquette, Joseph L.
Parcher, Donald S.
Parish, Herman S., III
Parker, Bruce E.
Parker, Donald S.
Parker, Gary B.
Parker, Jerry L.
Parker, William M.
Parks, George R., Jr.
Parks, Kenneth P.
Parr, James E.
Parrett, John B.
Parsons, Samuel J.
Paskey, Paul B.
Pate, David A.
Paterson, Daniel J.
Patrick, Kenneth R.
Patterson, Kenneth E.
Patterson, Torkel L.
Pavic, Kenneth C.
Payton, Luster J.
Pearsall, Morgan B.
Pearson, Craig F.
Peck, Michael A.
Peery, Mark A.
Pellin, August F., III
Pendleton, David E.
Peranich, Robert J.
Perkins, Jay D.
Perlich, John W.
Perlich, Terry F.
Perry, Will H., III
Peterman, Robert C.
Petersen, James A.
Petersen, Stuart E.
Petershagen, George F.
Peterson, Peter E.
Petke, David C.
Petroka, Robert P.
Pettit, Jeffrey E.
Petzinger, Mark M.
Pfenninger, Charles R.
Phegley, Larry D.
Phillips, R. T.
Pickett, Dennis P.
Pinetti, Randall L.
Pinion, Douglas M.
Pitts, Andrew J.
Pizarro, Jorge T.
Plebani, Daniel J.
Plehal, John V.
Poe, James S.
Poelker, George F., II
Poirier, Phillip L., Jr.
Pokorny, William A.
Polehn, Richard A.
Polensky, Warren D.
Pontius, John C.
Pool, Charles H.
Poole, James L., Jr.
Poole, Patrick K.
Pope, Russell J.
Porlier, Bradley
Porter, David L.
Porter, David W.
Pottle, James R., Jr.
Poulos, Andrew N.
Praet, Jonathan W.
Pratt, Lawrence R.
Pratt, Richard M.
Prendergast, Richard V.
Prenzlow, Elmer C.
Preston, David E.
Price, Dean A.
Price, Johnny M.
Price, Thomas H.
Prochaska, Barry W.
Proctor, James R.
Proetzel, Earl A.
Puddington, G. D.
Pugh, Kenneth S.
Pugh, Michael L.
Pumphrey, Thomas F.
Purdy, Thomas E.
Putnam, Randall B.
Putt, Raymond P., Jr.
Qualls, Phillip M.
Queen, Gregory A.
Quirk, Robert G.
Rabaioli, John R.
Rader, Charles L.
Raffels, John F., Jr.
Ragole, Michael P.
Ragonetti, Ronald R.
Raher, Steven J.
Raithel, Albert L.
Raley, Frederick V.
Raley, Mark R.
Ramsay, Bryan J.
Ramsay, Steven A.
Ramsey, Harman F.
Randall, William D.
Randolph, Michael J.
Rataczak, Mark H.
Rau, Edwin M.
Rau, Gary L.
Raudonis, Charles E.
Ravold, John F.
Ray, Tony
Reddix, Mason C.
Redman, David B.
Reed, Dean N.
Reese, Robert A.
Reiley, John D.
Reilly, Thomas J.
Reinhardt, Russell Q.
Renaud, David G.
Renner, Charles E.
Rennie, Frank F., IV
Reuter, William C., Jr.
Reynolds, Scott C.
Rhoades, Mark A.
Rhyne, Richard T.
Rice, Andrea E.
Rice, Reginald
Rich, Donald
Richards, Thomas R., Jr.
Richardson, J. E.
Richardson, Philip W.
Richard, Michael S.
Rickman, David M.
Rider, Robert M.
Rieck, Dale C., Jr.
Rief, John S.
Riehl, Edward P.
Ringel, Emanuel I.
Ringwald, Jacob F.
Rippinger, Daniel J.
Ritter, Kevin K.
Ritz, Steven A.
Rivard, Ronald D.
Robberson, William M.
Robbins, Douglas L.
Roberts, Dean W.
Roberts, Stephen J.
Robertson, Lyn T.
Robinson, Fred O., Jr.
Rodrick, Francis
Roe, James R.
Roecker, Harold G.
Roelant, James G.
Roemmich, Gary L.
Roesener, Stephen J.
Roeske, Ernest J.
Rogers, Wayne L.
Rohrssen, Steven W.
Rollings, Janet L.
Rollins, Peter E.
Romano, Leslie F.
Roney, Jack O.
Rosenow, John R.
Ross, Anthony V.
Ross, Douglas A.
Rossetti, David J.
Roth, Andrew J., Jr.
Roth, Michael P.
Rough, Paul W., Jr.
Roup, Gary S.
Routh, Ronald R.
Rowe, Edward L.
Rowe, Robert B.
Rowe, Willis R.
Rowley, John L.
Rubino, James F.
Rudiger, Stephen.
Ruesch, Rehe E.
Ruflin, Michael G.
Ruggiero, George E.
Rumfelt, Curtis R.
Rupprecht, Mark S.
Rushton, Richard T.
Rushing, Timothy J.
Rushton, Paul D.
Rusinko, Jeffrey D.
Ruttar, Joseph A.
Ryan, Thomas G., Jr.
Ryder, Christopher M.
Saari, Eugene E.
Saccoccio, Louis J.
Saenz, Ernesto G.
Safford, David R.
Sala, Stephen M.
Saladen, Philip D.
Salazar, Richard J.
Salisbury, Michael J.
Salyards, Larry E.
Sample, John D.
Sancic, David W.
Sander, Dennis R.
Sander, Jeffrey R.
Sanders, Michael L.
Sanford, James A.
Sanguiliano, Frederick, III
Santoro, Francis J.
Sarao, John F.
Sasser, Michael F.
Saunders, Jimmy D.
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Savage, Robert W.
Sawyer, William T.
Scanlon, William M.
Schaefer, Douglas E.
Schaefer, Jay F.
Schaefer, John A.
Schaus, Douglas R.
Scheffler, John W.
Scherini, Ralph O.
Scheumann, Edward G.
Schilling, Andrew J.
Schladenhauffen, David R.
Schlumbrecht, Emmett P., Jr.
Schmidt, Albert W.
Schmidt, Richard S.
Schmitt, Randall K.
Schneider, Keith J.
Schniedwind, Robert F., Jr.
Scholes, Robert J.
Schowe, Ronald R.
Schreiber, Thomas T.
Schuh, Steven P.
Schuller, Ronald
Schultz, Lee K.
Schumacher, John D.
Schwarting, Gerald A.
Scoppa, C. J.
Scott, Benjamin H., II
Scott, Craig C.
Scott, George V.
Scott, Jeffrey J.
Scott, Michael R.
Scout, John B.
Seago, Mark E.
Searl, Floyd C., Jr.
Sears, Michael S.
Sears, Richard F.
Seaton, John M.
Seatacek, Walter D.
Seedorf, Roger W.
Seelenkin, Ermark A.
Segert, Randall L.
Seidl, Joseph M.
Seifert, Michael L.
Seiler, Charles E.
Seizert, Ronald D.
Selecman, David A.
Serafin, Matrin E.
Serrano, Jose E.
Setterlund, Charles E.
Settle, Albert E., II
Sexton, Carl V.
Shaffer, Roderick O.
Shattuck, Christopher T.
Shea, Ronald R.
Shearon, Storm
Shepard, Kim R.
Sheppard, William
Sherbo, Paul S.
Sherlock, Robert S.
Sherman, Thomas B.
Shikashio, Randall
Shimabukuro, Norman K.
Shimp, David K.
Shrader, Robert E.
Shultheis, Charles F.
Shuster, Charles P.
Sichau, Kenneth E.
Sim, Mitchell A.
Simmons, Gregory A.
Simmons, Jon A.
Simmons, Patrick J.
Simons, Richard L.
Simpkins, William E.
Sims, Lea V., Jr.
Sinclair, Randolph K.
Singleton, Steven O.
Singleton, Gary W.
Sisco, Julius J., Jr.
Siwek, Peter B.
Skirm, Harry E.
Skurdall, Norman L.
Slaton, Don E.
Slaughter, Wayne D.
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Sloan, James A., Jr.
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Slone, Richard E.
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Smith, Brian M.
Smith, Bruce A.
Smith, Dale M.
Smith, David B.
Smith, David E.
Smith, Donald W.
Smith, Frank J.
Smith, Frederick M.
Smith, George J., Jr.
Smith, James C.
Smith, Kevin R.
Smith, Lee III
Smith, Marlin B.
Smith, Michael L.
Smith, Neal F.
Smith, Randell C.
Smith, Richard P.
Smith, Robert M.
Smith, Theodore D.
Smith, Theoren P. III
Smith, Thomas J.
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Snader, John A.
Snodgrass, Jonn R.
Snow, Richard L.
Snyder, John R.
Snyder, Jonathan W.
Soderholm, Carlton E., Jr.
Solliday, David P.
Solomon, Brian H.
Solvie, Michael A.
Somers, Robert M.
Sonleitner, Michael G.
Sonntag, Sara L. F.

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Soules, Stephen M.
Soulsby, Thomas H.
Southern Dwight D.
Sowers, Bruce A.
Sowinski, Stanley A.
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Sparks, Timothy L.
Sparr, Leroy M.
Sparks, Walter R.
Spaulding, Kenneth F.
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Speer, Bradford A.
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Spencer, James H.
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Spivey, David A.
Spraglin, Ricardo D.
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Sprowls, Timothy J.
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Stack, Edward J., Jr.
Stahura, John W.
Stamos, John M.
Standridge, George R.
Stankiewicz, Felix J., Jr.
Stark, David A.
Starr, Gary G.
Stark, Gary L.
Staubin, George P.
Stavridis, James
Steadley, Joel F.
Steichen, Alan R.
Steiner, Jeffrey A.
Steinhauer, Ralph
Steinmann, Dale V.
Stephenson, Neal B.
Sterling, Gard V., Jr.
Steuber, Lawrence J., Jr.
Steudler, Douglas C.
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Stevenson, James W., Jr.
Stevenson, Richard T.
Stewart, Donald H., Jr.
Stewart, Joseph D.
Stewart, John P.
Stewart, Thomas N.
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Stich, Richard A.
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Stiling, Stewart F.
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Stoll, Gerald A.
Stolle, Robert C.
Stone, Kevin F.
Storey, Brian J.
Strain, Scott A.
Strange, Joe C.
Strength, Steven C.
Stroebel, Stephen
Strong, Arthur I., III
Struble, Daniel H.
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Strunk, Michael P.
Struth, Robert G., Jr.
Strutner, Richard E.
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Stussie, Gary P.
Suehs, Derrick J.
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Sullivan, Stephen M.
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Sutton, James A.
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Swensen, Charles C., Jr.
Swierski, Felix S.
Swingle, David A.
Swirmicky, Mark E.
Swystun, Andrey P.
Sykes, John F.
Szatkowski, James L.
Tague, John A.
Tahler, James W.
Taicsich, Edward M.
Talbot, Russell W.
Tallent, Robert G.
Tamimie, Hekmat D.
Tandy, Jon S.
Taplett, James H.
Tate, Robert P.
Taylor, David W.
Taylor, Dennis H.
Taylor, Larry J.
Taylor, Melvin L., Jr.
Taylor, Wesley P.
Taylor, William N., Jr.
Teehan, Paul A., Jr.
Tenaglia, Joseph A.
Testa, Ronald P.
Therriault, John W.
Theurer, Timothy L.
Thieman, David H.
Thieme, Donald T.
Thigpen, Tommy L., Jr.
Thim, Robert H.
Thomas, Craig H.
Thomas, John R.
Thompson, Edward K.
Thompson, James H.
Thompson, Jay M.
Thompson, Jimmy
Thompson, Larry R.
Thompson, Lewis D.
Thomson, Earl J., III
Thornton, Cameron M.
Thornton, Michael D.
Thorpe, Mark S.
Thurwanger, Michael L.
Tibbetts, David K.
Tielking, Terrance A.
Tilden, Thomas J.
Tillery, Michael R.
Tinsley, Thomas J.
Titsworth, John G.
Titus, Ronald A.
Tjepkema, Russell P.
Todd, Michael L.
Tomaselli, John J.
Tomaski, Julius W.
Toombs, Dennis A.
Topp, Allan R.
Topscher, Stephen J.
Tornow, Scot L.
Tosi, Gino M.
Touchberry, Forrest L.
Town, James S.
Townsend, Goerge N. S.
Townsend, Walter A.
Tracy, Patrick A.
Trainer, Edward A., Jr.
Tramel, William P., Jr.
Treitz, Robert G.
Trenor, Mark M.
Treon, William J.
Tribout, David R.
Troxell, Kenneth G.
Trude, Charles R.
Trzeciak, Robert J.
Tsioutsias, Drake D.
Tucker, James M.
Tucker, William C.
Tucker, William R.
Tupuola, Malu, Jr.
Turbanic, Charles R.
Turnbull, Vivian L.
Turner, Edward R.
Turner, Gary R.
Turner, Lee O.
Turner, Phillip A.
Turpen, Charles R.
Tuttell, Robert J.
Tyler, Hansford D., III
Tyndall, Brian R.
Tyner, Michael R.
Uhle, Robert S.
Uhron, Mark A.
Ulom, William S.
Unger, Randy L.
Union, Mitchell A.
Upton, Dana L.
Urban, Lawrence D.
Usbeck, James P.
Vancleef, David
Vanderschaaf, Arthur J.
Vanderwaal, Joel K.
Vanore, John J.
Vanosdall, B. E.
Vanwert, Robert W., Jr.
Vargo, Charles J.
Varsanyi, Peter S.
Vaughn, Charles M.
Vaughn, Charles R.
Vaughn, Eugene C., III
Vaughn, Gregory M.
Venlet, David J.
Vermillion, George M.
Vining, Charles M.
Viola, Michael E., II
Violante, Anthony F.
Virden, John D.
Visintainer, Ferdinand G.
Vondollens, Steven C.
Vonnegut, Thomas A.
Vsetecka, William E.
Waddell, William T.
Wade, Clifford L. J.
Wade, David G.
Wade, Jonathan R.
Wahle, Daniel C.
Waldrip, Randall W.
Waldrop, Michael D.
Waldruff, Stanley C.
Wales, Carl A.
Walker, George D.
Walker, Marvin W.
Walker, Roland E.
Walls, David B.
Walsh, David L.
Walsh, John J.
Walstrom, Terry L.
Walter, Charles E.
Walters, Wayne A.
Walton, Charles F.
Ward, Daniel T.
Ward, Michael N.
Warner, Charles J.
Warner, David C.
Warner, Nathaniel F.
Warner, Robert S.
Warren, Bruce C.
Warren, Donald C., Jr.
Washington, Henry E., III
Waterman, Danny L.
Water, Rory C.
Waters, Steven T.
Watkins, Harry III
Watkins, Jon J.
Watson, Jeffrey C.
Watson, Marvin J.
Watson, Phillip W.
Watson, Walter F.
Watson, William H., Jr.
Watters, Robert J.
Weaver, Frank H.
Weaver, Gary A.
Weaver, Keith T., II
Webb, John S.
Webb, Stephen M.
Weber, Craig T.
Weber, Ewald W.
Webster, Bryan D.
Weeks, Robert L., Jr.
Weisert, Roy E.
Weiss, Charles J.
Weiss, Eric H.
Weiss, Robert F., Jr.
Welch, David M.
Welch, Jeffrey W.
Weldon, Frederick
Wells, Gary A.
Wells, Walter C.
Welsh, William P., Jr.
Welzel, Lewis A., Jr.
Wendell, Bertrum W. J.
Wendt, Michael P.
Wendt, Roger W.
Wentland, Bruce B.
Weppler, Jeffrey F.
Werner, Gary L.
Werner, Michael H.
Wessing, Lawrence A., III
West, Mark L.
West, Michael B.
Westerwick, Gregory H.
Wetmore, Ronald W.
Wetzel, Steven L.
Weyrick, Richard
Whalen, Daniel M.
Whalen, Harold R.
Whalon, Edward M.
Wheeler, William
Whitby, Peter K.
White, Gerald A.
White, Stephen C.
White, Stephen M.
White, Steven M.
White, William L., Jr.
Whitely, Bruce R.
Whitman, Charles E.
Whitney, Daniel R.
Whitney, Peter B.
Whitney, Thomas H.
Whitsett, James C.
Whitson, Charles K., Sr.
Whittle, Robert R.
Wick, Harvey C.
Wiedman, Sheldon C.
Wietlisbac, Paul H.
Wilckens, John H.
Wiley, Stephen N.
Wilhelm, Phillip J.
Wilkerson, Grady L., Jr.
Wilkins, David L.
Wilkinson, John P.
Will, Michael R.
Willard, Calvin D. G.
Willett, Gerard J.
Williams, Charles S.
Williams, Craig M.
Williams, David M.
Williams, Dock D., Jr.
Williams, Leversia
Williams, Michael D.
Williams, Warren W.
Williamson, Charles F., III
Willis, Hugh A.
Willis, John R.
Willson, Richard D.
Willy, James M.
Wilson, David K.
Wilson, Deborah A.
Wilson, Edmond G.
Wilson, Scott E.
Wilson, William T.
Wiltraut, Frank E., III
Winkler, Robert J.
Winn, Duane T.
Winters, David
Wirt, David L.
Wisniewski, Mark E.
Witherspoon, John S.
Witkowski, Darrell S.
Witkowski, Stephen T.
Witt, Michael A.
Wittman, Ray T., Jr.
Witte, Edward W.
Woelfel, John R.
Wojciechowski, James T.
Wojdyla, Ronald J.
Wolfe, Michael J.
Wolfrum, Garry A.
Wood, George L., III
Wood, Joseph R.
Wood, Thomas P., Jr.
Woodbury, John B.
Woodward, George R.
Woody, William S., III
Wooldridge, Edmund T.
Wooley, Randolph D.
Woolston, Paul F.
Wornick, William D.
Woumnm, Ellis D.
Wright, Dennis E.
Wright, Frank X.
Wright, James G.
Wright, Richard A.
Wright, Wardell C., Sr.
Wright, William L., Jr.
Wrigley, Paul R.
Wroolie, Brad L.
Wrotnowski, Gary
Wynn, Guy N., III
Wynne, Stephen A.
Yanda, Roger P.
Yarger, Frederick D.
Yoder, James A.
Yoshida, William R.
Young, Gary L.
Young, Liston C.
Young, Lucy B.
Young, Patti A.
Youngborg, Eric D.
Zacharzuk, Joseph, Jr.
Zamorski, James S.
Zebrowski, David S.
Zelibor, Thomas E.
Zellmann, Harry W., I
Zerafa, Paul J.
Ziebell, David M.
Zimmerman, Harold J.
Zinn, Roger L.
Zobel, William C.
Zulak, Paul D.
Zumwalt, Eric R.
Zyskowski, David J.

SUPPLY CORPS

Aanstoos, Thomas K.
Ackerman, Roger S.
Addison, Rufus
Allen, David F.
Archer, Edward L.
Austin, Douglas L.
Beard, Robert L., III
Bennett, Stephen H.
Bischetsrieder, Jon W.
Bloom, Charles C.
Boozer, George D.
Brandenbur, Kenneth S.
Brown, David M.
Buchner, Marc E.
Bump, Robert J.
Buntin, David W.
Caughey, Stephen R.
Chillcott, Sidney E.
Clement, William S.
Combs, Bruce M.
Cook, James M.
Costello, Mark T.
Crow, Wayne H.
Crump, Henry E., Jr.
Cunningham, Robert D.
Dargan, James J., Jr.
Davis, Lester M.
Devitt, John C.
Dolan, Robert P.
Donovan, Peter M.
Dowling, Richard D.
Drerup, John W., Jr.
Driver, David E.
Ellis, Peter M.
Feay, William F.
Fenzan, William J.
Ferrara, Richard C.
Frew, Barry A.
Freshwater, Thomas M.
Freye, Daniel L.
Fullbright, John L., III
Funk, Stuart D.
Goehring, Mark E.
Green, Cornelius, Jr.
Grube, Edward M.
Gummer, Edward G., III
Haas, Robert D.
Hammond, Robert
Hansen, Sharon L.
Hardesty, Guy B.
Hazell, Jeffrey P.
Heuay, Terrence A.
Hillegas, Dennis W.
Hogan, Brian N.
Hupy, Brad L.
Huwe, Lawrence J.
Kaleita, Gary M.
Kalmar, Louis G.
Karschnia, Paul T.
Kayes, Dean H.
Kibler, Christopher T.
Kmiec, Kenneth R.
Kubin, Leonard A.
Lavender, William R.
Maibaum, David W.
Marksbury, Thomas C.
McBurney, Donald T.
McConahy, Marc.
McDaniel, David E.
McGrath, Christopher M.
McKelvey, Chris R.
Meyer, Richard J.
Minor, Elliott D., III.
Monaco, Theodore J.
Murphy, Kevin J.
Nevers, Richard H.
Nielsen, Ronald O.
Norris, Eric E.
Ornelas, Harry, Jr.
Palmer, David A.
Palenshus, David L.
Parshall, Earl G.
Poe, James P.
Post, William N., II.
Recla, Kenneth.
Rible, Frederick J., Jr.
Rogers, Robert.
Roper, Bernard L.
Ruben, Jack M.
Ruh, Joseph F., Jr.
Ruff, David C.
Rutledge, Eugene P., II
Ryan, Patrick T.
Sawyers, Robert J., Jr.
Schlekau, Louis W., III
Schweer, Mark R.
Simpson, Edward L.
Smoak, Daniel R.
Sorenson, Lee L.
Stone, Stephen P.
Stranen, Joseph J.
Strong, Robert W., II.
Strouse, Wayne S.
Sturm, Joseph J., III.
Taylor, Stephen D.
Thomas, Michael P.
Thompson, Alan S.
Traaen, Timothy S.
Trost, Henry M.
Turk, Rodney W.
Vassian, Robert B.
Wagner, John G.
Walter, Kenneth F.
Watkins, Gary E.
White, David M.
Winter, Robert A., Jr.
Woodfin, Kenneth L., Jr.
Ziegler, Joseph W.

CIVIL ENGINEER CORPS

Alexander, Raymond K.
Bergson, Charles L.
Biddick Dennis
Capron, Mark E.

Davis, Larry A.
Donaldson, Mark E.
Donnelly, Michael D.
Dossantos, William A.
Dreyer, Thomas F.
Etheridge, John T.
Foshee, Jon R.
Gardner. Albury
Gorum, Charles C.
Gustafson, James I.
Hickey, Peter J.
Hollrith, James W.
Jackel, Paul G.
Jensen, Jerry L.
Marchand, Jean P.
McAdam, Lowell C.
Michel, Richard C.
Miller, Michael R.
Nassaux, Patric Y.
Otten, Mark T.
Peters, James M.
Rand, John L., III
Rowland, Henry J., Jr.
Squatrito, James A.
Stearns, Francis R.
Stefanelli, Arthur J., Jr.
Surash, John E.
Thies, Eugene A.
Wallace, Joseph B., III
Walters, Vernon J.
Yeakley, John C.
Zorica, Joseph W.

MEDICAL SERVICE CORPS

Adams, Ronald L.
Brown, Francis C.
Brown, Thomas J.
Byerly, Lawrence D.
Carroll, Ronald J.
Cormier, Tyrone P.
Harrahill, Jesse D.
Hodges, Ellis E.
Hofflinger, David H.
Hudson, Jonathan S.
Hunnicutt, Gary F.
Karelin, Edward E.
Libby, James W.
Little, Tommy J.
Mackie, William B.
Marshall, John D.
McKenna, Michael R.
Megown, Charles F.
Mitchell, William L.
Niec, Edmund A.
Orloff, Kenneth L.
Roeder, Kenneth L.
Sullivan, Hugh C., Jr.
White, Fred R.
Zuber, Ronald J.

WITHDRAWAL

Executive nomination withdrawn from the Senate, July 12, 1978:

Hobart Calvin Jackson, Sr., of Pennsylvania, to be a member of the Federal Council on the Aging for a term expiring June 5, 1979, vice Frell M. Owl, term expired, which was sent to the Senate on April 7, 1978.

HOUSE OF REPRESENTATIVES—*Wednesday, July 12, 1978*

The House met at 10 o'clock a.m. and was called to order by the Speaker pro tempore (Mr. BRADEMAS).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker.

WASHINGTON, D.C.,
July 12, 1978.

I hereby designate the Honorable JOHN BRADEMAS to act as Speaker pro tempore for today.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

God has not given us the spirit of fear; but of power, and of love and of a sound mind.—II Timothy : 7.

O God, our Father, who art near to us in our victories and in our defeats, grant that when we exult in winning or are exhausted by losing we may feel the steady assurance of Thy presence which abides with us through all the changing moods of our restless lives. Deliver us from complaints because we cannot do what we want to do or get done what we want to get done. Help us to accept our limitations without bitterness, to enjoy our victories with humility, to overcome our weakness with faith, and to take what cannot be changed with patience. May we keep our faith in Thee and let our faith keep us steady and strong as we live and labor through these critical days.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. 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.

CALL OF THE HOUSE

Mr. FOLEY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 531]

Ambro
Anderson, Ill.
Andrews, N.C.
Archer
Ashley
Bellenson
Boling
Bonior
Brown, Calif.
Brown, Ohio
Burke, Fla.
Burke, Mass.
Burton, John
Byron
Caputo
Chappell
Chisholm
Clay
Conyers
Crane
Davis
de la Garza
Dent
Dickinson
Diggs
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Evans, Colo.
Evans, Ga.
Fascell
Flowers
Flynt
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frey
Garcia
Giaimo
Gibbons
Glickman
Goodling
Guyer
Harsha
Hawkins
Heckler
Jenrette
Kasten
Le Fante
McCormack
McDade
McDonald
McKinney
Mann
Mathis
Meyner
Milford
Mineta
Mitchell, Md.
Moss
Neal
Nichols
Nix
Obey
Pike
Poage
Pursell
Railsback
Rangel
Roberts
Rodino
Rosenthal
Santini
Scheuer
Skubitz
Smith, Iowa
Solarz
Staggers
Teague
Traxler
Tsongas
Tucker
Udall
Vander Jagt
Wiggins
Wilson, Tex.
Winn
Wolff
Wright
Young, Alaska
Young, Tex.

The SPEAKER pro tempore. On this rollcall 335 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR SUBCOMMITTEE ON ECONOMIC DEVELOPMENT OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY DURING 5-MINUTE RULE

Mr. ROE. Mr. Speaker, I ask unanimous consent that the Subcommittee on Economic Development of the Committee on Public Works and Transportation be permitted to sit today while the House is operating under the 5-minute rule.

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

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman assure us that there will be no markup of any legislation?

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

Mr. ROUSSELOT. I yield to the gentleman from New Jersey.

Mr. ROE. Yes, very definitely, I can assure the gentleman of that. We have checked this out.

Mr. ROUSSELOT. The purpose of the request is for hearings only?

Mr. ROE. For hearings only.

Mr. ROUSSELOT. So the purpose is only to take testimony of witnesses who are being called in?

Mr. ROE. The gentleman is correct.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's answer, and I withdraw my reservation of objection.

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

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS OF COMMITTEE ON GOVERNMENT OPERATIONS TO SIT ON TOMORROW DURING 5-MINUTE RULE

Mr. PREYER. Mr. Speaker, I ask unanimous consent that the Subcommittee on Government Information and Individual Rights of the Committee on Government Operations may be permitted to sit on tomorrow, Thursday, July 13, 1978, during the 5-minute rule.

This request has been cleared with the ranking minority member and the purpose of the hearing is to continue markup on legislation.

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

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman tell us the subject matter of the bill concerned?

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

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

Mr. PREYER. Mr. Speaker, the bill is the Presidential Papers Act. That is the bill which has to do with how we deal with the papers of a President after he leaves office.

Mr. ROUSSELOT. Even though the ranking minority member has approved this action, is this matter so important that it cannot wait until next week?

Mr. PREYER. It is important because if we cannot get this done this week, we would not be able to get the matter to the final full session of the Committee on Government Operations.