The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by Hon. Dennis DeConcini, a Senator from the State of Arizona.

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

Almighty God, from whom cometh every good and perfect gift, grant to us here a wisdom higher than our own, an elevated sensitivity to the promptings of Thy Spirit and a ready obedience to the voice of conscience. Grant us the ability to distinguish fact from fancy, to discern the real from the unreal, to distinguish the attainable from the unattainable. Grant us the strength and patience which comes from above in the midst of uncertainty. Give Thy Spirit to us never to leave us nor forsake us. The unattainable. Grant us the serenity to accept the things we cannot change, the courage to change the things we can, and wisdom to know the difference. And may we walk in the faith Thou dost never leave us nor forsake us.

We pray in the Redeemer's name. 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. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,

To the Senate:
Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Dennis DeConcini, a Senator from the State of Arizona, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER
The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

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

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

EXPLOIT OF NUCLEAR FUEL TO INDIA
Mr. ROBERT C. BYRD. Mr. President, last week, the Nuclear Regulatory Commission unanimously decided against the approval of two licenses for the export of nuclear fuel to India. In the opinion of the Commission, the Indian Government has not complied with a number of the major provisions of the Nuclear Nonproliferation Act of 1978, and, therefore, does not qualify for further shipments of American nuclear materials.

After a lengthy and widely debated study, the State Department recommended that these export licenses be approved. The President is expected to exercise his authority to override the NRC and approve the export licenses. This would require the President to affirm that the failure to ship nuclear fuel to India "would be seriously prejudicial to the achievement of U.S. non-proliferation objectives or otherwise jeopardize the common defense and security." If the President so affirms, then Congress Nuclear Regulatory Commission will have 60 days to override his decision with a concurrent resolution of disapproval.

This is the first major nuclear export license dispute under the provisions of the Nuclear Nonproliferation Act of 1978. It raises a number of important questions about U.S. nonproliferation policy and about U.S. foreign policy interests in South Asia.

The interest of the Congress in nonproliferation policy is well established. The Nuclear Nonproliferation Act was the result of congressional initiatives that date back to 1963. A number of our colleagues in the Senate contributed to this process—Senators Ribicoff, Glenn, Hart, Percy, Javits, and others, all made substantial efforts on behalf of nonproliferation policy. From 1977, the Carter administration joined in strong support for these efforts.

Stopping the spread of nuclear weapons continues to serve the security interests of the United States. Recently, U.S. foreign policy has seemed to lurch from crisis to crisis. With respect to nonproliferation policy, Congress has at its disposal a mechanism for the orderly review of important policy decisions. I am sure that the Senate's participation in this review will contribute to the kind of leadership in U.S. foreign policy that reassures our friends and wins the respect of others.

THE OIL IMPORT FEE—A CLEAR CHOICE
Mr. ROBERT C. BYRD. Mr. President, in recent weeks, America's vulnerability to a cutoff of Persian Gulf oil imports has been underscored. There are a number of events which could cause a severe oil supply shortage, with devastating consequences to our national economy and way of life. An embargo, a terrorist act, an accident, or a change of regime in one of the producing countries could disrupt our vital lines of supply without a single shot being fired. We have taken too few steps to prepare for such a contingency.

The President's proposed oil import fee is an all too modest start at addressing our most critical national security interest. Only last year, our dependence on foreign oil from insecure sources. Although the fee would result in a mere 10-cents-per-gallon surcharge on gasoline, it has raised alarms from economists. Some critics charge that the fee is an abuse of Presidential authority—but Congress has repeatedly refused to face reality on the urgent and immediate need to dramatically reduce our oil imports. Others claim that the modest 10-cents-per-gallon charge is too inflationary—but they are willing to watch $90 billion being bled annually from our economy to pay for foreign oil imports. It is said that the fee unfairly impacts the poor—but nothing creates greater hardship than the unemployment and inflation we import along with the $90 billion worth of oil. Some even say that 10 cents is not enough—but failure to affirm the import fee brings us no closer to the really tough measures we may need in the future.

The United States, which imports almost 50 percent of its oil, obtains 25 percent from the Persian Gulf region. We are dependent on Saudi Arabia alone for almost 10 percent of our oil supplies. Our allies are dependent on that region for substantially greater amounts: 50 percent of all the oil that is consumed in Western Europe passes through the Straits of Hormuz, and almost 96 percent of Japan's oil comes from the Persian Gulf region.

I do not cite these statistics for the sake of quoting numbers. The American people should be alarmed about what they mean. We should be more than alarmed—we should be scared. On those numbers rests the very fate of this Nation. Our national and economic security hinges on a thin line of oil tankers stretched around the globe. Our overdependence on foreign oil threatens to erode our leadership role among nations. At some time in the near future, each of us in the Senate may be called upon...
to register his or her views on the proposed oil import fee.

Depending on the outcome of the issue now before the courts, we may have to vote on a resolution of disapproval of the fee at some point—although I hope we will not do so until the courts reach their final decision—and ultimately, on whether to override a Presidential veto of such a resolution. I ask each of my colleagues to consider the implications of that vote.

In the past months, we have asked our allies to aid in the return of the hostages in Iran and to lend support to our position. It is my view that otherwise it would have as beneficial an effect on U.S. relations with our allies as a strong vote in Congress in favor of a realistic energy pricing policy. The French pay a gasoline tax of $1.62 per gallon; the West Germans pay $1.14 a gallon; the Italians pay $1.82 a gallon. But the gas tax in the United States, even with the import fee was 14 cents a gallon, would be only 14 cents 4 cents a gallon. The Federal tax being only 4 cents a gallon today. It is no wonder that our trading partners question our resolve to undertake serious conservation efforts.

Besides serving as an important element for conservation and international energy diplomacy, the import fee may be critical to a balanced budget and selective tax cuts. The Budget Committees in both the Senate and the House assumed that the revenues from the import fee would serve as a cushion in the event the economy turned down, allowing for a tax cut. That budget could be balanced if all the import fee was collected. Those who say they want a balanced budget, and a tax cut, and no further cuts in spending, should demonstrate how they hope to accomplish that goal without the import fee.

There are times when each of us must vote for measures which are unpopular but which are truly in the national interest. I know that a vote to sustain the import fee would be difficult for many, but this Nation's economic and national security hang in the balance. I know my colleagues will find the courage to do what is right.

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

RECOGNITION OF THE ACTING MINORITY LEADER

The Acting President pro tem. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I yield the time of the minority leader to the distinguished Senator from Wyoming, who has a special order.

RECOGNITION OF SENATOR SIMPSON

The Acting President pro tem. Under the previous order, the Senator from Wyoming (Mr. Simpson) is recognized for not to exceed 15 minutes and the additional time yielded by the minority whip.

EXPRESSIO N OF CONDOLENCES TO SENATOR CRANSTON

Mr. SIMPSON. Mr. President, before I begin my remarks, I see my colleague, Senator ALAN CRANSTON, is in the Chamber. There is not one of us in this body who does not share and express to him our deepest sympathy on the personal loss of this son.

And to you, sir, a person who has been most kind, most gracious to me in my time in serving with you on the Veterans' Affairs Committee where you serve as chairman, and I serve as ranking minority member, I express to you the richest prayers and thoughts of all your colleagues.

Mr. CRANSTON. I thank my good friend from Wyoming for his thoughtful and generous words, and I take this occasion to thank each and all of my colleagues, and so many others, for their wonderful messages of support, for their prayers, and for their heartfelt wishes. I thank the Senator.

THE AA PRAYER

Mr. SIMPSON. Mr. President, we were presented with the opening remarks this morning of our Chaplain who recited the AA prayer. That is not the administrative assistants prayer. That is the prayer of Alcoholics Anonymous. And it is one that certainly we should hope to press close to our bosoms as we perform our duties here.

The serenity to accept the things we cannot change, the courage to change the things we can, and the most important part of it, the wisdom to know the difference.

VIEWS ON SEVERANCE TAX LEGISLATION

Mr. SIMPSON. Mr. President, the purpose of my remarks this morning is to respond to the overgeneralized assumptions and the incorrect information that has been printed in this Record regarding S. 2695 which was recently introduced to place a Federal limitation on the amount of mineral excise tax which a State may impose on coal resources produced from Federal and Indian leases.

Introduction of this legislation is evidently based upon the contention that the rate of mineral severance tax imposed on coal resources by Western States such as Wyoming and Montana and by Indian tribes such as the Crow presents some type of "new barrier to increased coal production." Severance taxation is neither a barrier nor new tax device. The first effort to tax mineral production was enacted by the State of Wisconsin in 1846. I wish to inform my colleagues that the State of Wyoming first adopted a mineral severance tax on all mineral production in 1966.

The "barrier" to increasing coal production, if indeed such restraint does exist, is more likely to be found in the confused energy policy which this Congress has been propounding as well as by the environmental controls adopted by Congress and expanded upon by regulatory agencies such as the Surface Mining and the Environmental Protection Agency. These conditions imposed for leasing of coal tracts and development of mines present much more serious hurdles to bringing new coal production on line in this country than do the very modest levels of State taxation that is levied upon the production of coal. I remind my colleagues that there has been no effort by the legislature or the people of Wyoming in an attempt to roll off electrical rate payers in other States where Wyoming coal is used for electrical generation. The present rate of severance tax as established in 1977 is now 10.5 percent. The State of Wyoming has not increased its severance since 1977. Proponents of this legislation are erroneously stating that the rate of mineral severance tax in Wyoming is 17 percent. That is not so. I wish to include in the Record the following table demonstrating the allocation of revenues for specific public purposes as it relates to the State of Wyoming's efforts to respond to the massive increases in social and environment costs occasioned by coal development.

Wyoming coal severance tax components

<table>
<thead>
<tr>
<th>Description</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coal tax revenue until $160 million</td>
<td>2.0</td>
</tr>
<tr>
<td>Permanent mineral trust fund</td>
<td>2.0</td>
</tr>
<tr>
<td>General fund</td>
<td></td>
</tr>
<tr>
<td>Water development account</td>
<td>1.5</td>
</tr>
<tr>
<td>Highway fund</td>
<td>1.5</td>
</tr>
<tr>
<td>Capital facilities fund</td>
<td>1.5</td>
</tr>
<tr>
<td>Wyoming community development fund</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>10.5</td>
</tr>
</tbody>
</table>

I find it as troubling as it is objectionable that Members of this body would attempt to set a Federal limit on States and local governments' ability to determine their own rates of taxation based upon a wholly undocumented claim that there is an "undue burden upon interstate commerce." Merely stating something does not make it so. Although I must say that sometimes one might form an opposing belief when observing this arena, the mineral excise tax imposed by the State of Wyoming does not discriminate against coal consumed outside the State. There has been never an attempt to discriminate against out-of-State consumers in favor of Wyoming residents in the coal tax structure developed by my State.

I remind my colleagues that the "stop-and-start" policy for coal development on Federal leases goes back to the failure
of the environmental impact statement which was developed on Federal coal leases as a device to limit or reduce the devaluation rate adjustments present in the Wyoming mineral severance tax. A graduated tax at 2 percent on coal, permanent funds that are payable annually, and interest on the accounts and funds may be summarized as follows:

First. Wyoming community development authority reserve fund: One-half of 1 percent on coal, permanent funds that are used when the resources are no longer there. Mr. President, the State of Wyoming has never endorsed the concept that a severance tax may have on the competitive position of Western coal are the economic impact of Federal coal leases. The landowner is certainly one that is archaic and unjustifiable in the present context of rapid energy development. Congress, in addressing itself to the question of coal leasing under the Coal Leasing Amendment Act of 1976, recognized the need to update the process of providing federal coal leases, and dealing with bidding and the payment of rentals on Federal coal leases.

The 12.5 percent royalty due the Federal Government will shortly undergo a dramatic revision as modern bidding methods, and techniques for evaluating fair market value are developed. Let me tell you, too, that the Secretary of the Interior has recently successfully renegotiated royalty provisions in early tribal leases on Crow, Navaho, and Northern Cheyenne reservations in order that those tribal interests might be more adequately protected.

Congress wisely determined in the coal leasing legislation to increase the State returns from Federal mineral royalties from 5 percent to 10 percent. I know that appears to my eastern colleagues to be somewhat of an extra bonus since the Western States, but I again remind them that nearly 50 percent of the surface of the Western States and nearly 59 percent of the minerals are held by the Federal Government.

I would certainly be willing to enter into a productive dialog with the sponsors of this legislation suggesting that the Federal Government quillclaim its reserved mineral interests to the State of Wyoming in exchange for the mineral severance tax levy. It would be a magnanimous gesture on my part. That would mean that then we would be able to adjust our State's tax structure much in the same fashion as the Eastern States do when they levy local property taxes on mineral reserves. That seems only fair.

Additionally, Federal law has always provided that the royalties would go into the Reclamation Fund for construction of Federal reservoirs. The time for massive development of irrigation projects may be waning, and the need for those water rights and related benefits is not as important as the large financial outlays required by energy development was well-considered when that change was adopted.
rates have already risen over 50 percent between 1973 and 1979. Obviously then transportation costs have a much greater influence on the consumer's electric bill than any possible State severance tax. People need to know that.

Reason and common sense, things that sometimes escape this Chamber, also demand that this body carefully assign proper weight to such coal resource extraction costs such as—now listen to this itemized list that you have a much greater influence on the consumer's electric bill.

1. mining costs; 2. reclamation costs; 3. surface owner payments; 4. landowner royalties; 5. black lung insurance; 6. abandoned mine reclamation fund charges; 7. bonding costs; 8. Federal withholding taxes; 9. workers' compensation; 10. Federal unemployment tax; 11. union pension plans; 12. union dues; 13. construction of the energy-producing facility; 14. rail transportation charges; 15. a reasonable return on investment. Each and every one of those factors—in addition to State severance and ad valorem tax—must be blended into the price of coal to utilities in order to fairly distribute that "unfair burden" on coal costs that have crept into the consumer's electric bill.

To carry that analysis one step further for calculation of electrical rates, the per-kilowatt-hour cost of electricity makes it necessary to consider the relationship between the cost of fuel resources and the many factors which are considered in utility rate base. Specifically, the cost of powerplant construction, financing costs, compliance with State and national environmental controls, labor, and all other costs must have values assigned to them. All of those cost factors are much, much more significant than any State severance tax. Perhaps that is not more significant emotionally, but certainly it is more realistically and more honestly significant.

So, assuming a 7,000-kilowatt-hour-per-year electric consumption, which is the maximum average consumption of the households of the United States, the Wyoming severance tax, plus ad valorem tax on coal, would only add a few cents to the monthly electric bill. In areas where electric consumption is higher due to air conditioning or electric heating, that amount will be proportionately greater.

So, Mr. President, in winding down my remarks, which I have washed all the laundry on this particular issue, an electric utility consumer is going to find that $7.22 of his monthly electric bill is due to coal transportation costs alone, without the consideration of any other—higher-than-average consumption rates. I am being fooled in this process? Obviously, the "poor old boob" consumer who might be misled by the presentation of the distorted facts that undergird this legislation.

I think H. L. Mencken had it right when he talked about that species of homo sapiens known as "Boobus Americanus."

So we are going to ride off into the fray here under the twin banners of consumer protection and saving citizens from the rip-off, when the results we are able to produce will not match that in any way. It will not do it. It is going to leave a pretty hollow taste in the mouth of the constituent who has saved a few cents per month on his electric bill because of this legislation.

Finally, and most significantly, from the sole perspective of national policy, this legislation poses a most serious question about the role of Congress in limiting State taxes in any form where the issue is consideration of the tax impact on regionally located production centers. Those States that are located in the northern Midwest, which are the regional centers of the automobile industry, heavy machinery and other manufactured goods, may, in fact, be using their State corporate and possessory interest in land to export their tax burden to consumers in other parts of the country.

Adoption of this legislation would pose a dangerous national precedent. If Congress is able to restrict the amount of taxation which the mining States are able to levy on coal resources, then it should follow that Congress must also act under its commerce powers to restrict the level of State taxation in the farm belt States, in the manufacturing States, the timbering regions of America, and any other State which sustains within its borders a regional or national center of production. An interesting and scary concept, I am sure you will agree.

In conclusion, I urge my colleagues to reconsider this legislation. It presents a danger to our national economy. It would present a tremendous and real social and environmental costs which are borne by the Western States in fulfillment of this Nation's energy policy, as well as to develop a permanent capital account from the depletion of those nonrenewable natural resources.

So, if the true and genuine concern of the sponsors—and I know them all; delighted colleagues—if their true and genuine concern is to deal with the increasing cost of fuel as its relates to the price of electricity, then they must consider all—each and every one—of the real component costs as itemized in my remarks, as well as computing those other factors which are specifically found in any ratemaking structure for any utility charges. I think basic fairness demands that. I trust that you will render that fairness.

**Routine Morning Business**

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond 30 minutes and that Senators may speak therein.

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

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

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

Mr. DURKIN. 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 New Hampshire.

**Retirement of Charles J. Quinn**

Mr. DURKIN. Mr. President, it is with tremendous pride that I rise to comm­end Charles J. Quinn, of Manchester, N.H. On May 21, Charlie Quinn is being honored by the people of our hometown upon his retirement after 33 years of self­less dedication to West High School.

In 1938, Charlie Quinn graduated from West High—the school which was to become his career. After receiving his degree from St. Anselm's College in Manchester, he entered the U.S. Mar­ines, serving in World War II as a bomber pilot. With the same loyalty and respect he devoted to his alma mater, Charlie served the Marine Reserves for 27 years as a fighter pilot, retiring as a lieutenant colonel.

After receiving his master's degree at Boston University, Charlie Quinn took a teaching job at West High in 1947. His tireless dedication and close relationship with students helped him rise through the ranks to become head of the social studies department and, finally, in 1972, principal. He is noted as being a quiet and helpful man, always willing to help a student or teacher with a problem.

In addition, Charlie, a football player in his college days, coached a variety of sports for 19 years at West High. The qualities which make Charlie a respected leader in the school were transmitted to his players. His squads were winners before ever taking the field for a game.

In the busy world in which we live, the individuals who tirelessly and consistently do their jobs above and beyond the call of duty are often overlooked. I am pleased to see that "An Evening with Charlie" will finally bring Charlie Quinn and his career as the Marine Reserves principal and finally, in 1972, principal. He is noted as being a quiet and helpful man, always willing to help a student or teacher with a problem.

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taker from 1958 to 1959. He spent the next 3 years in private practice with the firm of Oppenheimer, Hodgson, Brown, Baer & Wolff in St. Paul, Minn.

Professor Canby served as associate director and director of the Peace Corps in Ethiopia. He also served as Director of the Peace Corps in Uganda from 1964 to 1966.

In 1966, Professor Canby served as special assistant to then, Senator Walter Mondale, in Washington. He was then appointed special assistant to Harris Wofford, president of the State University of New York at Old Westbury, before being named to his present position at Arizona State.

In 1970 and 1971, while on leave from Arizona State, he served as visiting Fulbright Professor of Law at Makerere University in Uganda.

Professor Canby has also served as counsel to the firm of Bates and Osteen, whose 1977 landmark Supreme Court decision in Bates against Arizona, prohibited the Arizona Bar from denying attorneys the right to advertise. Professor Canby's participation in this case demonstrated his courage and his ability to work with his profession when he thought they were wrong.

Professor Canby has had a long distinguished legal career since his graduation from the University of Minnesota Law School in 1956. He is held in very high esteem by his associates in the Arizona Bar, and he will bring with him, great insight, compassion and understanding, all necessary ingredients for a circuit court judge.

Professor Canby was approved by the Judiciary Committee, and I urge that the Senate quickly follow suit.

THE UNITED STATES SENATE

Mr. ROBERT C. BYRD. Mr. President, the office of the President pro tempore is an office which I discussed at some length last week. I wish to return to that subject today, as I indicated I would do.

The office of the President pro tempore changed slowly by precedent and practice until the first half of the 20th century. At that point, major developments shaped the office dramatically, resulting in the office as it functions today. Those developments are the ascendancy of the Majority Leader, beginning in the early 1920's, and the advent of the modern Vice Presidency in the 1950's.

Until the turn of the nineteenth century, the office of pro tempore has been noted for its powers of the President pro tempore to the chair. However, this practice dropped off dramatically in the early 1950's when Richard Nixon became the Vice President under President Eisenhower. Nixon proposed a new role for the Vice President as an active spokesman for the Administration and its policies across the country and the world. This required him to travel frequently and for extended periods of time. This role has been continued and expanded by subsequent Vice Presidents who have, to a large extent, abandoned their duties as President of the Senate for the impact and influence that is accorded to the Vice President.

During this period, however, an earlier development was diminishing the power of the President pro tempore just as it seemed to be expanding. On January 15, 1920, a Democratic conference was called by its chairman to select a "leader" of the Democrats in the Senate. This was the first time that the caucus minutes showed that the majority leader was called to elect a "leader" for the party and not just the chairman of the party caucus. By 1946, the Majority Leader had established himself as a prominent leader of the Senate. Because his role is political, the rules do confer certain powers on the Majority and Minority Leaders which were established and expanded by the Legislative Reorganization Acts of 1946 and 1970. These rules and a combination of party discipline and the personalities of strong Majority Leaders managed to usurp the powers that the President pro tempore granted under his statutory authority.

Both the Vice President and the President pro tempore are given appointive powers for specific purposes by various statutes, concurrent resolutions, and simple resolutions adopted by the Senate. However, the joint leadership usually determines upon whom the appointive powers will be conferred, often the Senate will name the members of a commission or committee in the text of the resolution.

The President pro tempore currently has a number of appointments which he is specifically authorized to make, and, in the event of a prolonged absence of the Vice President, takes over his appointive authority as well.

Aside from the appointive authority, the President pro tempore does have some advantages over the Vice President—being one of the Senate's own. In the absence of the President pro tempore since 1884, it has been the sole privilege of the pro tempore to name a Senator to perform the duties of the chair in his absence for a period not to extend beyond one session of Congress. Prior to that, the office of Vice President had many times been denied that same privilege.

Under the Constitution, the Vice President may cast a vote in the Senate only when that body is equally divided. But, by a resolution of April 19, 1792, the President pro tempore retained "his right to vote upon all questions." Also the Vice President is not allowed to participate in debate, although crucial votes have been made and taken in the past.
nature of debate from the chair. The President pro tempore, on the other hand, similarly has no right to engage in debate from the chair, but he does have the right to appoint a Senator as a substitute to perform the duties of the chair while he engages in debate on the Floor of the Senate.

The President pro tempore and the Majority Leader

Since 1789, individual Senators have assumed leading roles in the actions of the Senate. Many such men have been elected to the Office of the President pro tempore in recognition of their leadership and service to their party. At times, the pro tempore has been able to use his authority to the benefit of his party by directing the debate on the Senate Floor, making key judgments on a point of order, or by making a special appointment. But the President pro tempore has never been able to establish his authority as a party leader to the extent of the Majority Leader. This is partly a result of the most political decisions. Among those the President pro tempore has always the authority to make certain appointments, it is the current practice of the Senate for the Majority Leader to decide which Senators his pro tempore will appoint to other positions.

The Majority Leader has the authority to take a number of other actions which affect the President pro tempore and his duties as well. The Majority Leader offers resolutions and technical motions to the Senate including the election of the President pro tempore.

The Majority Leader moves motions to adjourn and calls up bills, sine die resolutions, and resolutions to authorize the Vice President and President pro tempore to preside over adjournments and to make certain authorized appointments during adjournment.

Because the President pro tempore and the Majority Leader are usually of the same party, there is little disagreement between them. The Majority Leader, with the support of the party membership, has the authoritative voice in his party. His wishes are usually complied with.

As a popular member of the party, the President pro tempore will usually comply with the wishes of the Majority Leader. Conventionally, the President pro tempore will not be likely to confer with the President pro tempore on matters related to his duties as pro tempore because of his status as an influential and senior party member. The Majority Leader needs to maintain a broad base of support in order to be effective. The support of the President pro tempore is important for that reason.

The Honorary Nature of the President pro Tempore

The election of a Senator to the Office of the President pro tempore has always been considered one of the highest honors offered to a Senator by the Senate body. Over time, there have been many changes made in the fashion the Senator so honored was rewarded.

Very early on in the Senate's history, a notable distinction was awarded to President Anson Burlingame of Massachusetts and other Senators who served as pro tempore. These Senators were awarded a special title and special pay and allowances as a mark of respect for his former high office. The Senate adopted Senate Resolution 17 on January 10, 1977, creating an Office of Deputy President pro tempore of the Senate. This resolution provided that “any Member of the Senate who has held the position of Vice President of the United States shall be a Deputy President pro tempore.”

Although the resolution did not specifically define the duties of the Deputy President pro tempore, it authorized a legislative staff of three persons and an automobile with driver-messenger. Mr. Humphrey. In addition, was awarded a suite of offices in the Capitol Building.

The Deputy President pro tempore has the authority to preside over the Senate and to vote in the absence of both the Vice President and the President pro tempore. He can do so without the specific authorization of the President pro tempore. Under the current practices of the Senate, this is the only functional difference between the Deputy President pro tempore and any Senator serving as President pro tempore. In addition, the Deputy President pro tempore will also have the right, ex officio, to solicit on the Democratic Policy Committee, and be included in the leadership and special pay and allowances of the leadership groups which periodically go to the White House for meetings with the President.

The development of this new office was brought about by some very emotional as well as political considerations. After President Humphrey withdrew from the race for Senate Majority Leader, Senator Robert C. Byrd of West Virginia, the winner of that contest, appointed a three-man ad hoc committee to find some special role that Humphrey could perform.

The Office of the Deputy President pro tempore and the package of benefits for Humphrey was, in effect, a substitute for a proposal previously advanced by Senator Muskie of Maine to make Senator Humphrey chairman of the Democratic Caucus, a post normally reserved for the Majority Leader. Such a position would have carried more substantive power for Humphrey than the title and benefits given him.”

Analysis of the Duties and Responsibilities of the President pro Tempore

One of the President pro tempore's longest enduring, but, as yet, unused
privileges is to be prepared to ascend to the Presidency of the United States in the event of a vacancy in that office. The President pro tempore now stands third in line behind the Vice President and Speaker of the House of Representatives. Also, in the event of a vacancy in the Office of the Vice President, the President pro tempore customarily assumes the duties of the Vice President until the office can be filled under the provisions of the Twenty-fifth Amendment.

A result of the practice of electing to the office of the President pro tempore the most senior member has been a sudden decline in the interest of the President pro tempore in presiding over the Senate.

Senator Carl Hayden of Arizona appointed Senator Lee Metcalf of Montana to serve as Acting President pro tempore. From December 9, 1963, until the second regular session of the 88th Congress, Senator Metcalf served, by resolution of the Senate, as acting President pro tempore. The Senate adopted a resolution on February 7, 1964, appointing Senator Metcalf Acting President pro tempore “until otherwise ordered by the Senate.” The Senate leadership felt it necessary to continue having Senator Metcalf serve as Acting President pro tempore because of the health and advanced age of the subsequent President pro tempore. Senator Metcalf served through the election of three more Presidents pro tempore until his death on January 12, 1978.

In practice, the President pro tempore rarely presides over the Senate any more. As the President pro tempore alone has the authority to appoint an acting President pro tempore, he need only find another Senator who wishes to take the chair, and then sign an authorizing letter. In today’s busy Senate, this situation can be an annoyance if there are no Senators available. Because of this problem, for approximately the last 30 years, the Senate has operated a system of rotation of the Senators in the chair.

The Senate Parliamentarian has maintained a stack of signed authorizing letters for available Senators to preside for a period of time.

This change has inevitably led to a trend of appointing more and more junior Senators to take the chair. This has occurred because it is not always easy to find a senior Senator who is readily available and willing to preside. A positive result of new members receiving the honor of presiding is that it familiarizes them somewhat with Senate procedure and etiquette.

On the other hand, because of the rapid turnover of Presiding officers, there are few Senators who are well versed in the Senate rules and precedents, so that Presiding Officers must usually rely on the Senate Parliamentarian for judgments on points of order or referrals to committee. The President pro tempore only takes the chair when there is some important event occurring which requires his official presence, such as a joint session of Congress.

**ADMINISTRATIVE FUNCTION**

The Senate as a body is highly conscious of custom and tradition. To enhance the credibility of certain actions or activities, the Senate employs a duly important official of the Senate to generate that effect. In this capacity, the President pro tempore shows that he has the endorsement of a majority of the Senate and legitimizes its actions. When an appointment is made which deserves some honorary recognition, the President pro tempore makes the announcement, giving the appointee a sense of achievement and the spectators a sense of validity. The President pro tempore announces the results of the counting of the electoral votes for President and Vice President to make it official.

The President pro tempore serves the function of figurehead, as does the Queen of England. More than the respect and veneration of all, which adds a certain value or quality to the activities they preside over. As compared to the Queen, however, the President pro tempore does have a good deal of power as an individual Senator.

**ASCENSION TO THE PRESIDENCY**

In 1967, the Twenty-fifth Amendment to the Constitution reinstated the President pro tempore to the top ranks of Presiding Officers to the Senate. Currently, the President pro tempore ranks third in line behind the Vice President and the Speaker of the House of Representatives. In the event of a vacancy in the Office of the Vice President and the Speaker of the House of Representatives, the President pro tempore shall act as President pro tempore. This change has been a result of the ratification that the President pro tempore was called to fill such a vacancy. However, a unique event in history has recently taken place that strengthens the idea and the vitality of the President pro tempore.

Following the resignation of Vice President Agnew in 1973, Senator Eastland of Mississippi, as President pro tempore, became, in effect, the acting Vice President of the United States. He assumed the duties of the Vice President, exercising the powers and prerogatives of the office. He directed the Vice Presidential staff, signed, or appointed an Acting President pro tempore who signed, all bills before they could become law, and assumed the Vice President's appointment power.

Senator Eastland served in this capacity until Gerald R. Ford was sworn in as Vice President. Upon the inauguration of Ford in 1974 as President of the United States, following the resignation of President Nixon, Senator Eastland again assumed the duties of the Vice President. He is the first President pro tempore in this century to serve in this capacity twice within a year under two Presidents.

Senator Eastland fulfilled the responsibilities of the Vice President until Nelson A. Rockfeller was confirmed as Vice President.

Mr. President, I ask unanimous consent to have printed in the Record at this point two tables, one with respect to the Deputy President pro tempore of the Senate; the other with respect to the permanent Acting President pro tempore. Following the resignation of President Agnew, the position has been filled since the deaths of Senator Humphrey and Senator Metcalf, respectively.

There being no objection, the tables were ordered to be printed in the Record, as follows:

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(Mr. BAUCUS assumed the chair.)

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

**EXTENSION OF MORNING BUSINESS**

The PRESIDING OFFICER. Is there further morning business?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for routine morning business be extended 30 minutes, and that Senators may speak therein up to 5 minutes each.

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. FORD. Mr. President, I ask unanimous consent to have printed in the Record at this point two tables, one with respect to the Deputy President pro tempore of the Senate; the other with respect to the permanent Acting President pro tempore. Following the resignation of President Agnew, the position has been filled since the deaths of Senator Humphrey and Senator Metcalf, respectively.

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CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

FEDERAL TRADE COMMISSION AMENDMENTS—CONFERENCE REPORT

Mr. FORD. Mr. President, I submit a report of the committee of conference on H.R. 2313 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2313) reported the Federal Trade Commission Act to extend the authorization of appropriations contained in such Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conference.

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

(The conference report is printed in the House proceedings of the Record of May 1, 1980.)

Mr. FORD. Mr. President, several Senators will be here soon, and the majority leader will be here, when we determine a time certain to vote on this matter. With those thoughts in mind, 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. FORD. 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. FORD. Mr. President, a great deal of attention has been directed to the Federal Trade Commission authorization legislation. With the passage of the conference report on H.R. 2313, which is before the Senate today, the FTC will be funded for the first time since 1977 through the traditional authorization process.

Disagreement over whether to subject Federal Trade Commission regulations to a legislative veto has been the longstanding controversy delaying passage of the funding bill and resulting in several different authorization bills. The initial House reauthorization bill, H.R. 3816, passed in the House of Representatives on October 13, 1977, and included a legislative veto allowing either Chamber, on its own, to reject an FTC trade rule. The Senate legislation, which I introduced, S. 1288, contained no veto or review mechanism and passed the Senate by a unanimous vote on October 20, 1977, as a substitute for the House bill. On each of the two votes on this conference committee report, the Senate voted unanimously for the report and the House voted against further funding for the agency due to the legislative veto.

With the passage of H.R. 2313 in the House on November 27, 1979, the House again endorsed the one-House legislative veto concept. The recent Senate reauthorization bill (S. 2612) passed into law on February 7, 1980, as a substitute for the House bill and included a legislative review process, the Levin-Boren amendment. This amendment was adopted by an 87-to-1 vote and required postponement of a final rule issued by the FTC pending congressional review and disapproval by joint resolution requiring a Presidential signature. Recently, the Senate Commerce Committee conferees resolved this issue by allowing industrywide regulations of the FTC to be overturned by a major­ity vote of the Senate, the so-called two-House legislative veto.

I remain opposed to the legislative veto approach; the veto is not only unconstitutional, but it will not help cure the problems the regulatory ill. It is my view that legislation merely de­fining agency authority and vigorous oversight is preferable to reviewing reg­ulations after the fact. However, in the interests of harmony, I endorse, on behalf of the House, the two-House legislative veto compromise contained in this conference report. This veto procedure would be established for 3 years, the life of the agency’s authorization. I expect Congress to determine the effect on the regulatory process. I am adamantly op­posed to expanding this concept to any other regulatory agency, and I am sure that the court will act expedi­tiously to determine the constitutionality of this process if a regulation is vetoed by a majority vote of two Houses of Congress.

Mr. President, there is no question that many of the FTC’s actions have saved consumers considerable sums of money and that many initiatives under way at the FTC promise similar benefits.

The FTC has a constructive role to play in consumer protection and in promot­ing competition. But it is essential for agencies to be accountable to Congress, the elected representatives, and I be­lieve the way to make sure that con­gressional intent is being met is through oversight.

Thus, beginning in July 1979, the Senate Consumer Subcommittee of the Committee on Commerce, Science, and Transportation held 9 days of oversight hearings on the Federal Trade Commission. These hearings were held at times of over­sight hearings on the Federal Trade Commission with more than 50 wit­nesses. These hearings focused specif­ically on the consumer protection ac­tivities of the Commission and on rule­making under section 18 of the Magnus­son-Moss Act. Congress had clarified the FTC’s authority to write industrywide rules with the passage of this act in 1975.

In testifying before the Consumer Subcommittee at the hearings the Chairman of the Commission acknowledged that the agency had been over-zealous. Later, other Commis­sioners acknowledged that some pro­posed rules were too sweeping at the outset and that the Commission should, in cases where a procedure would attack consumer problems on a case-by-case approach instead of issuing industry­wide rules. They noted that where indus­trywide rules are chosen, the Com­mission should provide clearer guidance to the staff, more narrowly focus the rules, and look harder at the impact of its actions.

The oversight hearings demonstrated that the FTC had taken actions beyond the intent of Congress. As a result of these hearings and committee investiga­tions, I sponsored legislation contain­ing procedural reforms as well as other steps to protect the agency’s role. On November 20, 1979, the Senate Commerce Committee, in a vote of 16 to 0, ordered S. 1891 favorably reported with a substitute in the nature of a substitute.

On February 6, 1980, the Senate be­gan debate on this legislation. I opposed amendments to the bill that did not per­tain to the focus of the oversight hear­ings including any amendment to the Agency’s antitrust authority as well as other crippling amendments such as an amendment to allow a one-House legis­lative veto and an amendment to destroy the public participation funding pro­gram. These amendments could not be justified by the evidence in the hearing record. The Senate authorization bill passed the Senate by a 77-to-13 vote.

Ironically, while the Senate was deliber­ating the way that the FTC was carry­ing out its rulemaking authority, the Federal courts were reviewing the first two rules promulgated by the Commis­sion under the Magnuson-Moss Act. The courts consistently indicated that the FTC’s power to write industry-wide reg­ulations is limited by the intent of Congress, particularly where the Commission had proposed to substitute its regulations for those of State and local government agencies. Thus all but a portion of the eyeglass rule, American Optometric As­sociation v. FTC, No. 76-1461 (3d Cir. February 6, 1980), and the FTC rule on advertising and sales practices by pri­vate vocational schools, Katherine Gibbs School v. FTC, No. 76-2204 (2d Cir. December 12, 1979), were sent back to the agency for reconsideration.

Mr. President, negotiations between the House and Senate Commerce Com­mittee conferrees over the past months have been difficult because of the widely differing bills passed by the House and Senate. The Senate conference, com­prising a position of a strong Senate mandate with a 77-to-13 vote on final passage of its legislation and a 3­to-1 vote on most of the major contro­versial issues. The pressure was further heightened by the running of the clock as the Appropriations Committee threat­ened no further funding for the agency...
until an authorization bill became law. Finally, on April 17, 1980, a majority of the Senate conferences offered a major compromise to break the deadlock over the FTC's consumer protection authority. One week later, the President released a package of proposals which would result in a bill acceptable to him. The FTC's consumer protection authority would be maintained in part the Senate compromise package sent to the House a week earlier. On April 30, 1980, the Senate-House conference reported the conference report before this body today.

Before discussing the conference report, I would like to emphasize a point with respect to the Senate legislation affecting two current ongoing rulemakings, children's advertising and standards and certification. The Senate, by an overwhelming vote, felt that in certain specified cases Congress should provide guidance before the FTC issues rules at the taxpayers' expense. Clearly, Congress should not intervene as a routine matter in a normal rulemaking proceeding where the weight of the evidence is the only issue. However, if an agency has exceeded its authority to initiate a rule or if a dispute over the rulemaking involves basic issues on the meaning of the statute or the scope of the Agency's jurisdiction, Congress should exercise its authority by law to take corrective action. The question of when to intervene must be approached in a pragmatic look at each case. Mr. President, I believe the Senate's action with respect to intervention in these two rulemakings proceedings was fully justified by the record.

STANDARDS AND CERTIFICATION RULEMAKING

I should like to make a few brief remarks regarding the provision in the conference report on voluntary standards activities section 7. While the Senate bill terminated all rulemaking authority, the conference bill terminates only section 18 authority. This is the appropriate approach as the introduction of S. 991, before the Committee acted. Ending section 18 rulemakings at the taxpayers' expense.

The Federal Trade Commission has traditionally exercised the power granted to it by Congress to regulate the dissemination of false or deceptive advertising as an unfair or deceptive act or practice. In recent years, however, the Commission has exceeded its powers by asserting the power to regulate for 3 years the content of nondeceptive commercial speech, including unfair practices, advertising, including unfair practices, advertising, including unfair practices, advertising, including unfair practices.

The unprecedented departure from the traditional scope of the Commission's jurisdiction has been a matter of great concern to many thoughtful persons in and out of Congress, including, for example, the American Civil Liberties Union, which criticized the FTC's proposed ban on television advertising under the "unfairness" standard as an unconstitutional abridgement of free speech which exceeded the Commission's authority. Norman Dorsen, chairperson for the ACLU stated in a letter to the FTC:

We do not question the Commission's power to regulate deceptive advertising. We recognize fraud, deception and misrepresentation as permissible grounds for the regulation of commercial speech But what the FTC now proposes is in effect to label all advertising aimed at young children as inherently deceptive. This in our view is too broad a remedy that catches protected speech in its net.

The report on FTC rulemaking of the special project of the Administrative Conference of the United States, a report mandated by the Magnuson-Moss Act, traces the Commission's involvement in the FTC's consumer protection authority, the conference bill terminates what final action should be taken on this issue.

Furthermore, I continue to believe that the argument contained in the Senate report on S. 1991 make a persuasive case for individual adjudication of product exclusion cases which occur as a result of the Commission's rulemaking and that the Commission would be well advised to prosecute such any such violations through case-

There is nothing in the legislative history of the FTC Act which indicates that the Congress intended for the Commission to be empowered to regulate the content of nondeceptive commercial speech on grounds of unfairness. Further, no court has ruled that the FTC could regulate the content nondeceptive advertising on grounds of "unfairness" alone. Even the FTC itself has not held in an adjudicated case that truthful but unfair advertising is prohibited by section 5 of the Federal Trade Commission Act.

With respect to the constitutional issue raised by the Commission's unfairness theories, the Supreme Court has made it clear that commercial speech is entitled to no greater constitutional amendment, unless that speech is false, misleading, or deceptive. The court in the Virginia State Board of Pharmacy case expressly said that the State may not regulate commercial speech on grounds of "unfairness" or "deception" because it was "fearful of that information's effect upon its disseminators and its recipients."

Mr. President, the bill's modest restrictions go only to the Commission's powers to regulate the content of nondeceptive commercial speech on broad and novel unfairness theories, and even then only in industry-wide rulemakings. This legislation limits any of the powers the Commission has traditionally exercised. It does not affect the Commission's authority in individual adjudicatory proceedings under section 5 of the act. It does not affect the Commission's authority in rulemaking proceedings with respect to practices other than advertising, including unfair practices, such as price and switch" tactics. The Commission also would not affect the FTC's ad substantiation program, which requires advertisers to submit to the FTC
on request data concerning substantiation for particular advertising claims.

With these provisions in the conference report limiting and defining more specific ways in which confidentiality is to be governed, the conferences intend to redirect the Commission to its primary and longstanding function of determining whether advertising contains representations that are false or have the capacity to deceive or mislead consumers. In discharging this task, the danger will be greatly diminished that the Commission will infringe upon first amendment or any other rights of a contemplated consumer. Thus, the conferences accept the concept of public policy when regulating commercial speech.

CONFIDENTIALITY

Under section 14 of the conference report, the applicability of the Freedom of Information Act (FOIA) is limited to subpoenaed information or information supplied in lieu of a subpoena. This more narrowly defines the FOIA exemption, which was the intent of the original Senate bill. The conference use of a comparable exemption applicable to the Justice Department since 1976.

The main purposes of the exemption are to protect proprietary data without affronting the legislative history of FOIA and to encourage compliance with legitimate information demands. With respect to the non-restrictive creation of proprietary data, there is no reference to the investigative history of the FOIA that would support the notion that the FOIA was intended to protect persons to obtain personal information about other invidious individuals, or to gain an advantage over business competitors. Since the basic purpose of the FOIA is to permit public access to the records of the agency's own decisionmaking so that agency officials are more accountable and cannot rely on "secret law," this legislation is consistent with that objective. Nothing in the legislation would affect in any way public access to the Commission's own documents through the FOIA.

As a result of 9 days of oversight hearings on the FTC, it was established that the problem of obtaining information at the Commission did exist. In fact, the conference deleted the Federal Trade Commission to quash subpensas, because of the fear that the FTC will reissue their confidential information to competitors. The Department of Justice is operating under the FOIA exemption for subpensas since 1976, does not have the same problem of noncompliance with legitimate information demands, Antitrust Civil Process Act 15 U.S.C. 1311. The FTC conference report emphasizes that this provision was adopted due to special circumstances surrounding the propriety of requiring confidentiality of information by the FTC. The Senate conference urged inclusion of a provision in the report stating that the conferences do not wish this action to be construed as a departure from general government policy affecting the application of the Freedom of Information Act, and I believe this is particularly appropriate.

I should like to clarify some points regarding this provision: First, information will not become permanently confidential simply because the company labels it that way. The legislation is modeled after a process that the Commission has used for years. If a company marks its document confidential, the FTC may initially and at the request of the company decide whether to make the document confidential and should be disclosed. The company must be given 10 days' notice of the FTC's intention to disclose the document, and that the FTC will not disclose the document if it wishes to contest the Commission's decision. Second, evidence collected by the committee shows that the Commission traditionally has required private parties to protect all types of sensitive information that has been taken a narrow view as to what constitutes a trade secret exempt from disclosure. The Third Circuit Court of Appeals in the recent Weiss case spoke about inappropriate disclosures by the FTC. The court of appeals said that evidence in the lower New Jersey court demonstrated that in the past the Commission had made inappropriate disclosures stating—

We agree with the District Judge that the unfortunate disclosures by the FTC of confidential information are the kind of governmental behavior that simply cannot be countenanced.

The court of appeal's decision left intact the lower court's finding that disclosure of secrets is an unconstitutional taking. Such a finding makes quite clear the need for prompt congressional action in this area.

Section 14 of the bill provides in section 21(b) (B) that the custodian of documents or information may not disclose that information in an individual identifiable form.

The bill also defines "persons" and "agencies." The definitions for these terms are taken from the FOIA. As to information that is not subject to disclosure under section 6(f), and we expect no change in this practice. As to the last provision, it is the intent of the conferences to codify current Commission practice which is to allow only the Department of Commerce's Bureau of Economic Analysis (BEA) access to disaggregated financial reports collected by the FTC. This information is used by BEA for purposes of preparing the estimates of the national income and product accounts. Other Federal agencies do not currently have regular access to disaggregated data gathered under the Federal Reports Act and we expect no change in this practice. If in any particular case the practice of the FTC was changed, we expect the Commission to notify the Commerce Committee. It has been noted that the conference report permits the Commission to obtain confidential information to Federal and State law enforcement agencies if the agencies agree to maintain the material in confidence and if they need the information for official law enforcement purposes. The provision maintains an authority which the Commission has under current law, as recently explained by the court in the Interco case. The conference report does not require the Commission to second-guess or look behind the scope of a State attorney general's request for access to the Commission's investigatory file. As to information that the Commission obtained before enactment of this bill, the respective prohibitions and authorities contained in sections 6(f), 21(d), 21(e), and 21(f) apply. The conference determined that the question of whether the information was obtained before or after the effective date of the act. Sections 21(a), 21(b), and 21(c) apply to material obtained after the Commission after the effective date of the act. Finally, sections 6(f) and 21(b) require...
agencies that receive the information from the Commission to maintain the information in confidence. These provisions are not intended to preclude use of documentary evidence in a law enforcement proceeding. Also, if both the Commission and the provider consent, the recipient agency may make information covering both parties public.

One clarification needs to be made concerning section 20(1). Where the Commission, pursuant to one of its reporting programs such as QPR or line of business, issues individual identification orders to a large number of companies, then a duplicate of the Commissioners' signature on the first order on other identifications is not sufficient. However, with respect to other uses of compulsory process, the conferees intend that a Commissioner sign each order.

Mr. President, as the lengthy hearing record before the Senate Commerce Committee indicates, many proposals were recommended to affect the authority of the Federal Trade Commission. In closing, I want to emphasize that neither the hearings, nor the views expressed in this Committee nor this conference report takes away powers which the Commission has had for years. All the improved and strengthened enforcement measures enacted by the Congress in recent years are preserved, including the extension of the Commission's jurisdiction to all matters which affect commerce, the power to issue industry-wide trade regulation rules, the power to give Industrywide effect to individual cease-and-desist orders, the authority to seek immediate injunctions against alleged unfair or deceptive acts or practices pending Commission adjudication of its charges, and the right to go to court after issuance of a cease-and-desist order to obtain redress for consumers who have been injured by unfair or deceptive acts or practices.

The Federal Trade Commission, with new guidelines with respect to its rulemaking authority, continues to have the potential to be a critical element in the health of the marketplace. I feel confident in saying that the changes we have made will help return the FTC to a respected and effective agency which is what the Congress had in mind when it first created the agency.

I thank the distinguished chairman of the Commerce Committee for his leadership and invaluable support on this FTC authorization bill.

I would also like to thank the ranking minority member on the Committee, Senator Danforth, for his cooperation, for his patience—and I underscore "for his patience"—and I underscore "thoughtful"—contributions in this legislative endeavor. Without the time and effort he contributed this will have no authorization bill to consider today.

Further, Mr. President, I wish to recognize all the House and Senate conferees for continuing to work together in difficult circumstances in an effort to fund this agency.

Finally, I thank the administration for the time that the President and his Domestic Policy Adviser, Stuart Eizenstat, have personally contributed to this proposed legislation.

Mr. President, I suspect that this measure would not be here had it not been for the tireless efforts of the President, and the thoughtful consideration of the staff: Amy Bondurant, Mike Mulllen, Loretta Dunn, and on my personal staff, Martha Moloney. To them and to each and every member of the minority, I extend my thanks and congratulations for a job well done.

Mr. President, I yield to the distinguished chairman of the Committee on Commerce, Science, and Transportation.

Mr. CANNON. Mr. President, first, I commend my distinguished colleague from Kentucky for his fine leadership in developing proposals and alternatives that would bridge the gap between Senate and House positions on this legislation. I believe that the final conference version of the FTC bill represents an excellent compromise. It sets clear limits on the FTC's authority in a number of important areas, but it does not cripple or undermine the Commission's authority to continue to protect consumers and insure a competitive marketplace.

Mr. President, this legislation grew out of 9 days of comprehensive oversight hearings that established the FTC's authority was very broad and that the Commission was stretching its authority in a number of important areas, but it does not cripple or undermine the Commission's authority to continue to protect consumers and insure a competitive marketplace.

First, the bill limits the authority of the FTC to issue final rules and regulations. The conference report would also suspend the use of "unfairness" in any new rulemaking proceeding during the 3-year authorization period. This amendment is consistent with the Commerce Committee's view that unfairness is too broad and vague a concept when applied to advertising. I believe the Commission will have adequate authority to regulate advertising if their power is limited to preventing false or deceptive advertising.

There is one other observation that I should like to make about the children's advertising proceeding that I think is important. In the Commerce Committee we focused on the constitutional and procedural issues and the question of what the appropriate standard was for regulating advertising. But, there is another important question regarding the FTC's activity in this area. That is: Whether the FTC should attempt to create through rulemaking a new national nutrition policy. To the extent that the FTC was attempting to use that authority to make their rulemaking proceeding, we would strongly believe that what should be done by the Food and Drug Administration or the Department of Agriculture, not the FTC. The FTC has played and continues to play an important role in preventing false or deceptive advertising, and it will be most faithful to its charter if it sticks to that mission.

Mr. President, I should like briefly to explain some of the key provisions of the final version of the bill.

First, the bill limits the authority of the FTC to issue subpenas. In the past the Commission has issued subpenas without any basis to believe that a company was violating the law; subpenas were issued simply to satisfy "official curiosity." Under the legislation, the Commission would be required to state the basis of the conduct constituting the alleged violation which is under investigation and the provision of law applicable to that conduct. This provision is modeled after the Attorney General's "official curiosity." I think it will prevent fishing expeditions. In addition to limiting subpenas, the bill also requires the Commission to respect the confidentiality of financial information supplied to the Commission in the course of its investigations.

Second, the committee has incorporated into § 819, several regulatory reform provisions which are similar to the recommendations of the Carter administration. The conference report contains a requirement for a regulatory analysis by the FTC for each proposed and final rule issued by it. This amendment requires the FTC to publish an analysis of rulemaking options, including an assessment of the benefits and adverse effect of any proposed rule and its alternatives. Over the long run, I believe this provision will help the FTC to systematically analyze rulemaking options and particularly the cost and benefits of these options will result in a more sound, and less burdensome, regulations.

ADVERTISING RULEMAKING

Now let me turn to the children's advertising proceeding and the FTC's rulemaking authority over advertising. The conference report empowers the FTC to engage in rulemaking with respect to children's advertising only if that advertising was deceptive. This amendment eliminates unfairness as a ground to regulate children's advertising. The conference report would also suspend the use of "unfairness" in any new rulemaking proceeding during the 3-year authorization period. This amendment is consistent with the Commerce Committee's view that unfairness is too broad and vague a concept when applied to advertising. I believe the Commission will have adequate authority to regulate advertising if their power is limited to preventing false or deceptive advertising.

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Mr. President, I should like briefly to explain some of the key provisions of the final version of the bill.

First, the bill limits the authority of the FTC to issue subpenas. In the past the Commission has issued subpenas without any basis to believe that a company was violating the law; subpenas were issued simply to satisfy "official curiosity." Under the legislation, the Commission would be required to state the basis of the conduct constituting the alleged violation which is under investigation and the provision of law applicable to that conduct. This provision is modeled after the Attorney General's "official curiosity." I think it will prevent fishing expeditions. In addition to limiting subpenas, the bill also requires the Commission to respect the confidentiality of financial information supplied to the Commission in the course of its investigations.

Second, the committee has incorporated into § 819, several regulatory reform provisions which are similar to the recommendations of the Carter administration. The conference report contains a requirement for a regulatory analysis by the FTC for each proposed and final rule issued by it. This amendment requires the FTC to publish an analysis of rulemaking options, including an assessment of the benefits and adverse effect of any proposed rule and its alternatives. Over the long run, I believe this provision will help the FTC to systematically analyze rulemaking options and particularly the cost and benefits of these options will result in a more sound, and less burdensome, regulations.
of unauthorized insurance investigations. These activities have had precisely the result which it was the purpose of the McCarran Act to avoid—interfering with State insurance regulation. The conference report makes it clear that the FTC may not conduct investigations of the business of insurance under section 6 of the FTC Act. The FTC may make inquiries if it is found that violations of State laws applicable to the business of insurance are exempt from the antitrust laws. This would include prepayment of health insurance policies, health insurance organizations, and foundations for medical care to the extent they are regulated by State law. Of course, under the Royal Drug case, third-party contracts or practices of health insurers or firms for goods or services provided to an insured—are not protected from the antitrust laws.

**STANDARDS**

Mr. President, I would like to mention briefly on section 7 of the conference report, the provision on the standards and certification rulemaking proceeding. Under the conference substitute the Commission's rulemaking authority would be terminated. This is plainly justified because a clear majority of cases of alleged unlawful conduct that formed the basis of this rulemaking involved the unjustified exclusion of a product—a boycott under the Sherman Act, not "unfair acts or practices" to which section 18 rulemaking authority is restricted.

The conference report takes no position on the issue of whether the Commission has any other rulemaking authority. Specifically, our action should not be taken as affirming any rulemaking authority under section 6(g) of the FTC Act. That authority, if it exists, must be found in the 1914 Federal Trade Commission Act. I must say, that I personally have doubts about the Commission's rulemaking authority under this section. In my view, the legislative history of the 1914 Act is very unclear on this point, and, in any event, this represents an important policy issue which an American Bar Association committee report has recently suggested should be reviewed by Congress.

Second, regardless of the extent of the Commission's rulemaking authority, the conference report stresses that "the commission should begin its rulemaking process by exploring the possibility of voluntary rules and guidelines in this area." In fact, I think the FTC staff report is clearly unambiguous in explaining why rulemaking rather than individual actions is the preferred method for addressing this issue. Given the complexity and variation of fact patterns, individual actions rather than rigid rules seem to me to be the better approach to remedy the problems in this area. The conference report states that the Commission can establish a pattern of unlawful conduct—which the 25 cases cited in the staff report clearly fail to do, I do not think that the Commission need seek to exercise rulemaking authority.

Fourth, and again assuming the FTC has other rulemaking authority, the Conference Committee must decide on its proposed rule and the alleged unlawful conduct which is the basis of the rule. Testimony during the course of the committee's oversight hearings indicated that many complaints did not involve situations where no notice or right to participate occurred, but involved technical disagreements over the particular standard that was established. Finally, this rulemaking raises another important question—overlapping Government regulation. At the same time that the FTC is proceeding with this proceeding, the Conference Committee and Budget has instructed the Department of Commerce to develop a rule indirectly regulating standards activities by barring reimbursement of Government officials for work on standards committees or the use of standards for procurement, unless the standard was set by a standards group meeting certain due process requirements. These requirements appear to be very similar to the requirements of the proposed FTC rule. Therefore, it would seem appropriate to coordinate these rulemaking activities and avoid any duplicate or inconsistent requirements.

The FTC standards proceeding has resulted in considerable controversy. But, what it all comes down to is some common sense about regulation: Is this regulation really necessary? And, does this regulation really address the underlying problems that have been identified in a way that will be accepted by other possible regulations or individual actions. I hope the Commission will give careful consideration to these questions because it is this issue I have outlined when they determine what further action should be taken in this area.

**PROVISIONS OF THE HOUSE BILL**

Mr. President, there are four provisions of the House bill which are incorporated in the final conference report. The conference accepted a House provision limiting the authority of the FTC to regulate funeral services. The FTC is limited to regulating certain specified activities in an area in which a State may request exemption from FTC jurisdiction if it provides equal or greater consumer protection for funeral services. The conference also adopted the Commerce Committee's amendment limiting FTC authority to initiate actions against generic trademarks for the 3-year authorization period. This would give the Congress time to reevaluate enforcement policy for these marks. The conference also adopted modified forms a House provision limiting the FTC authority over agricultural cooperatives. This amendment addresses the uncertainty surrounding the jurisdiction of
the FTC by making certain that the FTC may not take any action against agricultural cooperatives because of conduct that is exempt from antitrust enforcement under the Capper-Volstead Act. This amendment says that if the FTC has been appointed as the administrator of agricultural cooperatives, the FTC has to stay away—totally. It may not initiate any action whatever.

Finally, the conference agreed on a two-House veto provision. Although I have strong doubts about whether the veto will be an effective mechanism for controlling rulemaking to the agency's statutory limits, and although I think redefining an agency's authority through legislation such as this FTC bill is a more desirable means for reform, it was necessary to reach some accommodation with the House on this issue. The legislation provides for a two-House veto during the 3-year authorization period. This will provide a test of whether or not this is a workable mechanism and would also provide the basis for a judicial test of the veto's constitutionality.

CONCLUSION

Mr. President, the FTC and a large segment of the press seem to assume that this legislation is solely to add a regulatory layer of special interests. This is an incorrect assumption. While it is true that parties affected by the FTC's rulemaking proceeding did bring their views to the attention of the House, that alone would not have resulted in the legislation we are completing action on today. Many industries and many companies continue to support the administration's regulatory agenda, but only occasionally does it result in legislation. The real reason that we have proposed this legislation for the FTC is because the Commission appeared to be fully prepared to pose its statutory authority to the very brink and beyond. The FTC lost sight of the necessity to listen to the evidence and legal arguments of its opponents. Good judgment and wisdom have been replaced with an arrogance that seemed unparalleled beyond. The agency lost sight of the necessity to listen to the evidence and legal arguments of its opponents. Generally, we have been unable to come to terms with the unchartered territory of the Federal Trade Commission Act. His views were clearly stated in a 1977 speech in which he said:

Frankly, I don't know how far we can travel on the "unfairness" authority of Sperry & Hutchinson, but we intend to make use of the precedent, as it illustrates the elastic nature of the concept of "unfairness," which Section 5 embodies.

We are not asking the Commission to stop carrying out its consumer protection mission. All we are asking is that the Commission constrain its activities to its statutory charter.

President Carter said earlier this year in a speech on regulatory reform:

"A pressing need to get rid of the regulations that are unwarranted, and many of them are absolutely unwarranted, and we have got to clean up those that are needlessly ineffective and enlightened and sensitive way."

Congress has enacted this legislation because it is fully aware of and agrees with the President's views. I hope that the Commission will implement this legislation in that spirit.

And finally, Mr. President, I wish to thank the ranking minority member of the Senate Banking Committee, Senator Packwood, for his strong support. He consistently sought an equitable solution to the controversy surrounding the FTC. I respect and appreciate the reservations he has expressed about the report now before us, but I believe his very strong opposition to parts of the report, I especially appreciate his cooperative spirit in permitting the majority of the Senate to move forward on this compromise.

I also want to recognize the professional work on the part of our respective staffs who have labored diligently to make this bill possible. Mr. President, the Senate is grateful to Mike Mullen, Amy Bondurant, Loretta Dunn, Martha Moloney, Steve Halloway, and Butch Almstedt.

Mr. President, I submit a statement on behalf of Senator Hollings. He is engaged in the conference with the House on the budget provisions. I submit his statement for the Record.

Mr. HOLLINGS. Mr. President, I should like to add a few words concerning the insurance provision. I cannot emphasize strongly enough that this amendment reaffirms the basic purpose of the McCarran-Ferguson Act—to leave the job of insurance regulation to the States. In this amendment we are once again telling the FTC that it is not to investigate the business of insurance unless it is the State of such business. We are limiting the FTC's role to conducting studies at the request of either Commerce Committee and only for the purpose of providing information to Congress when it considers insurance issues.

Because the States have this exclusive power to regulate, I would expect that there would be few, if any, FTC insurance studies undertaken at congressional request. But if there are, the appropriations committee's process must be taken into account. The appropriations subcommittee of which I am a member has been following insurance expenditures. As I indicated during the Commerce Committee's mark-up of this bill, the support of the FTC for this statute has been an authorization. The problem in the past has been that the FTC has gone ahead with insurance investigations without seeking approval from the appropriations committee.

Therefore, to exercise our responsibilities under this amendment effectively, we must be kept continuously informed by the FTC. Specifically, we expect to be advised promptly by the FTC of any request for a study from the House or Senate Commerce Committee. And, we expect to be told of the estimated costs which will have the give full and fair consideration to including such amounts in the FTC's appropriations bill, just as we would with respect to any other budget proposal by the Committee.

Mr. DANFORTH. Mr. President, the process of arriving at a Federal Trade Commission authorization bill has been a very long fight—in fact, something of a saga—the Commerce Committee has now gone some 43 months without an authorization. As a matter of fact, during the past 4 years or so, the FTC has limped from month to month, with one continuing appropriations bill after another sustaining its life—constantly under attack from various sides, constantly in a state of uncertainty as to what its future would be, what it would be permitted to do, what it would be able to do in the future.

The Senate passed the Federal Trade Commission without an authorization bill is indeed a doubt. At one point—I believe it was last March—the House of Representatives was able to muster a large majority to refuse the only veto override of continuing appropriations bill for the FTC. Therefore, it is clear that unless the Congress of the United States is able to agree, at long last, on an authorization bill, the possibility of further continuing appropriations is very much in doubt.

So it is in a very real sense that the future of an agency of the Federal Government, of very long standing, is in question and that that future will be resolved by what we are about to do this afternoon.

On the other hand—the other side of this particular dilemma that we have been in—an agency of the Government that continues in existence without an authorization bill is really without any congressional control whatever, other than simply the power of the purse.

Therefore, for those who believe that regulatory agencies should not be just free-wheeling organizations spinning out of control, an authorization bill is essential not only to maintain the life of an agency but also to provide it with the kind of congressional supervision and control necessary to keep the Government from being maintained and its regulatory agencies from being under the control of those who ultimately are elected by the people—namely, the Congress of the United States.

This has been a very long, hard battle to get an authorization bill. It has lasted some 4 years during which time the Senate Commerce Committee held some 14 days of hearings. The House Consumer Subcommittee held some 6 days of hearings. The Senate at various times has held this matter before the Senate on 7 different days, the House on 8 different days. There were 5 days of meetings of conferences, not to mention numerous informal meetings of Members of the Senate and Members of the House of Representatives who were involved in this process.

I believe that this is beginning to wind its way down and that today we are going to have an authorization bill. Mr. President, it is going to be a bill which will please absolutely no one.

I asked my legislative assistant Kermit Almstedt, when we finally put the last period or the colon in this conference report, please name the groups that will not like this bill. And he said, "Well, the consumer advocates will not like it, the funeral directors will not like it," and he went down this long list, and I said, "Who will like it?" And his answer was "Nobody."

I think, Mr. President, that that really is the nature of this legislative process. But Congress is a place where compromise is worked out and when a
On February 7, 1980, the full Senate accepted by a vote of 77 to 13, the text of the Senate Consumer Subcommittee bill (S. 911). It contained the following major provisions:

- Prohibited FTC public disclosure of trade secrets and confidential commercial and financial information.
- Required the FTC to utilize explicit subpoena processes, thereby preventing "fishing expeditions" and protecting the legitimate rights of business and persons subjected to investigations.
- Required advance notice of proposed FTC rulemaking affecting parties.
- Prohibited rulemaking except in instances where the FTC had a reasonable cause to believe that a false trade practice or advertising was "false and deceptive." I succeeded in getting the Subcommittee to accept a "false or deceptive" instead.
- Prohibited FTC rulemaking authority in the area of voluntary standards or certifications. An amendment was offered that would have permitted the FTC to seek the injunction of false advertising if it was "false and deceptive." I opposed the amendment because it would enable anyone who was not satisfied with the marketplace due to an anticompetitive standard or certification to take their case to an arbitrary and nonrepresentative voluntary association.
- Prohibited FTC rulemaking authority in the area of voluntary standards or certifications. An amendment was offered that would have permitted the FTC to seek the injunction of false advertising if it was "false and deceptive." I opposed the amendment because it would enable anyone who was not satisfied with the marketplace due to an anticompetitive standard or certification to take their case to an arbitrary and nonrepresentative voluntary association.

In my opinion, the original Senate version of the FTC bill was a balanced and reasonable effort to define more clearly the Commission's responsibilities and authority. However, deep disagreements developed between Congresses during efforts to resolve seven specific differences between the House and Senate versions of the bill. Agreement was reached only after weeks of protracted negotiation. One compromise on which the Congresses agreed to treat the resolution of differences on the seven issues as a package—not item by item. The disagreements on the issue of revising the veto were not accepted.

(1) Trademarks.—The House version prohibited the FTC from petitioning the Commissioner to enforce its trademark, whereas the Senate version did allow the FTC to do so. The Senate version placed no limit on the FTC's enforcement powers. The House version allowed the FTC to seek the cancellation of a trademark if it could show evidence that the trademark was, in fact, being used. The Senate version had the FTC seek the cancellation of a trademark if it could show evidence that the trademark was being used in violation of the law.

(2) Funeral Industry.—The House version prohibited the FTC from regulating various practices within the funeral industry, whereas the Senate version imposed no such limits. The Senate version also prohibited the FTC from regulating various practices within the funeral industry, whereas the House version imposed no such limits.

(3) Agricultural cooperatives.—The House version prohibited the FTC from conducting any investigation of agricultural co-ops for antitrust violations, whereas the Senate version allowed the FTC to conduct such investigations. The Senate version placed no limit on the FTC's enforcement powers. The House version allowed the FTC to conduct such investigations if it could show evidence that the co-op was being used in violation of the law.

(4) Legislative veto.—The House version allowed the FTC to be vetoed by both Houses of Congress or by one House in the absence of action by the other. The Senate version limited the FTC's enforcement powers to defendants who had been found guilty of violating the law. The Senate version had the FTC seek the cancellation of a trademark if it could show evidence that the trademark was being used in violation of the law.

(5) Insurance.—The Senate version included a provision that allowed the FTC to conduct investigations of insurance companies, whereas the House version prohibited the FTC from investigating insurance companies. The Senate version placed no limit on the FTC's enforcement powers. The House version allowed the FTC to conduct such investigations if it could show evidence that the company was being used in violation of the law.
fied the jurisdiction of the FTC over the insurance industry when re-
mission, pursuant to existing law (McCar-
ran-Perguson Act), from investigation or en-
forcement activities in jurisdictions where in-
vestigation or legal action was prohibited or stan-
tioned. The FTC had initiated a number of
ongoing investigations of the insurance in-
tion. The
fled
ran-Ferguson Act), from investigation or
May 21, 1980
standard of
provision. Under the Senate-House compro-

the compromise between the House, the
House as amended. H. Rept. 95-339.

The compromise, the
volved with the view that the
mment Act. P.L. 93-637. Provided authoriza-

Rulemaking Authority to Procedural Re-

Second

meeting Act. P.L. 93-637. Provided authoriza-

and
limits of such a standard. I would have
allowed the FTC to ban children's
advertising only in the case of products
deemed to constitute a health or safety haz-
ard. However, I supported the compromise.

(7) Standards and certification—The Sen-
are's amendment to the FTC authority to regu-
late voluntary standards and certification
associations. The House version had no such
limitation on the subject of the voluntary
rule, and conduct its investigations under
the "deceptive" standard. In addition, the
Commission was entitled to promulgate
advertising rules under a standard of
unfairness." This will permit
Commissioners on the truth and
limits of such a standard. I would have
preferred allowing the FTC to ban children's
advertising only in the case of products
deemed to constitute a health or safety haz-
ard. However, I supported the compromise.

CHRONOLOGY OF FEDERAL TRADE COMMISSION
APPROPRIATIONS
June 1, 1976, Second Supplemental Approp-
riations for FY 1976. $1,815,000 to Sept. 30,
Commerce, Judiciary and Related Agencies Approp-
riations for FY 1977. $32,700,000. Oct. 1, 1976 to
on release of line of business data.
May 4, 1977, Supplemental Appropriations
August 2, 1977, State, Justice, Commerce,
Judiciary and Related Agencies Approp-
September 8, 1978, Second Supplemental
Appropriations for FY 1978. $2,600,000. P.L. 95-
355.
October 10, 1978, State, Justice, etc. Approp-
riations forFY 1979. $4,750,000. Oct. 1, 1979 to
on further activities in children's ad-
vertising rulemaking and auto investigation.
October 22, 1979, Continuing Resolution
(M.J. Res. 415) from October 1, to Novem-
ber 20, 1979. P.L. 96-86. H. Rept. 96-500. Re-
strictions on any further activity in rule-
making.
November 20, 1979, Continuing Resolution
(M.J. Res. 514) from November 20, 1979 to
March 15, 1980. P.L. 96-123. S. Rept. 96-646 and
H. Rept. 96-604. Continued restrictions on rule-
making.
March 28, 1980, Continuing Resolution
(M.J. Res. 514) from March 15 to April 30,
January 4, 1981, Magnuson-Moss War-
ranty-Federal Trade Commission Improve-
ment Act. P.L. 93-237. Provided authoriza-
$47,091,000. P.L. 96-249. No Senate
hearings. Conference Report (H. Rept. 96-
901. H. Rept. 96-1104.
"FTC Amendments of 1977." March 8, 16, 1977. Hearings held in Con-
sumer Subcommitteef House Commerce
Committee.
March 29, 1977, Considered in Consumer
Subcommittee executive session.
April 15, 1977, H.R. 3816 House Sub-
committee reported to full Committee.
April 19, 1977, S. 1289. "FTC Improve-
May 3, 1977, reported on S. 1288
by Senate Consumer Subcommittee.
May 4, 11, 1977, H.R. 3816 considered by
full Committee reported to full House as amended. H. Rept. 95-339.
federally postponed consideration of the funeral amendment.

Mr. President, I yield the floor.

Mr. SCHMITT addressed the Chair.

Mr. FORD. Mr. President, will the Senator yield to me?

Mr. SCHMITT. I would be happy to yield.

Mr. FORD. I wish I had the eloquence of Senator DANFORTH to thank him elloquent as he has praised me. But, Jack, as they say down home, I am only armed with a silver tongue and the truth. I tell you with all sincerity that it could not have been accomplished without your patience and without your ability and your thoughtful input, as I said earlier. I am grateful to you for your kind remarks and I look forward to working with you for a long period of time.

I thank the distinguished Senator from New Mexico for allowing me the few remarks.

Mr. SCHMITT. Mr. President, I am more than happy to do that. I say to both Senators, who have so ably managed this bill, that at least there is one group of one who is pleased and happy with the legislation.

It is this Senator's opinion that, as is implicit in the words of Senator DANFORTH, this is a landmark piece of legislation. It shows through in the numerous compromises with specific rulemaking activities and what can be done with hard work and persistence to create legislation. History may little note in the long term the specifics of the compromises on which they were critical to the passage of the legislation. History will note that the conferences were able to create what I believe is a workable form of congressional review or legislative veto, over the future rulemaking activities of the Federal Trade Commission.

I congratulate all members of the conference committee, however they may have felt on this particular issue from a philosophical base, all the Senators and House Members who worked to reach this day with an issue on the floor of the U.S. Senate can consider not only a necessary authorization of an important agency, the Federal Trade Commission, but also an important and necessary legislative initiative—a legislative veto applied to the proposed rulemakings of an independent regulatory agency such as the Federal Trade Commission.

Mr. President, this is a landmark piece of legislation.

Mr. DANFORTH. Mr. President, it is my understanding that Senator Packwood, the ranking minority member of the Commerce Committee, is necessarily absent today when the Senate is considering the FTC conference report.

If Senator Packwood were here, he would indicate that as a conference he did not sign the conference report and he would vote against its acceptance.

Further, Mr. President, I ask unanimous consent that the Senator from Oregon (Mr. Packwood) be permitted to file different views on this matter at a later date, and that these views be printed in the permanent Record at the appropriate place.

Mr. President, finally, a word about the chairman of our subcommittee, Senator Wendell Ford. I do not know of anyone who has undertaken a more thankless job than Senator Ford in being the chairman of the Consumer Subcommittee, and navigating the treacherous rocks of moving this legislation along with him. He has been a man of very great patience and very great skill in accomplishing this seemingly miraculous feat, and he has been under fire from all directions.

But at this point in time Mr. Ralph Nader took it upon himself to telephone every radio station in the State of Kentucky to give an "exclusive interview," which time he proceeded to attack Senator Ford for his work on this conference report.

(Mr. STEVENSON assumed the chair.)

Mr. President, Nader, it is very difficult to make Mr. Nader unhappy. He is free to say whatsoever he pleases. I think it is easier to be a bit man than to be a constructivist legislator, and I think what WENDELL FORD has accomplished is something, as I said earlier, that makes very many people happy, but it is the soul of responsibility and it is exactly what service in the U.S. Senate must be about.

There are a complex of amendments and my congratulations for an outstanding job, and my strong sense of belief that he has done something which is very worthwhile, and my belief also that leadership on the floor on this bill we would not have a Federal Trade Commission.

Mr. President, I yield the floor.

Mr. SCHMITT addressed the Chair.

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Senator Packwood deserves the thanks of all of those who fought so hard for this concept, for assisting us in this effort. Senator Ford and Senator Danforth, although in opposition to the legislative veto under other circumstances, nonetheless were courteous in their opposition and worked diligently to reach the compromise that we have before us today.

Several years ago when the Senate began to work in earnest on the deliberation of the concept of a legislative veto, there seemed little likelihood of success. Now, however, we will be able to test the effect of a legislative veto for a period of 3 years on a major regulatory agency, one of great importance to the country. I feel confident that this test will provide important addition to the oversight tools available to the Congress.

THE LEGISLATIVE VETO—A SYSTEMATIC PROCEDURE FOR EXERCISING OVERSIGHT

Mr. President, this has been referred to as the oversight Congress. Hopefully, that title will stick, and we will, in the next session of this Congress, continue to develop the procedure for the independent and executive agencies of Government and over their exercise of the statutory authority that we have given them.

In any event, in the light, it is therefore no coincidence that the legislative veto has become an important part of the debate concerning the most appropriate means of Congress to exert better and more effective oversight over the Federal bureaucracy.

The legislative veto concept has been variously referred to as a panacea for all the problems of Government, or as an unconstitutional mechanism that will overburden the Congress with reviewing rules promulgated by the executive and independent agencies.

Neither of these positions is the correct one. Instead, the legislative veto is simply an aid to effective oversight of the exercise of legislative authority which have been delegated to independent or executive branch agencies in the past. It will significantly increase the effectiveness of the Congress in representational and oversight functions with regard to lawmaking in the form of Federal regulations and in assuring agency compliance with the intent of Congress in national policy formulation.

Developing the present legislative veto concept over the last 3 years, my colleagues and I have taken into account questions of constitutionality, House and Senate prerogatives, committee workload, and the threat of narrow special interests. It may be useful at this point to explain in some detail the concept and procedures behind the legislation.

Mr. President, the amendment that is contained in the Federal Trade Commission authorization bill conference report.

PROPOSED RULES

The legislative veto provision of the conference report would require that an agency be permitted to both Houses of Congress and be referred to the appropriate committees of jurisdiction. Before such a rule would go into effect, the rule would lie before the Congress for 90 days, at which time the rule would go into effect automatically if both Houses of Congress have not agreed to a resolution of disapproval.
It is intended that should the Commission decide to formulate a new rule similar to that which was disapproved by the Congress, it will be guided by the committee report and floor debate on the disapproval resolution in determining congressional intent on the matter. On October 1, 1979, the President of the Senate appointed the 295 provisions of law containing legislative veto or review procedures, that such procedures are regularly used by the Congress, and that, on the several occasions in which challenged by the courts, the veto has not been ruled unconstitutional, it appears likely that the Supreme Court will uphold the constitutionality of the procedure outlined in the conference report.

However, in order to insure that this issue is resolved as soon as possible after this legislation is enacted, and if a constitutional challenge is raised, the amendment contains a provision requesting expedited consideration of such a challenge by the Supreme Court.

STATUTORY RECOMMENDED FTC RULES

The conference committee report contains section 1009 which is designed to make it very clear to the FTC, to the courts, and to the Congress, the precise status of the rulemaking recommendations of the Federal Trade Commission. That language reads as follows:

"Under this provision the authority of the rules is conditioned on those rules being approved and promulgated. If submitted to the Congress for review and possible disapproval under the procedures set out above, if the Congress does not act, the rule submitted to the Congress becomes effective. If the Congress passes a concurrent resolution of disapproval, the rule would not go into effect. By requiring that the Commission submit a rule to Congress for review and possible disapproval, the Congress, under this provision, hereby provides a mechanism to determine whether and when a rule submitted to it by the Commission becomes effective."

This language explains, that the FTC does not have the authority to promulgate rules unless those rules are submitted to the Congress. In other words, to a great extent, the Congress has reassumed the legislative responsibility delegated to the FTC with the passage of the original FTC Act; and subsequently, with the Magnuson-Moss Act and with other legislation. Under these new procedures, the FTC is to make recommendations to the Congress. Should the Congress disapprove such a recommendation, it has not vetoed a rule that was already effective, because the FTC still has any statutory authority to promulgate a rule that becomes effective prior to submission to the Congress.

Mr. President, these are the major provisions of the language in the Federal Trade Commission authorizing bill conference report. We believe that this is a fair, reasonable and efficient approach to a legislative reform that responds to the public demand for greater congressional accountability for the delegated legislative actions of the Federal Trade Commission.

It has become increasingly evident that Congress cannot stand on the sidelines and be an uninvolved bystander to the regulatory process at the FTC. Neither can we just apply short-term fixes to specific rulemaking activities, as has been proposed by some. The presence of the possibility of a legislative veto at the end of the regulatory pipeline will insure that the FTC considers our concerns at the beginning of the pipeline. We must become a part of that process by insisting on an opportunity to review the rulemaking recommendations of the Federal Trade Commission.

Mr. President, I ask unanimous consent that there be printed in the Record a statement by Eugene Gressman, a distinguished legal scholar, which discusses the constitutionality of the one-house veto device, much of which can be applied to the compromise concept contained in the conference report, which is a two-house legislative veto. I ask that it be printed at the conclusion of my remarks.

The PRESIDENT. Without objection, it is so ordered.

Mr. SCHMITT. Finally, Mr. President, I just once again cannot help but reiterate my sincere appreciation to the Senate and, most specifically, to Senator DANTHORN for their leadership and for their willingness to work with all members of the Commerce Committee interested in these issues, whether they were on the conference or not. The Senator from New Mexico deeply appreciates it and congratulates them on their success.

EXHIBIT 1

STATEMENT OF EUGENE GRESSMAN

This statement is directed to the proposition that the device known as the legislative or one-House veto can be structured and used in a manner consistent with the letter and the spirit of the Constitution. That proposition rests upon a constitutional rationale established by Chief Justice Mar­shall in McCulloch v. Maryland, 4 Wheat. 316 (1819), a rationale revived and applied by the Court of Claims to sustain a challenge by the Supreme Court in Atkins v. United States, 556 F.2d 1028, 1057-1071 (Ct. Cl. 1977), certiorari denied, 434 U.S. 1009 (1978).

My commitment to that proposition is thus something more than academic or theoretical, however relevant those factors may be. It is a commitment forged in the fires of litigation respecting the constitutionality of this legislative device. I have had the honor of representing the House of Representatives in all five cases that to date have involved serious challenges to the use..."
made to the fact that the Court of Claims dealt only with the provision in the Security Act and expressly disclaimed any "overreaching attempt to cover the entire problem of "veto" or "disapproval." And the "necessary and proper" analysis that so permeates the Atkins decision is generally dispositive of the Department. If it is mentioned at all, by a footnote comment that the Necessary and Proper Clause does not authorize the adoption of regulations by unｎａｎｎｉｆｏｒｎｆｅｄｅｒａｌcourt,withoutextendeddiscussion,awhatsomewhatrelatedclaimthattheone-House veto provision in the Federal Security Act, 2 U.S.C. § 559 (1), was invalid, a claim that was renewed on the appeal to the Supreme Court. Without comment, the Supreme Court summarily affirmed the lower court's ruling in Pressler, 434 U.S. 1028.

However opaque may be the Pressler rulings with respect to the validity of the Security Act veto provision, the Atkins decision of the Court of Claims is a stinging rejection of the speciousness of the constitutional assertions on that Act veto provision. By any standard of analysis, it is a compelling demonstration of the enduring quality of judicial statesmanship and craftsmanship. It is a comprehensive analysis of the historic and pivotal role that Congress plays in the enforcement of the constitutional provision by the executive or administrative action. It leaves no doubt as to the status quo as to whether the provision is constitutional. The Atkins decision is generative, a claim that was renewed on the appeal, review, reverse or veto any and all forms of final executive or administrative action. One must begin this review, therefore, with a firm understanding of the kind of "one-House veto" provision that was put into issue in Atkins, as well as in the other four cases involving similar constitutional challenges.

THE NATURE OF THE VETO IN QUESTION

The term "one-House veto" or "legislative veto" is not a precise term of art, legislation, judicial decision, or judicial construction. It is simply a popular shorthand term that covers a variety of forms of legislative oversight, some of which may not involve any attempt by Congress to disapprove the Executive's decision or to alter the status quo. It is a fact, doubtless coincidental, that all three of the terms have been challenged in the courts for their employment of the so-called "one-House veto" technique of oversight. The Atkins-Pressler-McCorkle trilogy of cases all involved the Salary Act provision that referred to Congress its vested power to make final determinative decisions in the three branches of government. That power was exercised by giving approval by initiation of the proposal of either or both Houses, of salary recommendations that Congress had authorized the President to make. In a word, the Salary Act provision at issue in these cases is the so-called "one-House veto" provision. Disapproval of the President's recommendations did not mean a "veto" of the President's action or of the effectiveness of the action of the President or of the Attorney General that Congress permit a determination that the powers it has been authorized by this Constitution in the Executive is a "necessary and proper" function of the Federal Government. The power to implement the Executive's constitutional or legislative powers constitutes the "vertical effect" of the Necessary and Proper Clause. The case of Congress vested powers is the constitutional basis for Congress itself."
The essential point of Marshall’s great decision is that Congress has complete discretion, consistent with all other provisions of the Constitution, both as to the means they adopt to put their legislation into effect and execute all powers vested by the Constitution in Congress or in any other branch or department of government. Once a vested power has been properly identified, the Necessary and Proper Clause is an affirmative power to help execute that vested power through the enactment of whatever laws are deemed by Congress to be necessary or appropriate to that legitimate or vested end. As the Atkins opinion noted, this Clause “can authorize a given method of obtaining a desired result, as well as ground a substantive provision (as in McCulloch).” 556 F. 2d at 1061.

Following John Marshall’s conception of the Necessary and Proper Clause, the Atkins court first identified the end sought to be achieved by the legislative technique in question, the vested power, which was identified as the vested power of Congress to fix the compensation of federal judges. And to that end, Congress had wide discretion to select and enact laws containing or effecting that desired result. In that case, the Necessary and Proper Clause was found to authorize the President’s recommendation that first citizens be given the initial power to make [salary] proposals to the President, and, then, to select for itself the method of obtaining the desired result, which involves no changing of the status quo, so too one House can vote down a proposal for new legislation, which involves no changing of the status quo, so too one House can vote down a proposal for a Presidential recommendation.

The affirmative grant of power to Congress given by the Necessary and Proper Clause is what the local opponents of the “one-House veto” technique will not concede. They seek to dispose of the entire “necessary and proper” argument by slipping immediately to the last item in John Marshall’s “necessary and proper” methodology—the provision that the means selected by Congress be “necessary and appropriate to that legitimate or vested end.” As the Atkins court did, it identified the legitimate end, the Congressional power to set judicial salaries. And it interpreted the means selected in the Salary Act as appropriate to that end, at least in the minds of Congress. It is at this point that the proper delineation of the necessary and proper power necessarily becomes a matter of judicial discretion. Once the Court realized that Congress had not delegated to the President its total or final discretion as to the method to be used in fixing judicial salaries, it held that final determination must be left to Congress.

In sum, the Court of Claims decision in Atkins v. Brooker is important for a constitutional structure of the device commonly known as the “one-House veto.” It warns the other branches of government that such a statutory delegation of power to the President exercises in connection with judicial salary recommendations, that power stands not from Article II but from a statutory delegation from Congress, acting pursuant to the Necessary and Proper Clause. The horizontal thrust of that Clause would conjoin the President to action undertaken by Congress in exercising that delegated function. And since the President’s power to make such salary determinations is vested in and retained by Congress, the President cannot be heard to complain that some kind of unconstitutional conditions have been placed upon his execution of an exclusively executive power.

But it does not solve any of them. It attacks “fishing expedition” subpenas, but explicitly allows those subpenas once a complaint has been issued. H.R. 2313 required the FTC to analyze the impact of its major rules, but specifically excludes any judicial guarantee that this analysis be in good faith or nonfrivolous, or even that preparation was in accordance with the Constitution.

The bill grants legal fees to successful defendants, but allows the FTC to withhold that request for a motion. Mr. President, Congressman John Ashbrook correctly points out, in his House of Representatives yesterday why Congress has failed to reform the FTC. He said: “The mentality of Washington is one of service to the established bureaucratic status quo.” He named those of us who are supposedly served by this city. The sacred rule of this mentality is that no Federal action can die, only survival or growth is allowed.

Mr. President, the FTC is not the villain. Congress is.

Mr. FORD. Mr. President, I do not know how many of my colleagues are the other Members who wish to make a statement. I understand that the minority has at least one member who would like to make a statement.

We do not want to preclude anyone from having an opportunity to make a statement but I will advise my colleagues that a motion will be made by the leader shortly for a time certain on this conference report and a motion to set it aside until the time certain to vote.

Mr. SCHMITT. Mr. President, will the Senator retaliate with a motion?

Mr. FORD. Mr. President, I will not make any motion. The leader is going to make the motion. I respect his position and will not make any kind of motion without him being here or without his approval.

Mr. HAYAKAWA. Mr. President, section 5 of H.R. 2313 exempts from the FTC’s rulemaking jurisdiction “the business of the States.” As I understand it, this exemption includes all health insurance plans regulated by the States, including indemnity health insurance plans, prepaid health plans, health maintenance organizations and foundations for medical care. Prepaid health plans, including individual-practice-association type health maintenance organizations, have often been successful in holding down the cost of medical care and have been encouraged by Congress through legislation such as the Health Maintenance Organizations Act of 1973. Like other health insurance plans, they are regulated by the States. Thus, they fall squarely within the rationale and underlying purpose of the exemption in section 5 of the bill, namely to safeguard...
Some jurisdiction over the regulation of insurance

Since some interpretations of the phrase "the business of insurance" have suggested that prepaid health plans, health maintenance organizations, and found in medical care would not be entitled to the exemption as would other health insurers, I believe it is important to stress that these innovative health care financial arrangements we have sought to encourage are intended to receive the same treatment as other health insurers under the exemption.

Essentially, Mr. President, I hope that this is the case, that these organizations are given the same treatment as other health insurers.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote occur on the pending conference report at 3:30 p.m. today.

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

Mr. FORD. Mr. President, I ask for the yeas and nays on that vote at 3:30.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. 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. METZENBAUM. Mr. President, I rise to express my very deep reservations about the conference report on the reauthorization of the Federal Trade Commission which the Senate is about to consider.

I will cast my vote in opposition to this legislation. It is not because I oppose what the FTC is and has been doing. I am the last person who believes the FTC should be permitted to go out of business. But I cannot in good conscience agree to legislation that goes against the best interests of the people of this country.

I am not satisfied with the conference report. This legislation is still anticompetitive and may be worse than that. It is antifree enterprise. And I believe that in adopting the report the Senate will be condoning an unjustified special interest assumption that the only agency whose main job is to protect and promote competition and honesty in the marketplace.

The overburdened people of this country need a diligent Federal Trade Commission that serves as a watchdog in the marketplace. The FTC is that watchdog—and if in some cases it has acted with bull-dog tenacity, then I say so much the better. I only wish that other agencies in this Federal government have often been creatures of the industries they are supposed to regulate, felt as strongly about the peoples' rights.

The people of this country need an FTC to help foster competition. Competition should be one of the most important weapons we have to combat inflation, but it is a weapon that we have not used.

At a time when the inflation rate is 18 percent, when interest rates are so high that very few people can afford to purchase a home or a car, when energy prices are escalating and when more and more people are being thrown out of work—I will not vote to limit the one Federal agency that has the responsibility to protect consumer interests in the marketplace.

Consumers of this country need a friend like the FTC because it is apparent that they cannot always count on the Congress to defend them when their well-being comes into conflict with the interests of the Nation's powerful corporate lobbies.

This shift in Congress became evident in 1978, when Congress refused to spend a paltry $15 million to establish a Consumer Protection Fund that would have saved hundreds of millions of dollars every year for the people of this country.

But if Congress has been reluctant to enact legislation which would directly benefit consumers—such as legislation to provide hospital cost controls, national health insurance, or to reverse the Supreme Court's Illinois Brick decision to allow consumers to sue alleged price fixers—there has been no hesitation at all to act in matters beneficial to powerful corporate lobbies.

As a matter of fact, this past week gave good evidence of that. For 3 days we labored and toiled, while the Nation's problems were given no heed, to pass the so-called bottlers bill, a bill to give antitrust exemption to one industry, the bottling industry.

We paid no attention during that period of time to the fact that national unemployment is rising to almost 8 percent. Why should we be concerned about the fact that inflation is running at 18 percent? Why should we waste the time of the Senate discussing such matters as unemployment running at 35 percent for blacks running 80 percent in some cities of the country? Why, indeed, should we concern ourselves with the problems of the farmers in the Midwest and the grain States?

Why should we be worried about anything? We had the bottlers bill and spent 3 solid days on it, and we did, indeed, provide an antitrust exemption for it.

This Congress has plenty of time. Indeed the hours are unlimited, to provide another blow to the pocketbooks of the people of this country. Congress is about to tie the hands of the Federal Trade Commission—at a time when we should be doing just the opposite. We in the Congress should be challenging monopoly power. It helps create inflation, and is contrary to the thrust of the free enterprise system.

We should oppose business practices that mislead and overcharge consumers. But no, we want to shackle the agency that has had the temerity to take on the monopolists.

I hope that the conference report is not the end of the story. I hope that the conference report is not the "most anti-consumer session of the decade," but I wonder how 1980 will compare?

For one thing, with the adoption of this conference report, Congress will deal another blow to the pocketbooks of the people of this country. Congress is about to tie the hands of the Federal Trade Commission—at a time when we should be doing just the opposite. We in the Congress should be challenging monopoly power. It helps create inflation, and is contrary to the thrust of the free enterprise system.

We should oppose business practices that mislead and overcharge consumers. But no, we want to shackle the agency that has had the temerity to take on the monopolists.

I hope that the conference report is not the end of the story. I hope that the conference report is not the "most anti-consumer session of the decade," but I wonder how 1980 will compare?
victory for American consumers, let us not forget what this legislation will prevent the FTC from doing.

Under the conference report, the FTC will be prevented from investigating any advertising practices for 3 years, until Congress has a chance to define what is meant by the term "unfair." The way Congress has acted to date in this area means that "unfair" will mean what the business lobbyists and business PACs want it to mean. It would be wrong to stop the FTC effort.

Is it truly an abuse of power or a misinterpretation of authority when the FTC questions the "fairness" of $600 million a year in hard sell advertising directed at small children? Is it "fair" to protect children from junk food and candy and cereals that contain as much as 71 percent sugar?

I am certain not alone when I say that the FTC has the right—and indeed, it has the responsibility—to conduct investigations and rulemaking activities. Millions of parents in this country agree that the FTC is on target in trying to protect their children from the dozens of hours of hype and promotion to which they are subjected each week.

But Congress is not listening to American parents who are concerned about the health of their children who are demanding the candies and sugared cereals advertised on TV. Confronted with a choice between the profits of the food processors, advertising agencies, and TV broadcasters, and the welfare of the children who are this Nation's future, Congress chose the special interests.

Special interests have succeeded in curtailing FTC activity in yet another area. The conferences have agreed to restrict the FTC's role in investigating insurance matters and in doing so have raised an issue which I do not believe was previously in dispute. Under the conference report, only the House and Senate Commerce Committees will be able to request FTC studies of matters pertaining to insurance.

On that score, I point out that I am not at all certain that the conference did not go beyond their prerogatives so far as the rules of the House and the Senate are concerned by including something in the conference report that was not previously in dispute. But I do not further pursue that point. I merely intend to point out the fact that I think the insurance question led us to a point of legislation in the conference report that neither the House nor the Senate had in their bills.

However, I am confident that the restriction in the conference report will not abate with the FTC. The other congressional committees and their members to explore matters pertaining to the insurance industry. I am confident that the language in the conference report will provide other committees from requesting, via the Commerce Committees, FTC assistance on insurance-related matters. The millions of policyholders who have been the victims of unfair and unscrupulous insurance practices can ill-afford to have Congress turn a blind eye in this area.

Special interests have over public concerns will not end with children's advertising or insurance. The veto provision contained in the FTC legislation cannot have the same effect of opening the floodgates to more pressure upon the Congress from industries that want to be protected from a Federal Trade Commission that takes seriously its mandate to promote competition and protect consumer interests.

I think this whole congressional veto issue is an interesting one. If we can take those steps with respect to an agency that protects consumers, then on another day, at another hour, and under different circumstances, I can see where the congressional veto may well be used for FCC actions, for SEC actions, for Federal Reserve Board actions, and for a host of other agency actions that perhaps also should have a legislative veto mechanism.

For the reasons I have outlined, Mr. President, I cannot in good conscience vote in favor of this conference report. I am certainly not alone when I say that the FTC is on target in trying to protect consumer interests. I would like to congratulate the conference manager for his skill and perseverance in arriving at the important reaffirmation of the Capper-Volstead Act contained in section 20 of the bill. Agricultural cooperatives in California and in fact throughout the United States have played a major role in developing the most efficient agricultural production and distribution system in the world. I would inquire of the conference manager whether my understanding is correct that the conference provision is intended to restrict the Federal Trade Commission from pursuing agricultural cooperatives for conduct protected by the Capper-Volstead Act?

Mr. FORD. My colleague from California is correct. The conference substitute is clearly intended to restrict the Commission from any studies, investigations or prosecutions of agricultural cooperatives for conduct which is exempted from the Capper-Volstead Act. Simply put, the Commission has no business tampering with cooperative activities that fall within the Capper-Volstead Act.

Mr. DECONCINI. Am I correct, that the conference agree that the antitrust exemption in the Capper-Volstead Act includes contracts and agreements entered into in connection with the processing, preparing, handling, and marketing of agricultural products?

Mr. FORD. My distinguished colleague from Arizona is correct. We were reluctant to describe definitively the scope of the exemption with respect to all issues, it is clear that for Capper-Volstead to have any meaning a cooperative must continue to examine whether our children are being misled to their detriment by the 20,000 television commercials they are exposed to each week. And I am convinced that the agency must continue to examine whether our children are being misled to their detriment by the 20,000 television commercials they are exposed to each week.

Therefore, I applaud the action of the FTC in taking a special step toward protecting the integrity of the Capper-Volstead Act. However, what real protection would co-operatives have if the provision is passed or if the FTC is not functioning properly?

Mr. CRANSTON. I thank the manager.
which it was willing to impose controls on this abusive agency.

This conference report marks the culmination of a great deal of rhetoric but scarce action. In other words, in short, Mr. President, this conference report is, in fact, a victory for the FTC. It is a victory of form over substance. I cannot support it.

It may be that for the time being the FTC will behave a little more cautiously. But rest assured that, before the ink is dry from the President's signature on this conference report, the FTC will swing the pendulum back from the FTC to resume its activist role as an overzealous regulator.

If ever there was a Federal agency needing strong discipline by Congress, it is the FTC. Sadly, Congress had a real opportunity to impose significant regulatory reform. Congress botched it.

This bill does not impair the powers of the Federal Trade Commission one iota. Nor does it really limit the abuses of agency as much as the bills passed in the House and Senate. It is a sellout. I predict that history will prove this assessment to be correct.

Many of my colleagues in the Senate, and in the House, fought long and hard for a real reform of the FTC. The comments should not be interpreted as criticism of their good efforts. All of us tried, but there simply was not enough sentiment for true and meaningful reform.

Roadblocks were constantly placed in the path of true reform. The leadership in Congress used every advantage to thwart attempts to reform the FTC. The White House battled vigorously to protect the FTC from effective congressional scrutiny, and reform from clearly documented cases of its abuses. The White House threatened to veto any bill that would have genuinely reformed the FTC.

These were obstacles impossible to overcome, and they are the reason we are considering a cosmetic bill rather than a bill with teeth.

Mr. President, the citizens of this country are pleading for relief from oppressive regulation. Congress has had a chance to reform one of the most onerous regulatory agencies in existence. And Congress has not mustered the courage to take definitive action.

Mr. President, I cannot vote for a watered down meaningless bill. No legislation would be better than this legislation, because defeat of this bill would be a mandate to Congress to go back to the drawing boards and come up with truly meaningful reform of the FTC. This gentle slap on the wrist is not enough.

Mr. FORD. We are through, Mr. President, so far as those who have requested time to speak on the conference report are concerned. As soon as the majority leader arrives in the Chamber, we expect to make a motion to set this matter aside until 3:30. We will attempt to set this aside when he arrives in the Chamber, vote at 3:30, and get on with other items.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, at 1:58 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 2:22 p.m., when called to order by the Presiding Officer (Mr. Pryor).

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, appoints the Senator from Illinois (Mr. Pecosky) as a Congressional Adviser to the Executive Board of the United Nations Children's Fund (UNICEF) annual meeting, to be held in New York City, May 19-30, 1980.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business be extended until 3:30 p.m. today and that Senators may speak thereon.

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. Saunders, 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, which were referred to the appropriate committees.

The nominations received today are printed at the end of the Senate proceedings.

MESSAGES FROM THE HOUSE

At 12:38 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3507) to amend subtitle IV of title 49, United States Code, to codify recent law and improve the Code without substantive change.

The message further announced that the House has passed the following joint resolution, with amendments in which it requests the concurrence of the Senate:

S.J. Res. 119. Joint resolution to authorize the Vietnam Veterans Memorial Fund, Inc., to establish a memorial.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4417. An act to provide for the coordination of federally supported and conducted research efforts regarding the Chesapeake Bay, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:


The message also announced that the Speaker has signed the following bill and joint resolution:

S.J. Res. 175. Joint resolution to extend the expiration date of the Defense Production Act of 1950; and

H.R. 6081. An act to amend the Foreign Assistance Act of 1961 to authorize assistance in support of peaceful, democratic processes of development in Central America.

The enrolled bill and joint resolution were subsequently signed by the President pro tempore (Mr. Magnuson).

At 3:15 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 91. Concurrent resolution to disapprove the regulations of the Department of Health, Education, and Welfare relating to grants to State educational agencies for educational improvement, resources, and support.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 662) to provide for increased participation by the United States in the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund.

The message further announced that the House has agreed to the following concurrent resolution, which it requests the concurrence of the Senate:

H. Con. Res. 342. Concurrent resolution providing for an adjournment of the House
from May 23 to May 27, 1980, and a recess of the Senate from May 24 to May 27, 1980.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 4417. An act to provide for the coordination of federally supported and conducted research efforts regarding the Chesapeake Bay, and for other purposes; to the Committee on Governmental Affairs.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, May 21, 1980, he presented to the President of the United States the following enrolled joint resolution:


REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROBERT C. BYRD (for Mr. Kennedy), from the Committee on the Judiciary, with amendments:

S. 1717. A bill to amend certain provisions of title 18, United States Code, relating to the procedures for interception of wire or oral communications (Rept. No. 96-788).

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

H.J. Res. 821. Joint resolution making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System (together with an amendment by Mr. NELSON, from the Select Committee on Small Business, without amendment): (S. 2749. An original bill to establish a Federal program to assist innovative small businesses by strengthening the role of such businesses in federally funded research and development and by fostering the formation and growth of such businesses.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

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


Committee: Mr. and Mrs. R. A. Beyer—see attached schedule.

POLITICAL CONTRIBUTIONS


April 11, 1976, Democratic Party of Evanston, $40.

February 22, 1976, Abner Mikva, $100.

June 4, 1977, Democratic Party of Evanston, $35.


November 17, 1980, Wainberger for Congress, $100.

Total, $775.

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

Robert V. Keeley, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States to Zimbabwe.

(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.)

STATEMENT OF POLITICAL CONTRIBUTIONS

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

Nominee: Robert V. Keeley, Post: Ambassador to Zimbabwe

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, see attached sheet.

3. Children and spouses names; Michael M. Keeley, Christopher J. Keeley, none.

4. Parents names, James Hugh Keeley (Mother deceased), none.

5. Brothers and spouses names, Edmund L. Keeley (see attached sheet), none.

POLITICAL CONTRIBUTIONS

(a) Spouse. September 17, 1979, John Culver, $10.

(b) My brother, Edmund L. Keeley, does not keep a record of his political contributions. To the best of his recollection he has made contributions, all of them ranging from $10 to $20 each, to the following candidates for Federal office during the past 5 years: 1976—Jimmy Carter, Morris Udall, Frank Thompson. 1978—Frank Thompson, Bill Bradley. 1980—Bill Bradley, Edward Kennedy, John Anderson.

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

Charles E. Martinson, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States to the State of Qatar.

(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.)

STATEMENT OF POLITICAL CONTRIBUTIONS

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

Nominee: Charles E. Martinson, Post: Ambassador to Qatar.

Contributions, amount, date, and donee:


3. Children and spouses names; Guy Hooker and Hugh Hunt Martinson, none.

4. Parents names: Mr. and Mrs. A. L. Martinson, none.

5. Brothers and spouses names: Mr. and Mrs. R. A. Martinson, none.

6. Sisters and spouses names: Mr. and Mrs. Louise Martinson, none.

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

William Caldwell Harrop, of New Jersey, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Kenya and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Seychelles.

(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.)

STATEMENT OF POLITICAL CONTRIBUTIONS

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


Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names; Mark D. Harrop, none; Lucy M. Harrop, $10; Caldwell Harrop, none; and George H. Harrop, none, July 1976, Carter campaign.


5. Brothers and spouses names: David C. Harrop, (single), none.

6. Sisters and spouses names; Mr. and Mrs. William Godfrey, none.

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

Phillip R. Trimble, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Kingdom of Nepal.

(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.)

STATEMENT OF POLITICAL CONTRIBUTIONS

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


Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names; Charles S. Trimble, none.


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

Norman K. Anderson, Post: Ambassador to Argentina.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names; Evelyn Anderson, none.

4. Parents names: Mr. and Mrs. H. H. Anderson, none.


6. Sisters and spouses names; Mrs. and Mrs. William Godfrey, none.

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

Joseph H. Howard, Post: Ambassador to Japan.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names; Edward H. Howard, none.


6. Sisters and spouses names; Mrs. and Mrs. William Godfrey, none.

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

Bruce W. Landis, Post: Ambassador to Yemen.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names; Charles W. Landis, none.

4. Parents names: Mr. and Mrs. Henry W. Landis, none.


6. Sisters and spouses names; Mrs. and Mrs. William Godfrey, none.

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

Richard P. Fife, Post: Ambassador to the Bahamas.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names; Paul E. Fife, none.

4. Parents names: Mr. and Mrs. Richard G. Fife, none.

5. Brothers and spouses names: John E. Fife, (single), none.

6. Sisters and spouses names; Mrs. and Mrs. William Godfrey, none.

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

Charles V. B. McKee, Post: Ambassador to Brazil.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names; John V. McKee, none.

4. Parents names: Mr. and Mrs. Charles V. B. McKee, none.


6. Sisters and spouses names; Mrs. and Mrs. William Godfrey, none.

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

Robert H. Jacob, Post: Ambassador to Pakistan.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names; Robert H. Jacob, none.

4. Parents names: Mr. and Mrs. Robert H. Jacob, none.

5. Brothers and spouses names; John H. Jacob, (single), none.

6. Sisters and spouses names; Mrs. and Mrs. William Godfrey, none.

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

Carl H.—an, Post: Ambassador to Iran.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names; Carl H.—an, none.

4. Parents names: Mr. and Mrs. Carl H.—an, none.

5. Brothers and spouses names; Robert H.—an, (single), none.

6. Sisters and spouses names; Mrs. and Mrs. William Godfrey, none.
INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

BY MR. PELL: (for himself, Mr. STEVENS, Mr. STONE, and Mr. NELSON):

S. 2747. A bill to authorize the President of the United States to present on behalf of Congress a specially struck gold-plated medal to the U.S. Summer Olympic Team of 1980, to the Committee on Banking, Housing, and Urban Affairs.

BY MR. BAYH: (for himself, Mr. JAVITS, Mr. MATEO, Mr. NUNN, Mr. TALMADGE, Mr. CHAFEE, Mr. COCHRAN, Mr. THURMOND, and Mr. STEVENS):

S. 2748. A bill to simplify trade procedures regarding sales of United States products abroad, sale for commercial purposes, to the Committee on the Judiciary.

BY MR. NELSON: (from the Select Committee on the outstanding athletic achievements of the U.S. Olympic Team of 1980 and in recognition of their determination in the pursuit of excellence. For such purpose, the Secretary of the Treasury is authorized and directed to strike up to 500 gold-plated medals with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury and the Olympic Committee: Provided, That funds provided for in this Act, which shall not exceed $50,000, shall be available only from amounts appropriated to carry out activities under the Amateur Sports Act of 1978."

Mr. STEVENS. Mr. President, I am pleased to join Senators Hart, Stone, and Nelson in sponsoring a bill to authorize the striking of a medal to honor those who are selected through the trial process to be members of the U.S. Olympic Team. Each of these selected will be the best athletes in any particular sport in the United States.

There is no question that these athletes deserve recognition. They have worked long and hard to achieve an outstanding level of excellence in their particular sport. They are the American athletes who are qualified to compete in the international arena.

Any of us who have ever engaged in any sport can appreciate the talent and dedication of these athletes. It takes an incredible amount of time, effort, and excellence to become a world class athlete. Among the literally hundreds of thousands of people of all ages who participate in amateur sports there are but a handful who, by virtue of their intense dedication, self-motivation, and unique talent become Olympic athletes. This achievement can only be reached with total dedication. These athletes live their sport every day of their lives.

Their dedication is not just to the sport itself, but to a level of excellence that very few of us will ever reach. I have a very strong feeling of admiration and re-
May 21, 1980

CONGRESSIONAL RECORD—SENATE

spect for their achievement, an achieve-
ment which I believe deserves the highest
honor.

There is a point that I would like to make
clear. This medal is not in any way
intended to be a substitute for any gold,
silver, or bronze medal that any
athlete could have conceivably won.

Mr. President, this is my hope the entire
Senate will join in this effort to honor
these athletes who so justly deserve this
honor.

By Mr. BAYH (for himself, Mr. JAVITZ, Mr. MATTHIAS, Mr. NUNN,
Mr. TALMADGE, Mr. CHAFFEE, Mr. COCHRAN, Mr. THURMOND, and
Mr. STEVENS):

S. 2748. A bill to simplify trade proce-
dures regarding sales of U.S. products
abroad, and for other purposes; to the
Committee on the Judiciary.

Mr. President, the Trade Procedures
Simplification Act of 1980

Mr. BAYH. Mr. President, the week of
May 18–24 has been proclaimed by Presi-
dent Carter as World Trade Week to
emphasize the importance to our people
and our Nation’s economy of world trade
and the role it plays in our economic
health and future promise.

Very recently, the
Commission on In-
ternational Trade (COMTRADE) has
released a report on the benefits and
challenges of world trade. It states that
world trade expansion would produce a
yearly increase of $143.57 billion of the
1978 trade deficit. These agricultural
and manufacturing activities will
produce jobs at home. These agricultural
imports, which are not likely
to be reduced, will also spur to
exports.

Deficits constitute both a spur to
exports and a drag on domestic employment.

While free world exports have grown at a brisk rate
over the past 20 years, the U.S. share has
remained at the 20 percent in 1960 to 17
percent in 1970 to about 14 percent today.

Mr. President, there can be little doubt
that the United States has not taken
advantage of its share of the export
market which in many instances
has conceivably won in
Moscow this summer. Rather, the in-
tention of this medal is to
honor all those businesses
and individuals who have
made clear. This medal is not in any way
a substitute for any gold,
silver, or bronze medal that any
athlete could have conceivably won.

Mr. President, this is my hope the entire
Senate will join in this effort to honor
these athletes who so justly deserve this
honor.

As we act immediately to take ad-
antage of the new markets opened up
for our products, the net effect of the
multilateral trade agreements will be to
facilitate foreign penetration of our
domestic markets and denial to our
exporters of overseas markets, to our
enuring disadvantage.

Mr. President, there can be little doubt
that the United States can expand our
exports through greater inclusion of med-
ium and small businesses. In fact, we
have not begun to tap our economy’s
full export potential. The Department of
Commerce recently estimated that 20,000
additional firms could engage in export-
ing, but for some reason do not. This is
a failure to evaluate domestic programs
which do not have the time, money, or
resources to run the gauntlet of
regulations which only more
undercut the efforts of our
exporters. Just as
antitrust enforcement is derived from
consumer, so are the benefits of antitrust legislation in the
domestic market which antitrust
laws by Federal agencies. A number of
academic studies conducted during the
last few years have amply demonstrated
that the uncertain state of extraterrito-
rial application of these statutes has clearly a secondary
data on which is and is not permitted
in terms of economic activity overseas.

This may be why so many of our small
businesses fail to realize their export po-
tential. The single greatest factor dis-
inguishing U.S. trade policy from that
of our major competitors is that our
Government has not placed a high insti-
tutional priority on exports, and thus
continues to burden exporters with regu-
lations, paperwork, and outright inter-
ference derived from bureaucratic pur-
suit of competitive objectives. In many
cases, this interference is both uninten-
tional and unnecessary, and stems from
a failure to evaluate domestic programs
from the point of view of the importance
even to national security, most of
which do not have the time, money, or
resources to run the gauntlet of
regulations which only more
undercut the efforts of our
exporters. Just as
antitrust enforcement is derived from
consumer, so are the benefits of antitrust legislation in the
domestic market which antitrust
laws by Federal agencies. A number of
academic studies conducted during the
last few years have amply demonstrated
that the uncertain state of extraterrito-
rial application of these statutes has clearly a secondary
data on which is and is not permitted
in terms of economic activity overseas.

The impediment involved is the uncer-
tainty, confusion, and outright fear gen-
erated among potential exporters by the
extraterritorial application of domestic
laws by Federal agencies. A number of
academic studies conducted during the
last few years have amply demonstrated
that the uncertain state of extraterrito-
rial application of these statutes has clearly a secondary
data on which is and is not permitted
in terms of economic activity overseas.

More serious still is the effect on poten-
tial exporters, most of which, again, are
small and medium-sized businesses with
no experience. Often the only informa-
tion these companies possess concerning
antitrust enforcement is derived from
newspaper and trade journal accounts of spectacular prosecutions involving enor-

mous penalties. As a general rule, they do not have access to legal specialists

trained in this tremendously complex area of law, and their own search is likely to be

extremely limited.

The problem is not just that the anti-

trust laws prohibit activities which could help mobilize potential exporters. The

more serious difficulty is that the lack of accurate information has created an im-

pression that many more activities are subject to prosecution than is actually

the case.

The logical source for accurate infor-

mation concerning the scope of antitrust

laws applied to overseas transactions is the enforcing agency itself. But agency

personnel, who generally share a prosecu-

torial ethic, quite naturally do not con-

side it their job to notify potential violators of activities not subject to prose-

cution. Furthermore, enforcing agen-

cies do not presently have the means to

insure broad public understanding of extraterritorial antitrust enforcement.

This Trade Procedures Simplification Act of 1980 would provide such means to

the Department of Justice and the Com-

merce Department. Its basic aim is to

encourage the issuance of comprehensive disclosures indicating the Justice Depart-

ment’s enforcement intentions concerning broad areas of export activity, keyed

to specific product sectors and country markets. The bill would make these disclo-

sures reliable by prohibiting enforce-

ment actions against exporters who cooperate in providing business pursuant to a disclosure. The disclosures themselves are designed to be easily communicable to small- and medium-sized companies, through trade journals and business magazines.

To further promote effective disclo-

sures, the legislation provides that the

Department of Commerce may create a list of exporters who have voluntarily cooperated with smaller companies wishing to petition the Justice Department for a disclosure statement.

As a corollary to the comprehensive disclosure authority, this legislation also makes the Justice Department’s current procedure for enforcement statements concerning particular export transactions binding on future enforcement actions.

Monitoring of business compliance with the terms of disclosures is provided for through an injunction proceeding to terminate unauthorized export activities.

Finally, congressional oversight is fa-

cilitated through strict reporting require-

ments imposed on the Justice and Com-

merce Departments. Within a year, the

Congress should be in an excellent posi-

tion to evaluate the effect of antitrust enforcement on our international trade posture.

The impact of this legislation upon small business exports should be immedi-

ate and quite substantial. A very con-

servative estimate is that six major areas of commerce would be cleared by the first year. Assuming only 10 medium sized businesses utilized the disclosure to begin exporting—again, a quite conserva-
tive estimate—$600 million in new export sales could be generated during the first year. This translates into 24,000 new jobs for our sagging economy, and around $15 million in unforeseen tax revenues. All these advantages would be obtained for an expenditure of about $350,000—or less than $15 per perma-

nent job created. Since expanded exports would also help reduce inflation, by re-

ducing the demand for foreign exchange, this legislation is an unusually cost-effi-

cient means of stimulating the economy.

It must also be emphasized that this proposal would in no way alter the rules of antitrust laws, or affect domestic competition. Nor would the Justice Department disclosure program encourage any great measure of concen-

tration in the export sector, since larger companies with access to teams of anti-

trust lawyers will not benefit signifi-

cantly. In fact, greater involvement of smaller businesses in exporting could actually contribute to the domination of export markets by large multinational corpora-

tions.

This legislation is not intended to serve as a cure-all for our international trade problems. Working with the Export Caucus, I am also supporting efforts to develop an omnibus export expansion legislation. But I regard the Trade Proce-

dures Simplification Act of 1980 as a first step—a demonstration by the Congress that it will act to remove obstacles to small business exports where no compelling justification can be offered.

Academics are often alone in pointing to extraterritorial antitrust en-

forcement as an appropriate starting place for a new attitude toward exports while also pointing to the small special interest groups on which antitrust enforcement has impacted. In a country like ours, with the vast diversity of business enterprises, it would be a distortion of the intent of antitrust laws to export sales do not sufficiently coordinate interpretation and enforcement practices among, or with, other agencies responsible for foreign policy, international trade policy, export promotion and international monetary policy.

(b) The Congress concludes that—

(1) exporters should not be subject to conflicting demands by diverse United States agencies applying antitrust laws extraterritorially; and

(2) United States agencies enforcing anti-

trust laws should help reduce uncertainty by informing exporters that their activities are not subject to antitrust laws, or other regulations imposed by nations or otherwise conflict with basic substantive principles and objectives of existing antitrust laws; and

(3) legal interpretations and enforcement practices associated with the application of antitrust laws to export activities, as well as the economic consequences of such inter-

pretations and practices, should be commu-

nicated to Congress in the public in a timely

and effective manner;

(4) conduct and structural arrangements of United States firms are substantially different from those of overseas sales should be permitted, provided they do not have a substantial neg-

ative impact on our economy or foreign pol-

icy, export promotion and national security; and

(5) small business exports should be en-

couraged.

Sec. 4. (a) The term “structural arrangement” means a state-

ment published by the Attorney General or the Assistant Attorney General for the anti-

trust division under section 4 of the Antitrust Procedures and Institutional Act, 1976, 28 U.S.C. 4702 (b)

(b) The Congress concludes that—

(1) the conduct and structural arrange-

ments employed in various countries are very

large differences in competitive conditions among

various country markets for different prod-

ucts; (4) the extension of court-made rules de-

veloped in the context of domestic com-

merce to overseas activities does not always reflect the intent of antitrust laws, and which legitimate and much-needed export sales; and

(5) United States agencies applying anti-

trust laws to export sales do not sufficiently coordinate interpretation and enforcement practices among, or with, other agencies responsible for foreign policy, international trade policy, export promotion and international monetary policy.

(b) The Congress concludes that—

(1) exporters should not be subject to conflicting demands by diverse United States agencies applying antitrust laws extraterritorially; and

(2) United States agencies enforcing anti-

trust laws should help reduce uncertainty by informing exporters that their activities are not subject to antitrust laws, or other regulations imposed by nations or otherwise conflict with basic substantive principles and objectives of existing antitrust laws; and

(3) legal interpretations and enforcement practices associated with the application of antitrust laws to export activities, as well as the economic consequences of such inter-

pretations and practices, should be commu-

nicated to Congress in the public in a timely

and effective manner;

(4) conduct and structural arrangements of United States firms are substantially different from those of overseas sales should be permitted, provided they do not have a substantial neg-

ative impact on our economy or foreign pol-

icy, export promotion and national security; and

(5) small business exports should be en-

couraged.
(2) a more liberal enforcement policy for extraterritorial cases would be appropriate for domestic transactions would impede thorough implementation of the legislative intent of the statute.

(g) On the basis of studies carried out under subsection (a), or other information available from other sources, the Attorney General shall identify conduct and structural arrangements associated with particular types of export activities which if subjected to criminal prosecution under the antitrust laws, and the Attorney General does not object to the proposed conduct and structural arrangements which have been designated by the Attorney General as conduct or structural arrangements which are appropriate for domestic transactions would not warrant criminal or civil prosecution under the antitrust laws by the Department of Justice.

(h) Where the Attorney General determines that a conduct or structural arrangement described pursuant to subsection (a) shall be completed within 1 year after the date of enactment of this Act and shall be updated annually.

PROCEDURES

Sec. 5. (a) The Attorney General shall—
(1) publish a description of conduct and structural arrangements identified pursuant to section 2(b) as not meriting criminal or civil prosecution under the antitrust laws and shall make the published description available to all potentially interested exporters; and
(2) establish procedures to assure a prompt response to—
(A) petitions from individual exporters or classes of exporters for the issuance of declaratory rulings under subsection (1); and
(B) petitions from an individual exporter or group of exporters for the issuance of a statement of civil and criminal enforcement intentions concerning specific conduct in which the petitioner proposes to engage, or structural arrangements the petitioner proposes to establish, in connection with exports.

(b) The Secretary of Commerce may interpret an export activity to request that the Attorney General publish a description under subsection (a) (1) with respect to conduct or structural arrangements to reconsider a description published under such subsection. Within 30 days after receiving such a request from the Secretary, the Attorney General shall take whatever action he determines to be appropriate with respect to the request and inform the Secretary of the determination.

(c) The Attorney General shall be final and shall not be subject to judicial review.

(d) The Attorney General shall establish appropriate forms and procedures for the purpose of—
(1) communicating disclosures issued under subsection (a) to affected parties;
(2) informing exporters of specific actions that were taken in connection with disclosures pursuant to subsection (a), or to be reconsidered by disclosures made pursuant to subsection (a) (2);
(3) determining actions exporters have taken in reliance on such descriptions; and
(4) identifying problems associated with the implementation of the evaluation, disclosure, and monitoring functions authorized under this Act.

(e) Upon request, the Secretary of Commerce may, on a reimbursable basis, provide legal assistance to existing and potential exporters who are unable to obtain specialized antitrust counsel. Such assistance is limited to assistance in obtaining enforcement and investigation disclosures provided for under subsection (a) (2).

(f) Agency proceedings and agency actions (as defined in paragraph (12) and (13), respectively, of title 5, United States Code) under this Act shall not be subject to subchapter II of chapter 5 of title 5. United States Code (other than sections 552, 552a, and 553).

COMPLIANCE BY EXPORTERS

Sec. 6. (a) Notwithstanding any other provision of law, an export activity for which blanket disclosures are available shall not be subject to civil or criminal prosecution under the antitrust laws by any Federal agency if—

(1) the exporter, or group of exporters, notifies the Attorney General, pursuant to procedures established under section 5(c) (2), that the exporter or group intends to engage in conduct or structural arrangements which have been designated by the Attorney General as conduct or structural arrangements which are appropriate for domestic transactions would not warrant criminal or civil prosecution under the antitrust laws, and the Attorney General does not object to the proposed conduct or structural arrangements within 30 days and inform such exporter, or group of exporters, of the specific reasons why the proposed conduct or structural arrangements are not covered by disclosures made pursuant to section 5(a); or
(2) the exporter, or group of exporters, of the specific reasons why the proposed conduct or structural arrangements are not covered by disclosures made pursuant to section 5(a).

(b) any problems associated with the implementation of this Act;

(3) the specific plans of the appropriate department or agency to carry out its responsibilities (if any) under the Act in the next fiscal year; and
(4) any recommendations for amendment of this Act.

AUTHORIZATION OF APPROPRIATIONS

Sec. 9. (a) There are authorized to be appropriated to the Commerce Department such sums as may be necessary for the purpose of carrying out this Act.

(b) There are authorized to be appropriated to the Secretary of Commerce such sums as may be necessary for fiscal year 1981 for the purpose of carrying out this Act.

(c) The initial studies made under subsection (a) shall be completed within 1 year after the date of enactment of this Act and shall be updated annually.

PROCEDURES

Sec. 5. (a) The Attorney General shall—
(1) publish a description of conduct and structural arrangements identified pursuant to section 2(b) as not meriting criminal or civil prosecution under the antitrust laws and shall make the published description available to all potentially interested exporters; and
(2) establish procedures to assure a prompt response to—
(A) petitions from individual exporters or classes of exporters for the issuance of declaratory rulings under subsection (1); and
(B) petitions from an individual exporter or group of exporters for the issuance of a statement of civil and criminal enforcement intentions concerning specific conduct in which the petitioner proposes to engage, or structural arrangements the petitioner proposes to establish, in connection with exports.

(b) The Secretary of Commerce may interpret an export activity to request that the Attorney General publish a description under subsection (a) (1) with respect to conduct or structural arrangements to reconsider a description published under such subsection. Within 30 days after receiving such a request from the Secretary, the Attorney General shall take whatever action he determines to be appropriate with respect to the request and inform the Secretary of the determination.

(c) The Attorney General shall be final and shall not be subject to judicial review.

(d) The Attorney General shall establish appropriate forms and procedures for the purpose of—
(1) communicating disclosures issued under subsection (a) to affected parties;
(2) informing exporters of specific actions that were taken in connection with disclosures pursuant to subsection (a), or to be reconsidered by disclosures made pursuant to subsection (a) (2);
(3) determining actions exporters have taken in reliance on such descriptions; and
(4) identifying problems associated with the implementation of the evaluation, disclosure, and monitoring functions authorized under this Act.

(e) Upon request, the Secretary of Commerce may, on a reimbursable basis, provide legal assistance to existing and potential exporters who are unable to obtain specialized antitrust counsel. Such assistance is limited to assistance in obtaining enforcement and investigation disclosures provided for under subsection (a) (2).

(f) Agency proceedings and agency actions (as defined in paragraph (12) and (13), respectively, of title 5, United States Code) under this Act shall not be subject to subchapter II of chapter 5 of title 5. United States Code (other than sections 552, 552a, and 553).

COMPLIANCE BY EXPORTERS

Sec. 6. (a) Notwithstanding any other provision of law, an export activity for which blanket disclosures are available shall not be subject to civil or criminal prosecution under the antitrust laws by any Federal agency if—
final determination by the Attorney General could be made any time, whether or not a petition has been filed.

Thus, a request by the Commerce Department for section 5(a) (1) blanket disclosures could be triggered in three ways: (1) on the Justice Department’s own motion, subsequent to the issuance of section 5(a) (1) blanked disclosures; (2) in response to a petition by businesses pursuant to section 5(a) (2) (A); and (3) in response to a special request by the Secretary of Commerce.

Section 5(c) describes appropriate Justice Department activities needed to implement section 5(a) (2) (B). Sections 5(a) (2) (A) and 5(c) (3) are designed to ensure that disclosure statements in fact reach all potentially affected exporters.

Section 5(d) provides for limited legal assistance by the Commerce Department for small and medium-sized businesses seeking to petition for disclosure statements pursuant to section 5(a) (2). As indicated in the appropriations section, this assistance program is intended to become financially self-supporting within one year.

Section 5(e) exempts all proceedings authorized by this Act from the Freedom of Information Act requirements.

Section 5(f) contains the means by which business can conduct export activities in reliance upon disclosures issued pursuant to section 5(a) (1), 5(a) (2) (A), or 5(c) (3). Section 5(g) covers businesses seeking to act under section 5(a) (1) blanket disclosures issued by the Justice Department. Section 5(a) (2) covers Justice Department responses to section 5(a) (2) (B) petitions for specific disclosures, and is designed to be compatible with existing Justice Department procedures.

Section 6(b) provides for prompt notice and the availability of a hearing where the Justice Department declines to issue a blanket disclosure, or has denied a petition for a specific disclosure.

Section 7 provides for monitoring and enforcement of business compliance with the terms of section 5(a) (1) disclosure statements. Through requests for additional information and through inspection proceedings to terminate unauthorized activities, injunctive actions are the sole means of terminating coverage once it has been extended pursuant to sections 5(a) (1) and 5(c) (3), ensuring that the competitive firms have been permitted when it could be shown that this strengthened competition in industries like automobiles and steel.

Section 8 provides for reports to Congress to monitor the agency implementation of the Act. The report should also aid Congress in determining the need for future antitrust reform legislation.

Sections 9 and 10 are self-explanatory.

U.S. PROGRAMS THAT IMPROVE U.S. EXPORT COMPETITIVENESS: THE REGULATORY ENVIRONMENT

(By Robert A. Flammang)

ANTITRUST LEGISLATION

The United States has the oldest and most vigorously enforced antitrust legislation in the world; indeed, only about thirty countries have such legislation. The benefits of antitrust laws have generally been applied to admit more than competitive firms have been permitted when it could be shown that this strengthened competition in industries like automobiles and steel.

Thus, added to the international arena, the norm of "workable competition" has not yet been applied in a consistent way, partly because the United States has coerced those involved there. American companies complain that no other government restricts their enterprises nearly as much in their attempts to compete abroad, or is so eager to apply its antitrust laws extraterritorially. No other government, they allege, takes such a strong adversarial stance with respect to their own firms; most even encourage mergers and cartels among their firms in their overseas selling and investment activities.

Since 1918 the United States, under certain circumstances, has permitted its exporters to engage in "voluntary" export restraint - agreements with countries, or in negotiating with commodity cartels like OPEC. No other government, they allege, offers so many incentives to encouraging behavior abroad, or is so eager to apply its antitrust laws extraterritorially. No other government, they believe, takes such a strong adversarial stance with respect to their own firms; most even encourage mergers and cartels among their firms in their overseas selling and investment activities.

Thus the issuance of section 5(a) (1) and 5(c) (3) are designed to ensure a strong competitive stance, and the effect of such a stance would clearly have a much better chance of success.

ADDITIONAL COSPONSORS

At the request of Mr. DOLE, the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 2625, a bill to amend the Internal Revenue Code of 1954 to provide more equitable treatment of royalty owners under the crude oil windfall profit tax.

At the request of Mr. WEICKER, the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 2625, a bill to amend chapter 39 of title 28 of the United States Code, relating to the appointment of a special prosecutor.

At the request of Mr. STUART, the Senator from Colorado (Mr. HART) was added as a cosponsor of S. 2627, a bill to amend the Internal Revenue Code of 1954 to provide for the nonrecognition of gain of the proceeds from the sale of incentive stock to an ESOP if those proceeds are reinvested in such stock, and for an increase in basis for incentive stock held for certain period.

At the request of Mr. DOLE, the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of S. 2681 a bill to amend the State and Local Fiscal Assistance Act of 1972 to provide a 5-year extension of the general revenue sharing program and to provide that each State make an annual election to receive its State government support in the form of a block grant in specific categorical grant programs, but not both.

S. CONCURR RES 94

At the request of Mr. HUBBARD, the Senator from Georgia (Mr. TALMADGE), the Senator from Alabama (Mr.转变为), and the Senator from West Virginia (Mr. RAVOLPH) were added as cosponsors of Senate Concurrent Resolution 94, a concurrent resolution to express the sense of the Congress that the United States not admit more than 650,000 immigrants in fiscal year 1980.

S. RES 414

At the request of Mr. STUART, the Senator from New York (Mr. MOTENHAN), the Senator from Florida (Mr. STONE), and the Senator from Maine (Mr. COHEN) were added as cosponsors of Senate Resolution 414, a resolution to commend the National Football League on its Golden Anniversary Tournament.

S. RES 432

At the request of Mr. NELSON, the Senator from Arizona (Mr. GOLDBURGER) was added as a cosponsor of Senate Resolution 432, a resolution with respect to taxing social security benefits.

S. RES 437

At the request of Mr. BUMPER, the Senator from New Jersey (Mr. Wil...
Mr. COHEN) were added as cosponsors of Senate Resolution 437, a resolution disapproving the proposed deferral of budget authority for financial assistance to States for the planning, designing, and construction of highway projects and highway safety projects.

SENIATE RESOLUTION 443—SUBMISSION OF A RESOLUTION AUTHORIZING PRINTING OF "HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION PROGRAM"

Mr. RANDOLPH submitted the following resolution, which was referred to the Committee on Rules and Administration:

SENATE RESOLUTION 443

Resolved, That the annual report of the Secretary of Transportation to the Congress of the United States (in compliance with section 144 of title 23, United States Code), entitled "Highway Bridge Replacement and Rehabilitation Program" be printed as a Senate document.

Sec. 2. There shall be printed five hundred additional copies of such document for the use of the Committee on Environment and Public Works.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BRADLEY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate today to continue markup of S. 2294, the fiscal year 1981 Department of Defense authorization bill.

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

COMMITTEE ON THE JUDICIARY

Mr. BRADLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate today to hold a hearing on a judicial nomination.

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

ADDITIONAL STATEMENTS

S. 265—EQUQUAL ACCESS TO JUSTICE ACT

Mr. DOMENICI. Mr. President, when the Senate Committee on Commerce, Science, and Transportation reported the Federal Communications Act of 1970, it included a section which was the embodiment of S. 265, the Equal Access to Justice Act. As sponsor of this bill I was gratified to see its inclusion by the full committee. As S. 265 has passed in the first session by a 94 to 3 vote, I expected it would not be changed in the course of the Senate’s deliberations on the bill. Further, the White House Conference on Small Business had selected this legislation as one of its legislative priorities for the 96th Congress. In the House this measure has already garnered approximately 90 cosponsors. Clearly the Senate supported the bill, it was on record by its vote. Popular support in the House was apparent from the number of cosponsors. Presumably the administration would support a priority selected by a conference it convened and composed of participants largely selected by the administration.

But the unpredictability of the conference process was reaffirmed. This final version of the Federal Trade Commission Act no longer provides a small businessman or individual litigates on either the administrative or judicial level against the FTC, prevails, and the agency cannot substantially justify its position, then he would be entitled to attorney’s fees and costs. Why was this priority of the small business community thrown out in conference? I can only surmise that it was because this administration actively lobbied for its exclusion. This administration has chosen to actively oppose a major plank of its own White House Conference on Small Business.

Mr. President, S. 265 has passed the Senate. It was originally included in S. 1991 as reported and passed by this body. Our colleague, Senator TRUSKOSKI, has brought the issue into conference making it appropriate to OSHA. I intend to offer S. 265 as an amendment to the Labor and Social Security Corporation bill and other legislation which will come before the Senate. I pledge to the small business community this legislation, in one form or another, will be presented and debated before the whole Congress so that they will see who are the real supporters of their programs, and those who are paying lip service to them.

TRIBUTE TO THE LATE HUBERT H. HUMPHREY

Mr. PELL. Mr. President, I had the privilege to be present on May 18 when New Englanders and a host of distinguished visitors joined in a tribute to the late Hubert Humphrey.

Senior statesmen, Ambassadors, Governors, mayors, Senators, Vice President, as father, husband and prophet of a just America and a world at peace—Hubert Humphrey earned a special place in our hearts and in history. The memorial that this event supports will help confirm that place.

In these times, when too many voices are with despair and distrust today, we can hear Hubert’s voice and his vision. He would have been impatient—monumentally impatient—with the Congress, the courts and prophets of doom. He would have been working—solving our problems instead of endlessly deploiring them. He would have been optimistic, as Americans have been through-out our history. Hubert would have had a mission of ideas—concrete, practical ideas—creating solutions as only Americans can.

For Hubert Humphrey was not only an im impatient, energetic, optimistic man. He was a man of vision. He could look beyond our day-to-day crises and see the America we should be building.

What was that vision? It was, first of all, a vision of a strong America.

Those who emphasize Hubert’s compassion and his love of peace should not neglect his vision, his vision for a strong America.

He never relented in his belief that our defenses must be sound and our alliances vigorous. He fought for a strong and effective NATO alliance.

The strength he sought for America was not an end in itself. No Fortress America for Hubert Humphrey. He saw America’s strength as a means to ensure peace and to buttress an effective, activist foreign policy.

Hubert never underestimated America’s adversaries. Indeed, it was his understanding of their ambitions and their resolve that caused him to advocate balanced arms control with the Soviet Union—long before the issue came to the top of our national agenda.

In the face of the anxiety and fear of atmospheric nuclear testing in the early sixties, Hubert understood the central relationship between strategic arms reductions and national security.

Hubert Humphrey was a believer that within the United States, opposing interests with such a mission of ideas could be reconciled by searching patiently, negotiating, defining the common ground. He believed that the political process is the way to honor Hubert Humphrey: his life, his work, his legacy.

For my part, I can think of no better way to honor Hubert than to give a brief tribute to the man who inspired and the center of learning that will bear his name.
Hubert’s vision was of a just, humane America. He believed that our values as a people should be expressed in our policies abroad. He believed that a nation committed to freedom in revolution—as ours was—should not shrink from change in the world. And just as he believed in the necessity of social justice at home, he believed in a foreign policy that supported those same ends.

He believed that America’s commitment to freedom should not stop at the water’s edge; that it should help the Jews of the Soviet Union, black Africans—all those whose human rights were denied.

He believed that America’s great bounty should inspire a generous foreign policy. So he fought for programs of foreign assistance that would help developing nations feed their poor, heal their sick and build their economies.

He became an eloquent advocate for the Food for Peace program, the Peace Corps, and other international development efforts.

Hubert fought for these causes not as international welfare, but because he believed that would help developing nations feed their own economy and that it was the right thing to do. He knew in the end they would strengthen our nation and our way of life.

He believed that Stability and peace come not through static policies defending the status quo. They come through dynamic processes which advance the human condition.

Finally, Hubert Humphrey’s vision was a vision extending beyond the world’s nations in a crusade to build peace. Not a search to find peace; nothing so passive as that. No, a crusade to build peace.

As a young man, he was deeply influenced by his father’s commitment to Woodrow Wilson’s vision of a League of Nations. How natural for Hubert to become a champion of the United Nations.

His vision of peace was no figment of airy ideeism. It was concrete and practical. He believed peace was not just a worthwhile goal, but a process to be pursued—however slow and difficult it might come.

The fruits of his efforts today can be seen in the test-ban treaty; in the existence of meaningful disarmament confer­ences; in the Middle East peace process; in the SALT process, which was begun when he was Vice President; and in the hundreds of other concrete efforts to construct peace.

He was long understood—and applauded—the patient, slow but steady effort to build a settlement in Zimbabwe. He would have urged us to continue to pursue, with the same determined patience, a settlement in Namibia. He would have urged us not to despair in the agonizing search for a solution to the troubles of the region.

In the weeks and months ahead, as I work on the serious problems of our hostages in Iran, peace in the Middle East and the pres­ence of American forces in Afghanistan, I cannot remember what Hubert taught this nation about solving tough problems and fashion­ing workable alternatives to war.

And most of all I will remember that he taught us to have confidence in ourselves.

For Hubert Humphrey was a believer in the best—believed that a nation committed to a just society in revolution—as ours was—should not shrink from change in the world. And just as he believed in the necessity of social justice at home, he believed in a foreign policy that supported those same ends.

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He repeatedly asked me where the rest of the Christian world is when it is needed: "I think all of the countries of the world should be fighting for us. But it is too involved in its own materialist problems. No more, human values. Religion, it is only by home nursing, we can make a new Christian so we say we are Christian. Even my Pope doesn't help. He is supposed to tell all the Christians of the world to wake up and fight for us. Christianity is in danger of being exterminated and they have to help. By saying a few words they can change the Pope who wrote to the Pope and never got an answer. He is supposed to be our spiritual father on the ground, and each father is supposed to protect his son, even if he is wrong. How come we are right and he is not supporting us? The terrorists are getting volunteers from Iran, Libya, Iraq, Saudi Arabia, from all the Communist countries, to fight for them. What prevents the Christians from sending funds or coming as volunteers to help us? We feel left out from all the world except by Israel. We are fortunate that we found Israel on our border to help us. Israel understood our problem, that we are a minority threatened with extermination, and extended its hand to us. They took our brothers, gave us shelter, gave us a home. I am thankful. I have no right telling them I need this and this. But I have a right to ask my brothers in Communism...

He asked why America always backs the wrong side: "I can't understand—Americans are fighting against us and supporting our enemies. They say they have to support the legitimate authority in Beirut. But there is no legitimate authority anymore. How come they are supporting something illegitimate? In your country, when something was wrong, you changed the President. How come we don't have a President here? You should support the people who can't be Communist. Why, when we are fighting Communists, are you fighting against us? We love you, the Communists say you support us, so they must kill us. They don't know all the pressure we are getting from the Americans, that our hands are tied because of the Americans. But we cannot change. We are prepared to die. But if the free world open its eye, we could make you see that Lebanon is the gate to the Middle East, and if you lose Lebanon you have fought to close the door. If..."

If he could finally see the reason for a free Lebanon...

He was talking about the future. About his plans for his country. I asked if he really believed he could rid Lebanon of the Syrian, the Israelis, and the Soviets. He practically whispered: "It can be done." Then, stronger: "If there is good will, nothing is impossible. All our lives are based on the hope. A good hope."

TAKING CARE OF THE ELDERLY

Mr. BAUCUS. Mr. President, I read with great interest the very cogent article, "Caring for the Old," by Bruce Vladeck in the May 19 New York Times. Mr. Vladeck makes a compelling and compassionate case for changing the way Federal policymakers view the problems of our senior citizens.

For too long, we have viewed nursing homes as the only way to provide long-term care for the elderly. Less expensive alternatives exist, however, and Federal policy should be designed to encourage their use.

Many seniors can—and should—remain in their homes, rather than moving to nursing homes. In-home and community care will at least cost less than in nursing homes or hospitals.

Congress has an opportunity to redirect these policies, and to encourage greater use of these alternatives. Legislation is now pending which promotes greater use of home-health care. Further, Congress can respond to the problem of excess hospital beds, especially in rural areas, by enacting so-called home-care legislation, which allows hospitals to use their beds interchangeably for either acute or long-term care.

Mr. President, I ask that the article be printed in the Record.

The article follows:

Caring for the Old

(Continued)

By Bruce Vladeck

I...
The petition expressed a number of concerns about irregularities in the trial, concerns about the trial, which continues to violate both Soviet law and international law. Mr. Lukyanenko’s imprisonment violates his right to free speech, which appears in Articles 19 and 36 of the Soviet Constitution and Article 19 of the International Covenant on Civil and Political Rights, which the Soviet Union ratified in 1978.

Reports we have received indicate that Mr. Lukyanenko’s trial also involved several substantive violations of due process guaranteed by both Soviet law and Article 10 of the above-mentioned Covenant. Article 10 states that “everyone shall be entitled to a fair and public hearing by a competent, independent, and impartial tribunal established by law.”

In addition, several eyewitnesses have concluded that the conditions of detention in the Mondovian special-regime labor colony where Mr. Lukyanenko has been confined consistently frustrated. His case thus demonstrates that a human rights commitment on paper is not sufficient. I ask that the letter to the Soviet authorities and the accompanying petition be printed at this point in the Record.

The material follows:

**THE INTERNATIONAL LEAGUE**

**FOR HUMAN RIGHTS**

New York, N.Y., April 15, 1980.

F. K. HLKUCH, Esq.
Procurator of the Ukrainian Soviet Socialist Republic, Ul. Khreshchatyk 2, Kiev, USSR.

DEAR Mr. HLKUCH: We have the honor to enclose a petition signed by 250 American attorneys and organizations concerned with human rights. In recent months, the Legal Committee of the International League for Human Rights and the International League for Human Rights have gathered the signatures of 250 prominent American attorneys on a petition urging his release. This petition was transmitted to the procurator of the Ukrainian Soviet Socialist Republic, Mr. F. K. Hlkuch, by the chairman of the Lawyers Committee, former Federal District Court Judge Marvin E. Frankel, on April 17, 1980. The Individual Rights and Responsibilities Section of the American Bar Association is also considering Mr. Lukyanenko’s case.

Whenever lawyers are oppressed, the rule of law itself is threatened. For almost 20 years, Mr. Lukyanenko has been a prominent American attorney at the bar of his country. His case thus demonstrates that a human rights commitment on paper is not sufficient. I ask that the letter to the Soviet authorities and the accompanying petition be printed at this point in the Record.

The petition reads:

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The petition continues:

The petition expresses a number of concerns about irregularities in the trial, conviction and continuing incarceration of Mr. Lukyanenko. In this connection, we ask that the official record of Mr. Lukyanenko’s trial and his verdict be made public.

We also request that an attorney designated by a respected international human rights organization be allowed to visit Mr. Lukyanenko at the labor colony where he is being held.

The petition is signed by a number of prominent American attorneys, human rights organizations, and Civil Liberties Union. The petitioners emphasize the importance of due process and the need for Mr. Lukyanenko’s release.

With assurances of our highest respect,

Chairman, Lawyers Committee for International Human Rights.

HARVEY L. WOODFORD, JR.
President, International League.

**PRESS RELEASE**

Illinois Bell announced today that it will expand its use of Gasohol in its fleet statewide as the fuel becomes available and is competitively priced.

The company is now using Gasohol in 235 vehicles in Woodstock, McHenry, Watseka, Bradley, Bourbonnais, and Rock Falls. The decision to expand the use of Gasohol came at the company’s request, Illinois Bell vehicles in the Peoria area. Gasohol is a mixture of 90 percent gasoline and 10 percent ethanol (alcohol) derived from corn.

Ron Aldridge, the company’s division manager for automotive operations, said the trial indicates that using alcohol fuel could lead to savings in maintenance costs through longer engine life and could mean a reduction in the number of tune-ups required to keep vehicles operating efficiently.

During the 12 months of the test, mileage results were mixed.

"One test group of older vehicles obtained much better mileage with Gasohol, with regular gasoline," said Mr. Aldridge. "The test group with newer vehicles tended to obtain slightly better mileage results by using unleaded gasoline. Overall, test results indicated that the Gasohol fuel obtained 4.5 percent better mileage than the conventional fuels. Maintenance savings and other benefits of Gasohol, including better cold weather starting and its potential as a gasoline extender, continue to be valuable and are cost effective.""
hicles statewide, the company could save about 700,000 gallons of gasoline annually."

The company also found that emissions were reduced with the use of Gasohol. Tests indicated a 30 percent decrease in carbon monoxide and an 8 percent drop in hydrocarbons.

Illinois Bell began its test of Gasohol in January 1976. The effect of Gasohol on mileage and maintenance was studied by comparing Gasohol using Gasohol with a control group of 15 vehicles using gasoline.

After six months, the 15 vehicles using Gasohol were compared to 45 gasoline single control vehicles were switched to Gasohol. The trial was continued through January 1977, reflecting a transition that has carried for the mid-year fuel change of the vehicles.

Illinois Bell stressed that the trial was not a "laboratory" or "scientific" test. It was an operational field test to evaluate the fuel's performance under normal job and driving conditions. Drivers recorded mileage data and evaluated vehicle performance.

Illinois Bell has the largest privately-owned automotive fleet in the state with nearly 8,000 vehicles. The company uses about 7 million gallons of gasoline annually.

Since 1973, Illinois Bell has increased the percentage of its vehicles using Gasohol from less than 10 percent to nearly 10 percent. The company used only 4 percent more gasoline in 1979 than in 1973, even though the number of phones served increased 17 percent.

AMTRAK

Mr. PELL. Mr. President, I would like to call the attention of my colleagues to the outstanding record of achievement compiled by Amtrak so far this year. As it passes the halfway mark in its current fiscal year, Amtrak has carried from January 1979 through March 1980, 88 percent were riding in rebuilt and refurbished cars.

As the evidence indicates that more and more travelers are not only switching to trains, but that they are experiencing more reliable and comfortable trips. Of the 9.5 million passengers that Amtrak carried in the 18 million gallons of gasoline used by Amtrak between March 1980, 88 percent were riding in trains, after a 30 percent decrease in carbon monoxide and an 8 percent drop in hydrocarbons. Amtrak's passengers riding between Washington and New York in the Corridor between New York and Boston.

Amtrak estimates that ridership in this end of the corridor will double by the end of the 1980's.

I think that statistics like these demonstrate the tremendous importance of rail passenger service in our national transportation system. New equipment: more reliable and comfortable for the passenger; coupled with improved track and faster trip times have truly inaugurated a renaissance in rail passenger service. Congress can take just pride in its role in providing the support which has made this renaissance a reality.

THE COMMUNITY ENERGY ASSISTANCE ACT

Mr. DURKIN. Mr. President, recently I introduced the Community Energy Assistance Act. This bill is designed specifically to assist communities of all sizes with energy conservation and renewable activities, and it is a direct response to recommendations which have come before my Subcommittee on Energy Conservation and Supply.

Last month I held a hearing in Durham, N.H., as part of my ongoing effort to bridge the gap between Washington and the citizens of my State. I wanted to hear firsthand local views on the legislation which I have drafted. At this hearing New Hampshire's State and local officials explained how Federal legislation could be fashioned so that local communities have a freer and larger hand in implementing energy programs. These officials testified that both the Community Energy Act (S. 2576) and the administration's Energy Management Act (S. 1286) have grave problems in their treatment of small communities. While I want to congratulate the sponsors of S. 2576 and S. 1286 for their effort, I believe their legislation has several deficiencies and needs to be augmented so that it is responsive to the needs of our smaller communities as to the needs of larger cities.

My bill will provide grants to communities of all sizes for energy programs. These grants will be in the form of block grants to local governments. The local level is where the most effective and responsive policies are generated and where implementation of most policies take place.

The Community Energy Assistance Act recognizes the wisdom of the local approach and offers direct aid to small communities for energy conservation and renewable energy activities to improve the efficiency of energy use and promote renewable resources.

The ability of small communities to utilize traditional community development and other grant programs is limited. If we are to successfully reach these communities and initiate grassroots energy programs, we must develop assistance programs to meet their needs.

Federal policy has long neglected the energy needs of small communities and their immense potential contribution to creating our nation's energy policy. In fact, there are no programs existing today which provide direct Federal assistance to small communities for energy programs and activities.

We must come to terms with the fact that small communities are facing energy problems of crisis proportions. Their problems stem not only from the general weakness of our national energy position, but also from the burdens of implementing and enforcing Federal and State programs. In the past several years, Congress has enacted Federal statutes which require States and local governments to act to conserve energy and promote renewable resources. While these are certainly worthwhile ambitions, it would serve us well if Federal cost-sharing matched Federal ambitions.

Most small communities do not have excess funds to undertake the kinds of energy programs necessary to promote or to adequately implement State and federally mandated programs.

The legislation that I propose would help small communities when they are faced with the economic and State requirements and their own solutions without diverting funds from other critical social services; those communities which cannot be reached through traditional programs.

The program which I propose has the following features:

It provides grants to all communities on a competitive basis.

The only requirements are that first, the community agree to spend the money on conservation and renewable activities, and second the community agree not to...
reduce its own funding efforts for these types of programs.

The program is administered by DOE, but Williams does not have the authority to withhold funds except in cases of fraud or illegal use of money.

The funds will go directly to eligible communities as allocated by the State.

The allocations formula is similar to the formula used in the low income weatherization program and the fuel assistance program and is based on:

1. Number of households below the lower living standard.
2. Heating degree days squared.
3. Total population.
4. Number of households with no other milestone in the reassessment of Hoover. Dr. Williams has given permission to reprint the article.

According to Williams, Hoover's dream was that the people—the farmers, the urban dwellers, and the politicians—would pull themselves together and then join together to meet their needs and fulfill their potential by honoring the principles of the system that they once professed to uphold.

The role of the Government in the economic crisis would be to encourage cooperation among groups, so as to avoid the Government's direct intervention in the lives of the people.

Although he offered more Federal aid than had been offered in any other depression, and some additional programs were defeated by the Democratic Congress elected in 1930, Hoover could not bring himself to 'embark upon what he considered the 'disastrous course' of centralized, irresponsible, and increasingly irresponsible and manipulatory bureaucracy.' Nevertheless, Hoover's actions, according to Williams, did "block out the basic shape of the new deal."

Mr. President, in these times of low confidence at home and abroad, we are hearing a lot of Hoover's abundant faith in the American people. I ask that Dr. Williams' review of "The Shattered Dream" be printed in the Record.

The Hoover Policies

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By Gene Smith

Herbert Clark Hoover almost never laughed, or so Gene Smith tells us; but I have one of those visions that historians occasionally allow themselves; if one accepts, as I did, sometime during that missing hour (two or four), and moved very quietly along the upper reaches of the McKenzie River east of Springfield, Oregon, there Hoover would be, just barely visible in the mist in his waders, standing tall in that damnably cold water, a string of droplets dripping down from his suspenders button, one hand with a fly rod and the other with the latest New York Times, and he'd be laughing out loud, for he'd already have read a story about voluntary communities in Iowa, Idaho, and Indiana, and another about Lester's leaves at white rats for having to learn the latest techniques of the false syllogism (very similar to the current advertising for Winston cigarettes).


"Liberation" (June, 1970), pp. 38, 39, 40.

The bulk of the basic information on Hoover and his ideas must be available in published sources. For ease of reference, most of these quotations have been taken from Ray Lyman Wilbur and Arthur Mastick Hyde, The Hoover Policies ( Scribner's, 1937). Significant exceptions are noted in the text.
system come apart at the seams rather than violate the principles by saving the system for the people. One of your principles is that the system is their system, and hence responsibility to make them understand their system was their dream. For when you do that you rule the people instead of serving the people. And the contemplation of a more direct rebel is done in by his faith in the dream of a cooperative action, and by his terrifying insight into what the future would be if the people could understand their obligations if they settled for less.

Do not laugh. Hoover joined our future in the ills which made it. We do not like it. And even yet we have not taken charge of our immediate lives so we can understand our cooperative American community. We have let the future that Hoover foresaw in 1923 happen to us. Hoover did not do this.

To fully comprehend this, we must understand that Hoover knew modern American industrial society better than any other President. It takes one to know one. And he had one. And he had become increasingly disheartened and concerned. Let us begin in 1909, with the chapter on labor in his famous work.

As it happened, he did provide more federal aid than had been given more of himself sooner. And he had one. And he had been one. And he had become increasingly disheartened and concerned. Let us begin in 1909, with the chapter on labor in his famous (and still used exposition of the Principles of Mining. "The time when the employer could violate the people's rights of association was gone. Hoover took an honest "friendly interest in the welfare of the men"; and further understood that their responsibility is less by driving than by recognition of individual effort, in larger pay, and by extending justifiable hope of promotion."

Of course it is capitalistic. And of course it has a tinge of paternalism. But it is personal, it is moral, and it reveals an awareness that the boss of the corporation poses a serious danger to community.

The Bolshevik Revolution extended Hoover's awareness of such matters, in part because, as he noted, it was "a specter which wandered into the [Versailles] Peace Conference almost daily," and he dealt with it as an adviser to President Wilson. He naturally opposed communism as being destructive of individuality and true cooperation among individuals and groups. But he did understand that the Revolution was the work of men and women who saw the potential strength of potential strength. Misguided as they might be, he acknowledged that they, too, were reaching the same dynamic. Even more important, perhaps, Hoover saw and understood the rise of fascism long before most other American leaders. During the early 1920s, he saw a movement that had been extended his awareness of what the corporation was threatening to do to America. The "congestion of population is producing abnormal conditions of life. The vast repetitive operations are dulling the human mind... The aggregation of great laboring masses in close dominion presents social and economic ills which we are constantly struggling to remedy."

He then pulled it all together in a perception, through which he called American Individualism that he wrote as he entered upon his long service as Secretary of Commerce. Through his experience and observation, Hoover concluded that capitalistic industrial society (and specifically America) had been divided into three major units, and that the society was poised on the threshold of becoming a syndicalist industrial society.

The third was defined by a rather tricky concept, that of the public per se. It was in business, in labor, in government. It formed not rhetoric, a class. That is, it was all the small and middle-sized independents and their dependents—along with labor. Meaning most of us. Hoover was in effect making an analogy between business and the rest of society, on the other: those with national power and those who had to cooperate with business. For the American people from bitter experience have a rightful fear that great business units might be used to dominate our industrial system, and that they practices destroy equality of opportunity."

From this it followed that two criteria had to be observed if the dream was to be realized. First: the government had to act, simultaneously, as umpire of the actions of the economic units. Everyone had to come together in cooperative action.

Beautiful. And damnably difficult.

Hoover maneuvered some of it almost beyond belief. As in his successful battle to define broadcasting as a public forum. And in his use of brain power and moral power to keep wages high in 1929 and 1930. Compare that with Nixon.

No problem. Nixon has no moral power. He has only brain power. He could have gotten more of himself sooner. And he had one. And he had been one. And he had become increasingly disheartened and concerned. Let us begin in 1909, with the chapter on labor in his famous work.

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As it happened, he did provide more federal aid than had been given more of himself sooner. And he had one. And he had been one. And he had become increasingly disheartened and concerned. Let us begin in 1909, with the chapter on labor in his famous work.
Money is spent wisely on waste water treatment construction. My funding formula would not increase Federal spending for waste water treatment construction. It would clearly define priorities for that construction.

The resolutions of the Rhode Island House and the Rhode Island Senate underscore the clear need to define the Federal assistance for waste water treatment construction where it is urgently needed.

Resolved, That the secretary of state be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to the Rhode Island delegation in the congress of the United States.

WASTE WATER TREATMENT FINANCING—TIME FOR A CHANGE

Mr. PELL. Mr. President, both houses of the Rhode Island General Assembly have passed resolutions asking Congress to support the passage of S. 1962, legislation to amend the Federal Water Pollution Control Act to revise the allotment formula for grants for construction of treatment works.

This legislation is designed to bring the Federal grants in line with clear anti-pollution priorities, to correct some inequities in funding distribution and to simplify the complex method of computing each State's share of funds; and

Resolved, That this house of representatives of the State of Rhode Island and Providence Plantations hereby memorializes the Congress of the United States to support Senator Claiborne Pell's Senate bill 1962; and be it further

Resolved, That the secretary of state be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to the Rhode Island delegation in the Congress of the United States.

J OINT R ESO L UTION

Whereas, Passage of Senate Bill 1962, entitled, "An Act to Amend the Federal Water Pollution Act to Revise the Allotment Formula for Grants and Construction of Treatment Works," will increase from $17 million to $40 million the Rhode Island share of money currently spent on the environmental protection agency; and

Whereas, The state of Rhode Island urgently needs to upgrade the capacity and efficiency of the existing sewage treatment facilities and storm sewer systems throughout the state because of the damage to coastal waters and to drinking water supplies already experienced from storm water runoff and concentrations of pollutants in soils, riverbeds, and Narragansett bay resulting from inadequate sewage and wastewater treatment; now, therefore be it

Resolved, That this general assembly of the state of Rhode Island and Providence Plantations hereby memorializes the Congress of the United States to enact Senate Bill 1962, "An Act to Amend the Federal Water Pollution Act to Revise the Allotment Formula for Grants and Construction of Treatment Works; and be it further

Resolved, That the secretary of state be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to the Rhode Island delegation in the Congress of the United States and to the Committee on the Environment and Public Works.
THE SPINAL CORD REGENERATION RESEARCH ACT

Mr. STEWART. Mr. President, last December I introduced S. 2088, the Spinal Cord Regeneration Research Act. My bill would simply require the National Institutes of Health to fund research into cure for spinal cord injury. The President's Council on Neurological, Communicative Disorders, and Stroke (NCDS) has recommended $16 million for spinal cord regeneration research in fiscal 1981. That amount is more than twice what we are currently spending on this type of research.

Spinal cord injury is the cause of paralysis in at least 200,000 Americans and costs the American people billions of dollars each year in medical expenses, lost wages, and Government benefit payments. At the same time recent breakthroughs in the area of spinal cord research put us closer to finding a cure for spinal cord injury than we have ever been. Yet the officials at NCDS have failed to make the development of a cure for spinal cord injury a priority. Moreover, they have failed to take advantage of the research capabilities of our research community. This is reflected in the large numbers of Americans suffering from paralysis related to spinal cord injury. In fiscal 1981, NCDS spent $16 million for spinal cord regeneration research. At the same time recent breakthroughs in spinal cord injury research have been made. Yet the officials at NCDS have failed to take advantage of these breakthroughs.

SISTER VERONICA ANNE ARMAR

Mr. JAVITS. Mr. President, Sister Veronica Anne Armoo, director of Our Lady of Victory Infant Home, Lackawanna, N.Y., has celebrated her 65th birthday and the beginning of her 38th year of service at the home. She has touched the lives of more than 15,000 special children and their families. She has dedicated herself to working with children so profoundly retarded or handicapped that they cannot be adequately cared for in the home.

A special tribute was paid to Sister Veronica Armoo by the Buffalo Courier Express which would do well to reprinted the following article printed in the Record.

The article follows:

"INFANT HOME NOT "END OF LINE!" (By Rita Smith)

Some doctors think "it's the end of the line" when they send a severely handicapped child to Our Lady of Victory Infant Home. How is Sister Veronica Armoo? At the age of 65, Sister Veronica Anne Armoo, the perennially optimistic, silver-haired nun who is director of children's services at the Lackawanna home.

Her broad, warm-hearted smile masks the steel determination that helps hopeful situations improve. "I've seen it happen," she says.

"We have had children sent here by doctors who thought it was the end of the children—such as hydrocephalic or other brain-damaged children—and sometimes they have progressed where they seemed to be no hope. "As soon as we get them over here, we're right there to develop it." She explains, "To see our children develop, even though it's done slowly, is very rewarding. To see a child who hasn't ever smiled, to see that child smile for the first time... to see a child who is 2 years old roll over for the first time... things like this make us smile very happy. "We don't think of that child's total handicap. You mark the bright spots when they happen and rejoice."

Sister Veronica treasures such milestones in her 38 years of service at the home. She's touched the lives of more than 15,000 special children and their families.

"One day we started to count them," she says. "We went through all the records and we came up with more than 10,000."

Tuesday was a very special occasion for the nun, who is a member of the Sisters of St. Joseph. Our Lady of Victory Infant Home's staff held Sister Veronica Anne Day with a Mass and open house to mark her 65th year at the home. Sister Veronica also turned 66 on Tuesday.

It was definitely a birthday and not a retirement party for her.

"I have no intention of retiring," she says in high spirit. "I'd like to work as long as the Lord gives me the health to continue." She says her hopes would miss her children too much to leave.

Sister Veronica Armoo is also a child psychologist. She does the psychological testing of all the children here and is the only person under the home's supervision. This figure includes 46 children, so profoundly retarded or handicapped they cannot be adequately cared for in their own homes.

The others are the babies to be adopted, born of unwed mothers, and children with emotional and behavioral problems who are brought into the home during the day for schooling and treatment.

Sister Veronica Armoo's words to the officials of the 46 little ones who will spend their lives in the institution. "We know they have broken minds, broken bodies but the blessing is the child doesn't realize it and can be happy. "We benefit from his handicap—he makes us a better person."

A plaque was placed in the main entrance of the Ridge Road home on Tuesday. It is a image of Sister Veronica feeding a helpless child.

It is also a short story describing a typical busy day in the life of this nun who was born in Italy. The story ends with her frequent prayer, "Tomorrow Lord, help me to get organized."

Part of the secret of Sister Veronica's deep feeling for "her" children is that she knows what it is like for a youngster to grow up in an institution. When she was 9 years old, her father died, and her mother had to place her in an orphan home because she had to go to work. But she never thought of that time. "I grew up in St. Vincent's Orphan Home in Troy," Sister Veronica says.

PRELIMINARY NOTIFICATION OF PROPOSED ARMS SALES

Mr. PELL. 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 receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

I am actuant to that information, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the Record in accordance with previous practice.

I wish to inform Members of the Senate that four such notifications were received on May 15, May 16, and May 19, 1980.

Interested Senators may inquire as to the details of these preliminary notification which are transmitted to the Committee on Foreign Relations, room 8-118 in the Capitol.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY, Washington, D.C.

Dr. Hans Binnendijk, Chairman, Committee on Foreign Relations, Washington, D.C.

DEAR DR. BINNENDJIK: By letter dated 18 February 1978, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of notifications under Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The other notifications are:

DEFENSE SECURITY ASSISTANCE AGENCY, Washington, D.C.

Dr. Hans Binnendijk, Chairman, Committee on Foreign Relations, Washington, D.C.

DEAR DR. BINNENDJIK: By letter dated 18 February 1978, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of notifications under Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY, Washington, D.C.

Dr. Hans Binnendijk, Chairman, Committee on Foreign Relations, Washington, D.C.

DEAR DR. BINNENDJIK: By letter dated 18 February 1978, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of notifications under Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY, Washington, D.C.

Dr. Hans Binnendijk, Chairman, Committee on Foreign Relations, Washington, D.C.

DEAR DR. BINNENDJIK: By letter dated 18 February 1978, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of notifications under Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.
The Senate reassembled at 3:30 p.m., when called to order by the Presiding Officer (Mr. MITCHELL).

FEDERAL TRADE COMMISSION AMENDMENTS—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the hour of 3:30 having arrived, the Senate will now vote on the adoption of the conference report to H.R. 2313, the Federal Trade Commission Improvements Act.

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 Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from South Dakota (Mr. McGOVERN) are necessarily absent.

I further announce that the Senator from Washington (Mr. MAGNUSON) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDBERGER), the Senator from Oregon (Mr. HATFIELD), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

I also announce that the Senator from Illinois (Mr. PERRY) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) and the Senator from Illinois (Mr. PERRY) would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The vote was announced—"yea" 74, "nay" 18, as follows:

YEAS—74

Baucus            Exon          Nunn
Bayh             Ford           Pell
Belmont           Glenn          Pressler
Bentsen          Hart           Pryor
Boren            Heflin          Ryburn
Boschwitz         Hollings       Sandlin
Boyle            Jackson         Sasser
Brady             Jenkins        Scherer
Burdick          Johnson        Schmidt
Byrd             Jordan          Slocum
Byrd, H. F., Jr.  Johnson        Specter
Byrd, Robert C.   Jepsen         Stein
Cannon           Johnson         Stevens
Chafee           Kassebaum       Stevens
Chiles            Leahy          Stevens
Cochran           Levine         Stevenson
Cohen            Long           Stewart
Cranson           Lucas          Stone
Culver           Mathias        Talman
Danforth         Maunula        Vargas
DeConcini        Menendez       Venable
Dole             Mitchell       Warner
Donnelly          Moore          Waring
Durenberger      Mynihan        Williams
Eagleton         Nelson         Williams
Enos             Nunn           Williams

NAYS—18

Armstrong         Hutto           Ribicoff
Durkin            Humphrey       Simpson
Garn             Laxalt          Thurmood
Gasaway          Leach          Waller
Hayakawa         Metzenbaum     Young

NOT VOTING—11

Baker            Gravel          McGovern
Biden            Harris          Pendleton
Church           Kennedy        Perry
Goldwater        Magnuson

So the conference report was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

HOUSE CONCURRENT RESOLUTION 340

Mr. FORD. Mr. President, I ask the Chair to lay before the Senate the House message from the House of Representatives. The House Concurrent Resolution 340, corrections in the enrollment of H. R. 2313.

The PRESIDING OFFICER (Mr. MITCHELL), before the Senate a message from the House of Representatives directing the Clerk of the House of Representatives to make corrections in the enrollment of H. R. 2313.

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

There being no objection, the concurrent resolution (H. Con. Res. 340) was considered and agreed to.

Mr. FORD. I move to reconsider the vote, Mr. President.

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

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today. There will be rollcall votes tomorrow. Beginning at 11 a.m., there will be several rollcall votes.

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 not to extend beyond one hour, and that Senators may speak therein up to ten minutes each.

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

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

FLEECE OF THE MONTH

Mr. PROXMIRE. Mr. President, May Fleece of the Month goes to the new Department of Education which in spite of promises has more personnel and spends more for both overhead and program costs than before it was created.

I am giving my Fleece of the Month Award for May to the new Department of Education for fattening its staff and beefing up its budget after promising that, if it were created, it would include no more people and would cost no more than previously devoted to education programs. The facts are that by September 30, 1980, on a comparable basis, the De-
part will include 157 more people than a year ago and 1,121 more people than 2 years ago. Personnel compensation and other management costs will explode. Between fiscal years 1979 and 1980 budget authority for its programs will go up by $1 billion and outlays will rise by $2 billion.

So much for the promises of no more costs and no more people.

The Department will argue that it has kept its promise. But the public does not realize what the small print says or how the sleights of hand and legerdemain actually work. The Department interprets this language which made up the new Department.

Table I—Personnel at the Department of Education or Comparable Agencies at End of Fiscal Years

<table>
<thead>
<tr>
<th>Date</th>
<th>Full-time Permanent</th>
<th>Other</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>September 30, 1978</td>
<td>5,551</td>
<td>509</td>
<td>6,060</td>
</tr>
<tr>
<td>September 30, 1979</td>
<td>5,941</td>
<td>1,481</td>
<td>7,424</td>
</tr>
<tr>
<td>September 30, 1980 (Estimated)</td>
<td>6,170</td>
<td>1,481</td>
<td>7,581</td>
</tr>
<tr>
<td>September 30, 1981 (Estimated)</td>
<td>6,032</td>
<td>1,449</td>
<td>7,581</td>
</tr>
</tbody>
</table>

Note that the big cuts are proposed for the temporary, not the permanent positions.


In their official reply to questions raised in the Senate Appropriations Committee, they increased the budget for the new Department of Education, in May 1980, attempted to blame the increase in full-time permanent employment from fiscal year 1978 to fiscal year 1979 on the Congress. They said it re-.* results from the fact that Congress approved a substantial increase in positions for the Office of Civil Rights to eliminate its case backlog.

What they failed to say was that the administration itself made the request for 898 full-time permanent positions and that Congress cut that back and allowed a total increase of only 418.

Further, in the fiscal year 1981 budget justification of the new Department (page 340), they state that: "At the beginning of fiscal year 1980, the backlog of (civil rights) complaints filed in these areas was largely eliminated, enabling the Office for Civil Rights to direct additional resources to the areas of compliance reviews and technical assistance, while maintaining a strong complaint investigation program."

What this means is that, while the backlog was said to be eliminated, the Department kept the people. Note also that the backlog was eliminated with less than half the people the Department asked for.

But whether it was the fault of Congress or the administration, the fact is that the bureaucracy now in the new Department of Education, like Topsy, just grew and grew and grew.

THE HOLOCAUST: "THE FINAL SOLUTION"

Mr. PROXMIRE. Mr. President, the destruction of the Jews of Europe by the Nazi regime was an unprecedented assault upon humanity. The Nazi campaign of genocide was engaged in with such ferocity and hate that there was no doubt as to its purpose. It was to be Hitler's final solution for the Jews and other allegedly undesirable peoples of Europe.

How did the world first learn of this hideous campaign? It has been known for some time that the first authentic information came from a German industrialist who visited Switzerland in 1942. The first transmission of his report ran as follows:

Received alarming report that in Fuehrer's headquarters plan discussed and under consideration was an ultimate extermination in countries occupied or controlled by Germany numbering 3½-4 million should after deportation and concentration in East be exterminated at once and for all Jewish question in Europe.

Walter Laqueur of Georgetown University recently wrote an intriguing
CONGRESSIONAL RECORD—SENATE
May 21, 1980

The Senate proceeded to the consideration of Calendar Orders Nos. 138 and 139. Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be confirmed en bloc, that the motions to reconsider en bloc be laid on the table, and that approval be indicated on the confirmation of the nominees.

Mr. STEVENS. There is no objection.

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

The nominations considered and confirmed en bloc are as follows:

NATIONAL INSTITUTE OF EDUCATION
P. Michael Timpane, of Virginia, to be Director of the National Institute of Education.

THE JUDICIARY
Samuel James Ervin III, of North Carolina, to be U.S. circuit judge for the 4th circuit.

Raul A. Ramirez, of California, to be U.S. district judge for the eastern district of California.

John David Holtschuh, of Ohio, to be U.S. district judge for the southern district of Ohio.

Ann Aldrich, of Ohio to be U.S. district judge for the northern district of Ohio.

George Washington White, of California, to be U.S. district judge for the northern district of Ohio.

Charles L. Hardy, of Arizona, to be U.S. district judge for the district of Arizona.

Milton Irving Shadur, of Illinois, to be U.S. district judge for the northern district of Illinois.

Frank J. Polozola, of Louisiana, to be U.S. district judge for the middle district of Louisiana.

Clyde S. Cahill, Jr., of Missouri, to be U.S. district judge for the eastern district of Missouri.

Patrice P. Kelly, of Kansas, to be U.S. district judge for the district of Kansas.

W. Earl Britt, of North Carolina, to be U.S. district judge for the eastern district of North Carolina.

Walter Herbert Rice, of Ohio, to be U.S. district judge for the southern district of Ohio.

S. Arthur Spiegel, of Ohio, to be U.S. district judge for the northern district of Ohio.

George Ross Anderson, Jr., of South Carolina, to be U.S. district judge for the district of North Carolina.

Mr. OLENN, Mr. President, from Ohio, we have a list of outstanding people that have been reviewed by our Judiciary Review Commission, and recommended.

We are sure they will be very worthy Federal judges. John David Holtschuh, Ann Aldrich, George Washington White, Walter Herbert Rice, and S. Arthur Spiegel, all of Ohio, some in our southern district and some in our northern district.

It gives me great pleasure to see them confirmed by the Senate. I appreciate the majority leader's expediting the confirmation of these nominations this afternoon. I look forward to seeing them get installed on the Federal bench.

Mr. HELMS. Mr. President, I, too, am pleased with the confirmation of the nominees to the Judiciary. Two of the distinguished nominees are from North Carolina: Samuel James Ervin III, who is the son of our distinguished colleague, and W. Earl Britt.

But Judge Ervin and Judge Britt will serve with distinction.

Mr. President, I had the honor of joining Senator Morgan when presenting them to the Judiciary Committee. I know both will serve with the highest of distinction.

I congratulate them and I congratulate the people of North Carolina for having them serve on the Federal bench.

Mr. CRANSTON. Mr. President, the Senate today has acted to advise and consent to the nomination of Sacramento Municipal Court Judge Raul Ramirez to be U.S. district judge for the Eastern District of California.

This action will be a significant event because Judge Ramirez will be the first Chicano to sit on the Federal bench in California.

Judge Ramirez is representative of several million members of the Hispanic community who live and work in California, but for whom participation in California government is relatively recent.

I am particularly pleased at his confirmation today because the selection and nomination of Judge Ramirez was accomplished as a result of the work of the California State Judicial Commission established by myself, Senator HAYAKAWA and the California State Bar Association.

Judge Ramirez's selection by the Commission demonstrates that an open system for selecting candidates for the Federal judiciary can bring to the forefront the names of truly capable and outstanding minority members who will do honor to the bench by their presence as members of the Federal judiciary.

Raul Ramirez is such an individual who will enhance the Federal judiciary.

He brings to the Federal bench a strong legal background and a keen understanding of the Eastern District of California in which he will be sitting and judging cases.

His nomination is in keeping with our long tradition of selecting as Federal judges local residents who are knowledgeable about local conditions, a tradition that has persisted since the first Congress confirmed President George Washington's appointments to the Federal courts.

The purpose of this tradition and of the Senate's insistence that local residents be appointed to the Federal bench is to protect against the establishment of a class of mandarin civil servants sent as emissaries from the central government to mete out Federal justice to the States.

It has been in keeping with this policy that Senators have developed a strong role in selecting the Federal judiciary.

And it is in keeping with this policy that Senators traditionally have looked to individuals who are representative of the interests, the people, and the communities which are to be served by the Federal judiciary sitting in the local district.
long history and tradition in California. Its contributions to the development and growth of the State are notable and con­

Raul Ramirez will be another in a distinguished line of individuals who a­­­bly serve the community, the State, and the Nation.

Mr. President, I wish to acknowledge to my colleagues the out­­­standing cooperation of my distin­­­guished colleague from California (Mr. HAYAKAWA) in making possible the fine work of the Judicial Selection Commission. In addition, I wish to con­­gratulate the California State Bar for their cooperation and to express my ap­­preciation to the members of the Com­­mission who have volunteered many hours of time to review and screen appli­­cants for appointment to the Federal judiciary and to the posts of U.S. attorney.

Mr. HOLLINGS. Mr. President, in connection with the action the Senate has just taken in confirming G. Ross Anderson, District Judge for the district of South Carolina, I ask unanimous consent to have printed in the Record the statement I made on May 1 when I introduced him to the Committee on Judiciary.

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

Statement by Senator ERNEST F. HOLLINGS
Mr. Chairman, it is with great pleasure that I introduce to the Senate Mr. G. Ross Anderson, Esquire, who has been nominated by the President for the District Court in South Carolina. If approved by the Senate, Mr. Anderson will take the seat now held by Judge Robert J. Martin, who has assumed senior status. Judge Martin's career has been significant and im­­portant. He has provided great legal insight and has made many, many well conceived and properly framed decisions. Judge Martin's daily presence in the district will be sorely missed and his absence makes the vacant seat held by Judge Robert J. Martin's career noteworthy and his absence could be more than the vacancy. Ross Anderson is a man of sound personal values, he possesses a superior legal judgment and decorum. Few in my state have more respect or are held in higher esteem than Mr. Anderson. Ross Anderson, as I said it in my statement today, I give him my name to this body because I am com­­pletely confident that if confirmed he will be a superior judge in the District Court system.

Mr. ROBERT C. BYRD. Mr. President, I believe the nominees have been con­­firmed, the motions to reconsider laid on the table, and the President notified: am I correct in that?

The PRESIDING OFFICER. The Senator is correct.

LEGISLATIVE SESSION
Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session. The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS ON TOMORROW
Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on to­­morrow, and in the absence of the leaders have been recognized under the standing order, that Messrs. STENNIS, EAGLETON, CRAN­­STON, and ROBERT C. BYRD, each be re­­­­­­cognized for not to exceed 15 minutes.

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

ORDER FOR RECESS TO 9:45 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 9:45 a.m. tomorrow morning.

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

ORDER OF BUSINESS ON TOMORROW
Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the orders for the recognition of Sen­­­­­ators on tomorrow, if any, there be any time remaining between then and the hour of 11 o'clock, that such time be utilized for the transaction of routine morning business, and I ask that Sen­­­­­ators may speak therein up to 1 minute each.

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

ORDER FOR CONSIDERATION OF THE INTERNATIONAL NATURAL RUBBER AGREEMENT OF 1979
Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, as in the case of the preceding motion, that the motion to proceed to the consideration of Calendar Order No. 757, the civil rights authorization on tomorrow, the Senate go into executive session for the purpose of considering Calendar Or­­der No. 757, the Executive Calendar un­­der Treaties, Executive D, 96th Congress, 2d Session, the International Natural Rubber Agreement of 1979; that the treaty be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification; that there be 10 minutes equally divided for debate, Mr. SABANES and Mr. JAVITS to control the time, after which time has expired or been yielded back, the Senate pro­­ceed, without further debate, amend­­ment, motion, or point of order to vote on Executive D; that upon the expiration of that vote, there may be no time on any motion to reconsider; and that upon the full disposition of Executive D, that the Senate, with the Ex­­ecutive Calendar under consideration, pr­­e­­ceed immediately, and without any fur­­ther debate, motion, or point of order, return to legislative session.

Mr. STEVENS. I do not object, Mr. President.

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

Mr. ROBERT C. BYRD. Mr. President, that will be a rollcall vote. The press and nays have not been ordered yet, but it will be a rollcall vote.

THE INTERNATIONAL NATURAL RUBBER AGREEMENT OF 1979: EX. D—96TH CONGRESS, 2D SESSION

The PRESIDING OFFICER. Without objection, the treaty, Executive D, 96th Congress, 2d Session, will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Approved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the International Natural Rubber Agreement, 1979, together with three annexes relating
SARA ANN STEVENS COVICH

Mr. STEVENS. Mr. President, I do want to thank my good friend from West Virginia for the very kind remarks he made concerning my new granddaughter. She has given me the exact experience that he said I would have. I am delighted to have had the opportunity to visit her. I think it demonstrates, again, my position on not trying to make certain that you have a 100-per-cent voting record, because I certainly would have broken that record to go see my granddaughter, had I maintained one previously.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator. I know he will be getting back to see that granddaughter often.

EXTENSION OF TIME TO FILE REPORTS, STATEMENTS, BILLS, AND RESOLUTIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the committees may have until 6 p.m. to file reports, conference reports, and that Senators may have until 6 p.m. to insert statements in the Record, bills, and resolutions.

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

ORDER FOR ROLLCALL VOTES TOMORROW

Mr. ROBERT C. BYRD. Mr. President, there will be at least four rollcall votes tomorrow. Three of them will be back-to-back, beginning at 11 a.m.

I ask unanimous consent that the two rollcall votes that will be back-to-back on tomorrow be 10-minute rollcall votes each.

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

RECESS UNTIL 9:45 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 recessed until 9:45 a.m. tomorrow.

The motion was agreed to; and, at 4:47 p.m., the Senate recessed until Thursday, May 22, 1980, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate May 21, 1980:

COMMISSION ON CIVIL RIGHTS

Blanc, Morris, Charlotte, of Texas, to be a Member of the Commission on Civil Rights, vice Robert S. Rankin, deceased.

In the Air Force

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapters 35, 381, and 857, title 10 United States Code:

**To be major general**


Brig. Gen. Grady L. Patterson, Jr., 251-22-xxxx, AF, Air National Guard of the United States.

**To be brigadier general**


Col. Grady L. Patterson, Jr., 251-22-xxxx, AF, Air National Guard of the United States.

**To be colonel**


Col. Donald C. Mills, 35-xx-xxxx, FG, Air National Guard of the United States.


Col. Raymond V. Palmer, 35-xx-xxxx, FG, Air National Guard of the United States.


Col. Russell A. Witt, 35-xx-xxxx, FG, Air National Guard of the United States.

**To be first lieutenant**

Barnhurst, Kenneth, 25-xx-xxxx, Air National Guard of the United States.

**To be second lieutenant**

Gross, Douglas C., 25-xx-xxxx, AF, Air National Guard of the United States.

**To be captain**

Wohlrab, Eric P., 10-xx-xxxx, Air National Guard of the United States.

**To be major**

Ngo, Santa C., 10-xx-xxxx, Air National Guard of the United States.

**To be lieutenant colonel**

Dental Corps

To be lieutenant colonel

Deemer, James P., 10-xx-xxxx, SAFCB 80-02845.
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MEDICAL CORPS
Ahlschier, Allan D., xxx-xx-xxxx
Astorga, Alex M., xxx-xx-xxxx
Bailey, George O., xxx-xx-xxxx
Caven, Robert E., xxx-xx-xxxx
Perocieraguirre, Camille, xxx-xx-xxxx
Roca, German, xxx-xx-xxxx
Slack, Robert G., xxx-xx-xxxx

NURSE CORPS
Blanchard, Kay L., xxx-xx-xxxx
Lofberg, Maureen, xxx-xx-xxxx
Rigopoulou, Helen, xxx-xx-xxxx
Ugenas, Aldonna J., xxx-xx-xxxx

The following-named officer for promotion in the U.S. Air Force, under the provision of chapter 839, title 10, United States Code, as amended.

LINE OF THE AIR FORCE
Major to lieutenant colonel
Kissner, George G., xxx-xx-xxxx

The following Air Force officer for appointment as permanent professor, U.S. Air Force Academy, under the provisions of section 933(b), title 10, United States Code.
May, John T., xxx-xx-xxxx

CONFIRMATIONS
Executive nominations confirmed by the Senate May 21, 1980:

NATIONAL INSTITUTE OF EDUCATION
P. Michael Timpane, of Virginia, to be Director of the National Institute of Education.

The above nomination as approved subject to the nominee’s commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

* THE JUDICIARY

Samuel James Ervin III, of North Carolina, to be U.S. circuit judge for the fourth circuit.
William Cameron Canby, Jr., of Arizona, to be U.S. circuit judge for the ninth circuit.
Raul A. Ramirez, of California, to be U.S. district judge for the eastern district of California.

John David Holuch, of Ohio, to be U.S. district judge for the southern district of Ohio.

Ann Aldrich, of Ohio, to be U.S. district judge for the northern district of Ohio.

George Washington White, of Ohio, to be U.S. district judge for the northern district of Ohio.
Charles L. Hardy, of Arizona, to be U.S. district judge for the district of Arizona.
Milton Irwing Shadur, of Illinois, to be U.S. district judge for the northern district of Illinois.
Frank J. Polozola, of Louisiana, to be U.S. district judge for the middle district of Louisiana.
Clyde S. Cahill, Jr., of Missouri, to be U.S. district judge for the eastern district of Missouri.

Patrick F. Kelly, of Kansas, to be U.S. district judge for the district of Kansas.
W. Earl Britt, of North Carolina, to be U.S. district judge for the eastern district of North Carolina.

Walter Herbert Rice, of Ohio, to be U.S. district judge for the southern district of Ohio.
S. Arthur Spiegel, of Ohio, to be U.S. district judge for the southern district of Ohio.

George Ross Anderson, Jr., of South Carolina, to be U.S. district judge for the district of South Carolina.